

# Development Consent

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

As delegate of the Minister for Planning and Public Spaces under delegation executed on 11 October 2017, I determine:

- (a) to grant consent to the Stage Development Application referred to in Schedule A subject to the Concept Proposal conditions in Schedule B and C and the Stage 1 Development Application conditions in Schedule D;
- (b) that pursuant to section 4.37 of the *Environmental Planning and Assessment Act 1979*, any subsequent development not being for the purpose of a warehouse or distribution centre with a capital investment value in excess of \$50 million is to be determined by the relevant Consent Authority and that development ceases to be State Significant Development.

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.

Anthea Sargeant  
Executive Director  
Compliance, Industry and Key Sites

Sydney

13 September,

2019

File: 15/15802

### SCHEDULE 1

<b>Application Number:</b>	SSD 7348
<b>Applicant:</b>	Goodman Property Services (Aust) Pty Ltd
<b>Consent Authority:</b>	Minister for Planning and Public Spaces
<b>Site:</b>	Lot 1 DP 663937, Lot 2 DP 1215268, Lot 6 DP 229784, Lot 2 DP 84578, Lot 3 DP 85393 and Lot 11 DP 1178389  2 Aldington Road, Kemp Creek NSW 2178
<b>Development:</b>	A Concept Proposal including: <ul style="list-style-type: none"><li>• concept layout of 22 warehouse buildings inclusive of dock offices and ancillary offices providing 476,000 square metres of gross lettable area, built over five development stages;</li><li>• concept layout of development lots, internal roads, drainage, landscaping, noise walls, basins and biodiversity offsets; and</li><li>• development controls</li></ul>

A Stage 1 Development including:

- bulk earthworks across all five stages including retaining walls and noise walls;
- lead in services including but not limited to drainage, power, sewer, water and telecommunications;
- service infrastructure to Precinct 1, including drainage, power, sewer, water and telecommunications;
- construction and operation of three warehouse buildings inclusive of dock offices and ancillary offices in Precinct 1 (1A, 1B and 1C) providing 118,000 square metres of gross lettable area;
- Western North-South Link Road and associated subdivision, basins and drainage;
- estate roads 1, 2 and 6 and eastern part of road 7;
- landscaping of Stage 1, the western boundary, Western North-South Link Road, estate roads 1, 2 and 6 and the eastern part of road 7, detention basins and the amenity lot
- subdivision of Stage 1 lots and road infrastructure including the services (substation) lot;
- stormwater drainage infrastructure for Lots 2A and 2B and all basins;
- temporary works to facilitate construction including but not limited to swales, haul road (construction access), landscaping and basins; and
- works including construction of traffic signals at Lenore Drive/Grady Crescent/WNSLR intersection.

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## DEFINITIONS

<b>Applicant</b>	Goodman Property Services (Aust) Pty Ltd, or any person carrying out any development to which this consent applies
<b>Biodiversity Covenant</b>	A restriction on the use of land forming part of the Erskine Park Biodiversity Corridor, as shown on <b>Figure 8</b> in <b>Appendix 6</b>
<b>Bulk earthworks</b>	As described in the EIS and RtS
<b>Certifying Authority</b>	A person who is authorised by or under section 6.17 of the EP&A Act to issue Part 6 certificates
<b>CEMP</b>	Construction Environmental Management Plan
<b>CAQMP</b>	Construction Air Quality Management Plan
<b>Concept Proposal</b>	Concept layout of 22 warehouse buildings and ancillary offices built over five development stages, as described in the EIS and RtS
<b>Conditions of this consent</b>	Conditions contained in Schedules B to D of this document
<b>Consent Authority</b>	The relevant consent authority for development in accordance with the EP&A Act
<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>CTMP</b>	Construction Traffic Management Plan
<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, Industry and Environment
<b>Development</b>	The development described in the EIS and RtS, including construction and operation of 22 warehouse buildings, offices and associated infrastructure, as modified by the conditions of this consent and shown on the plans in <b>Appendix 1</b> , <b>Appendix 2</b> and <b>Appendix 3</b>
<b>DA</b>	Development Application submitted in accordance with the EP&A Act
<b>EIS</b>	The Environmental Impact Statement titled <i>Oakdale West Estate</i> , prepared by Urbis dated November 2017, submitted with the application for consent for the development, including any additional information provided by the Applicant in support of the application
<b>ENM</b>	Excavated Natural Material
<b>Environment</b>	Includes all aspects of the surroundings of humans, whether affecting any human as an individual or in his or her social groupings
<b>Environmental Representative Protocol</b>	The document of the same title published by the Department
<b>EPA</b>	NSW Environment Protection Authority
<b>EP&amp;A Act</b>	<i>Environmental Planning and Assessment Act 1979</i> (NSW)
<b>EP&amp;A Regulation</b>	<i>Environmental Planning and Assessment Regulation 2000</i>
<b>EPBC Act</b>	<i>Environment Protection and Biodiversity Conservation Act 1999</i> (Cth)
<b>EPL</b>	Environment Protection Licence under the POEO Act
<b>Erskine Park Biodiversity Corridor</b>	The land described in the <i>Biodiversity Management Plan Erskine Park Employment Area</i> , HLA-Envirosciences, 2006 and shown on <b>Figure 8</b> in <b>Appendix 6</b>
<b>Evening</b>	The period from 6 pm to 10 pm
<b>Feasible</b>	Feasible relates to engineering considerations and what is practical to build
<b>FFMP</b>	Flora and Fauna Management Plan
<b>Fibre ready facility</b>	As defined in Section 372W of the <i>Telecommunications Act 1997</i>
<b>GLA</b>	Gross lettable area
<b>GFA</b>	Gross floor area

<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> (NSW), 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> (NSW), 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 <i>Note: "material harm" is defined in this consent</i>
<b>Land</b>	Has the same meaning as the definition of the term in section 1.4 of the EP&A Act
<b>Landscape Bund</b>	Landscaping along the western boundary of the Site, included as part of Stage 1 works as described in the EIS and RTS and shown on <b>Figure 5 in Appendix 2</b>
<b>LMP</b>	Landscape Management Plan
<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 and Public Spaces (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>NCC</b>	National Construction Code
<b>Night</b>	The period from 10 pm to 7 am on Monday to Saturday, and 10 pm to 8 am 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>	NSW Natural Resources Asset Regulator
<b>OEH</b>	(former) NSW Office of Environment and Heritage (now Biodiversity and Conservation of the Department)
<b>OEMP</b>	Operational Environmental Management Plan
<b>Operation</b>	The use of warehouse buildings for storage and distribution of goods upon completion of construction
<b>Penrith DCP</b>	Penrith Development Control Plan 2014
<b>Planning Agreement</b>	Planning Agreement titled <i>Oakdale West Estate Planning Agreement</i> , between the Minister for Planning and Public Spaces, Goodman Property Services (Aust) Pty Ltd and BGMG 11 Pty Limited as trustee for the BGMG 1 Oakdale West Trust, executed on 5 August 2019 and included in <b>Appendix 4</b>
<b>PCA</b>	Principal Certifying Authority in accordance with 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> (NSW)
<b>Roads Authority</b>	As defined in Dictionary of the <i>Roads Act 1993</i> (NSW)
<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>Relevant Roads Authority</b>	The authority responsible for ownership and maintenance of the applicable road
<b>RMS</b>	(former) NSW Roads and Maritime Services (now TfNSW)

<b>RtS</b>	The Response to Submissions titled <i>Oakdale West Estate SSDA 15_7348 Response to Submissions</i> prepared by Urbis dated 8 May 2018 and document titled <i>Oakdale West Estate SSDA 15_7348 Response to Matters Raised by the Department of Planning</i> , prepared by Urbis dated 12 October 2018
<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 <b>Appendix 1</b>
<b>SLR</b>	(proposed) Southern Link Road as shown in the WSEA SEPP and the Broader WSEA SLRN Options Refinement Report prepared by AECOM, 2014
<b>Stage</b>	Each component or Stage of works to deliver the Concept Proposal, as shown on <b>Figure 2</b> in <b>Appendix 1</b> , or as amended by an approved Staging Plan under this consent
<b>Stage 1</b>	Bulk earthworks across the Site, construction and operation of three warehouse buildings (1A, 1B and 1C), the WNSLR and associated infrastructure and construction of the landscape bund along the western boundary of the Site, as described in the EIS and RTS and shown on the plans in <b>Appendix 2</b> and <b>Appendix 3</b>
<b>TfNSW</b>	Transport for New South Wales
<b>VENM</b>	Virgin Excavated Natural Material
<b>Vicinity of the site</b>	Bakers Lane, Kemps Creek
<b>WAD</b>	Works Authorisation Deed issued by TfNSW (former RMS)
<b>Waste</b>	Has the same meaning as the definition of the term in the Dictionary to the POEO Act
<b>Water Pipelines</b>	Two Sydney drinking water pipelines located on land owned by Water NSW along the northern boundary of the Site
<b>WMP</b>	Waste Management Plan
<b>WNSLR</b>	Western North-South Link Road as shown in the WSEA SEPP and the plans in <b>Appendix 3</b>
<b>WSEA</b>	Western Sydney Employment Area
<b>WSEA SEPP</b>	State Environmental Planning Policy (Western Sydney Employment Area) 2009
<b>WSFL</b>	Western Sydney Freight Line corridor as shown in TfNSW Western Sydney Freight Line Corridor Identification – Consultation, March 2018
<b>Year</b>	A period of 12 consecutive months

## SCHEDULE B CONDITIONS FOR THE CONCEPT PROPOSAL

### FUTURE DEVELOPMENT APPLICATIONS

- B1. In accordance with section 4.22 of the EP&A Act, each stage of the Concept Proposal (excluding Stage 1) is to be subject to future development applications (DAs). Future DAs are to be consistent with this development consent.
- B2. To avoid any doubt, this Concept Proposal consent does not permit the construction or operation of any Development, except for the Stage 1 DA covered by **Schedule D**.
- B3. This Concept Proposal consent does not approve the building layouts shown on Lots 2E, 2F, 2G, 2H, 2J and 4A on **Figure 1** in **Appendix 1**. The location of the buildings on these lots must be assessed by separate DAs, and must satisfy the interface requirements of Conditions C3 and C4.

### STATUTORY REQUIREMENTS

- B4. The Applicant shall ensure that all licences, permits, and approvals/consents are obtained as required by law and maintained as required throughout the life of the Concept Proposal. No condition of this consent removes the obligation for the Applicant to obtain, renew or comply with such licences, permits or approvals/consents.

### TERMS OF CONSENT

- B5. The Applicant shall carry out the Concept Proposal in accordance with the:
- (a) EIS and RtS;
  - (b) the plans in **Appendix 1** and **Appendix 2**; and
  - (c) the Applicant's Management and Mitigation Measures in **Appendix 7**.
- B6. If there is any inconsistency between the plans and documents referred to above, the most recent document shall prevail to the extent of the inconsistency. However, the conditions of this consent shall prevail to the extent of any inconsistency.
- B7. The Applicant shall comply with any reasonable requirement(s) of the Planning Secretary arising from the Department's assessment of:
- (a) any reports, plans or correspondence that are submitted in accordance with this consent; and
  - (b) the implementation of any actions or measures contained within these reports, plans or correspondence.

### LIMITS OF CONSENT

- B8. This consent lapses five (5) years after the date from which it operates, unless any Stage of the Development has physically commenced on the land to which the consent applies before that date.
- B9. The following limits apply to the Concept Proposal:
- (a) the maximum GLA for the land uses in the Development shall not exceed the limits in **Table 1**;
  - (b) a minimum 60 metre (m) wide corridor along the northern Site boundary shall not be developed and shall be maintained and preserved for the future WSFL corridor, in accordance with the requirements of TfNSW; and
  - (c) the building layouts and footprints shown on Lot 2E, 2F, 2G, 2H, 2J and 4A on **Figure 1** in **Appendix 1**, are not approved. The position, layouts and footprints of the buildings on these lots must be assessed by separate DAs, and must satisfy the interface requirements of Conditions C3 and C4.

**Table 1:** GLA Maximum for Concept Proposal

Land Use	Maximum GLA square metres (m <sup>2</sup> )
Total Warehousing	453,000
Total Office	23,000
<b>Total GLA</b>	<b>476,000</b>

- B10. The Applicant shall ensure the Concept Proposal is consistent with the development controls in **Table 2**:

**Table 2: Development Controls**

Development Aspect	Control
Minimum building setbacks from:	
• Southern Link Road	20 m
• Western North-South Link Road	20 m
• Local estate Roads	7.5 m
• Western site boundary	40 m
• Southern site boundary	20 m (excluding parking areas)
Rear boundary setbacks within the estate	5 m
Side boundary setbacks within the estate	0 m, subject to compliance with fire rating requirements
Height	15 m
Minimum lot size	5,000 m <sup>2</sup>
Minimum frontage	40 m (excluding cul-de-sacs) 35 m minimum lot width at the building line
Site coverage	Maximum of 65 per cent (excluding awnings)

- B11. Notwithstanding the controls listed in **Table 2** in Condition B10, no warehouse building in the Concept Proposal shall exceed a ridgeline height of 13.7 m, excluding roof mounted mechanical plant and solar panels.
- B12. The Applicant shall lodge the proposed revisions to the *Penrith Development Control Plan 2014* (Penrith DCP), in accordance with **Table 2** in Condition B10, with Council within 6 months of the date of this consent.
- B13. The Applicant shall ensure the Concept Proposal provides car parking in accordance with the following rates:
- (a) 1 space per 300 m<sup>2</sup> of warehouse GFA;
  - (d) 1 space per 40 m<sup>2</sup> of office GFA; and
  - (e) 2 spaces for disability parking for every 100 car parking spaces.
- B14. The Applicant shall provide bicycle racks, and amenity and change room facilities for cyclists in accordance with *Planning Guidelines for Walking and Cycling* (December 2004, NSW Department of Infrastructure, Planning and Natural Resources and the Roads and Traffic Authority).

#### STAGING PLAN

- B15. Prior to the commencement of construction of any stage of the Concept Proposal, the Applicant shall prepare a Staging Plan for the Development, to the satisfaction of the Planning Secretary. The plan shall:
- (a) be prepared in consultation with Council, utility and service providers and other relevant stakeholders;
  - (b) describe how the implementation of the Concept Proposal, would be staged to ensure it is carried out in an orderly and economic way and minimises construction impacts on adjacent sensitive receivers;
  - (c) show the likely sequence of DAs that will be lodged to develop the Site, with the estimated timing for each Stage and identification of any overlapping construction and operational activities;
  - (d) include concept design for the staged delivery of landscaping, focusing on early implementation of screen planting to minimise the visual impact of subsequent development stages; and
  - (e) include conceptual design for the provision of services, utilities and infrastructure to the Site.
- B16. The Applicant must:

- (a) not commence construction of any stage of the Development until the Staging Plan required by Condition B15 is approved by the Planning Secretary; and
  - (b) implement the most recent version of the Staging Plan approved by the Planning Secretary.
- B17. The Planning Secretary may require the Applicant to address certain matters identified in the Staging Plan. The Applicant must comply with any such requirements of the Planning Secretary given as part of the Staging Plan approval.

**Notes:**

- The Applicant may amend the Staging Plan as desired, with the approval of the Planning Secretary.
- The Staging Plan is intended to broadly describe the development sequence for the Site and the delivery of infrastructure for all stages. It is not required to provide detailed design for latter Stages.

## NOISE LIMITS

- B18. The Applicant shall ensure the Development does not exceed the noise limits in **Table 3** at the receiver locations N1, N2, N3, N4 and N5 shown on the plan in **Appendix 5**.

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

Location	Day	Evening	Night	
	L <sub>Aeq</sub> (15 minute)	L <sub>Aeq</sub> (15 minute)	L <sub>Aeq</sub> (15 minute)	L <sub>A1</sub> (1 minute)
N1 Emmaus Village Residential	44	43	41	51
N3 Kemps Creek – nearest residential property	39	39	37	47
N4 & N5 Kemps Creek – other residences	39	39	37	47
N2 Emmaus Catholic College (school)	<b>When in use:</b> 35 (internal)			

**Note:** Noise generated by the Development is to be measured in accordance with the relevant procedures and exemptions (including certain meteorological conditions) of the Noise Policy for Industry (EPA 2017).

- B19. The noise limits in **Table 3** do not apply to receiver N3 if the Applicant has a Noise Agreement with the relevant landowner to exceed the noise limits, and the Applicant has provided written evidence to the Planning Secretary that an agreement is in place.

## BUSHFIRE PROTECTION

- B20. The Applicant shall ensure the Development complies with:
- (a) the relevant provisions of *Planning for Bushfire Protection 2006*;
  - (b) the construction standards and asset protection zone requirements recommended in the Oakdale Industrial Estate - West Bushfire Protection Assessment, prepared by Australian Bushfire Protection Planners Pty Ltd, dated September 2016; and
  - (c) *AS2419.1 – 2005 Fire Hydrant Installations* for firefighting water supply.

## TRANSGRID EASEMENT

- B21. The Applicant must:
- (a) provide safe and unobstructed access for TransGrid plant and personnel to access the transmission towers, lines and easement on the Site, 24 hours a day, 7 days a week;
  - (b) comply with the requirements of TransGrid for any works in the TransGrid easement; and
  - (c) advise TransGrid of any proposed amended or modified encroachment into the easement.

## ENDEAVOUR ENERGY

- B22. The Applicant must comply with the requirements of Endeavour Energy for the provision of land for a new zone substation as shown on the plans in the RtS.

## WATER NSW

- B23. The Applicant must:

- (a) provide safe and unobstructed access for Water NSW plant and personnel to access the water pipelines corridor adjacent the Site, 24 hours a day, 7 days a week;
- (b) comply with the requirements of Water NSW for any works adjacent to or over, the water pipelines corridor; and
- (c) advise Water NSW of any proposed amended or modified encroachment into the water pipelines corridor.

#### **AMENITIES LOT**

- B24. The amenities lot located north of Estate Road 1, as shown on the plans in **Appendix 1**, must only provide for small-scale local services such as commercial, retail, community facilities and landscaping that service or support the needs of local employment-generating uses.

## **SCHEDULE C CONDITIONS FOR FUTURE DEVELOPMENT APPLICATIONS**

### **DEVELOPMENT CONTRIBUTIONS**

- C1. Future DAs shall identify whether any Development Contributions Plan made by Council (under Section 7.11 of the EP&A Act) applies to that stage of the Concept Proposal (excluding Stage 1).
- C2. Prior to the issue of a Construction Certificate for any stage of the Development, the Applicant shall pay contributions to Council in accordance with the relevant Development Contributions Plan identified in accordance with Condition C1.

### **INTERFACE WITH RESIDENTIAL AREAS**

- C3. Future DAs for warehouses on lots 2E, 2F, 2G, 2H, 2J and 4A shall be accompanied by an Urban Design Assessment. The assessment must:
- (a) be prepared by an independent urban design consultant;
  - (b) be prepared in consultation with Council and the Emmaus Catholic College;
  - (c) detail the key objectives for the interface with the sensitive receivers on the western and southern Site boundaries, including consideration of optimal uses and operational hours;
  - (d) determine the optimal building location and setbacks on the western and southern boundaries, noting the design controls in Condition B10 are the minimum setback requirements;
  - (e) present the optimal design for the building layouts along the western and southern site boundaries with detailed justification for the preferred option;
  - (f) identify appropriate orientations and architectural treatments for the facades facing sensitive receivers; and
  - (g) incorporate noise mitigation into the layout and design of buildings, internal roads, loading docks and parking areas to ensure the Development can meet the noise limits in Condition B18.
- C4. Prior to the commencement of construction of warehouses or office buildings on lots 2E, 2F, 2G, 2H, 2J and 4A, the Applicant must obtain approval from the Consent Authority for the preferred design option, including uses, building and loading dock layouts, setbacks, façade treatments and colours.

### **VISUAL AMENITY**

#### **Landscaping**

- C5. Future DAs shall be accompanied by a Landscape Assessment. The assessment must:
- (a) be prepared by a qualified landscape design consultant;
  - (b) be prepared in consultation with Council;
  - (c) describe how the landscaping for the relevant Stage of the Development is consistent with the Staging Plan approved in accordance with Condition B15;
  - (d) describes the landscaping works to be completed as part of the relevant Stage of the Development and details a program for monitoring the success of landscaping works over time;
  - (e) assesses the condition of and adequacy of landscaping completed as part of earlier Stages of the Development, in providing visual screening for adjacent sensitive receivers; and
  - (f) details any additional landscaping or rehabilitation works required to ensure the visual impacts of the Development are minimised for the adjacent sensitive receivers.

#### **Outdoor Lighting**

- C6. Future DAs must ensure compliance with *AS/NZS 1158.3.1:2005 Pedestrian Area (Category P) Lighting* and *AS/NZS 4282:2019 Control of Obtrusive Effects of Outdoor Lighting*.

#### **Signage**

- C7. Future DAs must ensure illuminated signage is oriented away from the sensitive receivers on the western and southern Site boundaries.

#### **Reflectivity**

- C8. The visible light reflectivity from materials used on the façades and roofs of the warehouses and office buildings shall be designed to minimise glare. A report demonstrating compliance with these requirements must be submitted to the satisfaction of the Certifying Authority for each future warehouse and office building prior to the issue of the relevant Construction Certificate.



## TRANSPORT, ACCESS AND PARKING

- C9. Future DAs shall be accompanied by a transport, access and parking assessment. The assessment must:
- (a) assess the impacts on the safety and capacity of the surrounding road network and access points during construction and operation of the relevant Stage;
  - (b) demonstrate internal roads and car parking complies with relevant Australian Standards and the car parking rates in Condition B13;
  - (c) detail the scope and timing of any required road upgrades to service the relevant Stage; and
  - (d) detail measures to promote non-car travel modes, including a Sustainable Travel Plan identifying pedestrian and cyclist facilities to service the relevant Stage of the Development.

## NOISE AND VIBRATION

- C10. Future DAs shall be accompanied by a noise and vibration impact assessment. The assessment must:
- (a) identify the noise and vibration impacts during construction and operation;
  - (b) demonstrate compliance with the noise limits in Condition B18;
  - (c) provide an analysis of all external plant and equipment, including but not limited to, forklifts, air conditioners and refrigeration systems;
  - (d) incorporate noise mitigation measures, such as increased building setbacks, building insulation, noise barriers, layout of truck loading areas or source controls, to demonstrate the noise limits in Condition B18 can be achieved;
  - (e) detail the timing to construct the noise walls shown in **Appendix 5**, to ensure noise from operation of the Development does not exceed the noise limits in Condition B18; and
  - (f) recommend mitigation and management measures to be implemented to minimise noise during construction.

## STORMWATER MANAGEMENT

- C11. Future DAs shall demonstrate the design of the warehouses, offices and hardstand areas are consistent with (or the latest revision of) the:
- (a) *Civil, Stormwater and Infrastructure Services Report*, prepared by At&L, dated October 2018; and
  - (b) *Flood Impact Assessment: Oakdale West Estate*, prepared by Cardno, dated 27 March 2017.

## BUSHFIRE PROTECTION

- C12. The Applicant shall ensure future DAs comply with:
- (a) the relevant provisions of *Planning for Bushfire Protection 2006*;
  - (b) the construction standards and asset protection zone requirements recommended in the Oakdale Industrial Estate - West Bushfire Protection Assessment, prepared by Australian Bushfire Protection Planners Pty Ltd, dated September 2016; and
  - (c) *AS2419.1 – 2005 Fire Hydrant Installations* for firefighting water supply.

## TRANSGRID EASEMENT

- C13. The Applicant must consult with TransGrid, prior to lodging DAs for Stages 4 and 5 of the Development as shown on **Figure 2** in **Appendix 1**, and any other Stage or road infrastructure that may affect the TransGrid easement. The Applicant must design, construct and operate each Stage of the development in accordance with the reasonable requirements of TransGrid relating to their use of the TransGrid easement.
- C14. The Applicant must consult with TransGrid, prior to lodging DAs for buildings in Stage 5 adjacent to Ropes Creek, to identify and implement any required flood management measures within the transmission line easement.

## ENDEAVOUR ENERGY

- C15. The Applicant must obtain relevant approvals from Endeavour Energy, prior to the construction of any utility works to service each Stage of the Development.

## WATER NSW

- C16. The Applicant must consult with Water NSW, prior to lodging DAs for works on Lot 2A and 2B adjoining the water pipelines corridor, to identify and implement any requirements of Water NSW for protection of the water pipelines corridor.

## **WASTE**

C17. Future DAs shall include a Waste Management Plan prepared in accordance with the *NSW Waste Classification Guidelines* (DECCW, 2009).

## **CONSTRUCTION MANAGEMENT**

C18. A Construction Environmental Management Plan (CEMP) shall be submitted to the Consent Authority for each stage of the Concept Proposal prior to the commencement of construction of the relevant stage. The CEMP must:

- (a) be prepared by a suitably qualified and experienced environmental consultant, or the Environmental Representative appointed for Stage 1 of the Development;
- (b) be prepared in consultation with relevant Government agencies, infrastructure and utility providers, including but not limited to, TransGrid, Endeavour Energy, Water NSW and TfNSW, where relevant for each stage;
- (c) detail the construction activities to be undertaken in the relevant Stage of the Development;
- (d) include detailed procedures for managing the environmental impacts of construction, including stormwater, erosion and sediment controls, dust, noise and traffic management; and
- (e) detail the roles and responsibilities for environmental management on the Site.

## **COMMUNITY COMMUNICATION STRATEGY**

C19. No later than one month before the commencement of construction of any stage of the Development, a Community Communication Strategy (CCS) must be prepared and submitted to the Planning Secretary for approval.

The CCS is to provide mechanisms to facilitate communication between the Applicant, Council and the community (including adjoining affected landowners, schools, businesses, and others directly impacted by Stage 1), during design, construction and operation. The CCS must:

- (a) assign a central contact person to keep the nearby sensitive receivers regularly informed throughout the Development;
- (b) detail the mechanisms for regularly consulting with the local community throughout the Development, such as holding regular meetings to inform the community of the progress of the development and report on environmental monitoring results;
- (c) detail a procedure for consulting with nearby sensitive receivers to schedule high noise generating works, vibration intensive activities or manage traffic disruptions;
- (d) include contact details for key community groups, relevant regulatory authorities, Registered Aboriginal Parties and other interested stakeholders; and
- (e) include a complaints procedure for recording, responding to and managing complaints, including:
  - (i) email, contact telephone number and postal addresses for receiving complaints;
  - (ii) advertising the contact details for complaints before and during operation, via the local newspaper and through onsite signage;
  - (iii) a complaints register to record the date, time and nature of the complaint, details of the complainant and any actions taken to address the complaint; and
  - (iv) procedures for the resolution of any disputes that may arise during the course of the Development.

C20. The Applicant must:

- (a) not commence construction of the relevant stage of the Concept Proposal until the CCS required under Condition C19 has been approved by the Planning Secretary; and
- (b) implement the CCS for each stage of the Concept Proposal and following the completion of operation of the Development.

## SCHEDULE D CONDITIONS FOR STAGE 1 DA

### PART 1 – GENERAL CONDITIONS

#### OBLIGATION TO MINIMISE HARM TO THE ENVIRONMENT

- D1. 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 Stage 1 development, and any rehabilitation required under this consent.

#### TERMS OF CONSENT

- D2. Stage 1 of 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 RTS;
  - (d) in accordance with the plans in **Appendix 2** and **Appendix 3**; and
  - (e) in accordance with the Applicant's Management and Mitigation Measures in **Appendix 7**.
- D3. 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 D3(a).
- D4. 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 D2(c). In the event of an inconsistency, ambiguity or conflict between any of the documents listed in Condition D2(c), the most recent document prevails to the extent of the inconsistency, ambiguity or conflict.

#### LIMITS OF CONSENT

- D5. This consent lapses five (5) years after the date from which it operates, unless Stage 1 has physically commenced on the land to which the consent applies before that date.
- D6. The following limits apply to Stage 1:
- (a) the maximum GLA for the land uses shall not exceed the limits in **Table 4**; and
  - (b) a minimum 60 m wide corridor along the northern Site boundary shall not be developed and shall be maintained and preserved for the future WSFL corridor, in accordance with the requirements of TfNSW.

**Table 4:** GLA Maximum for Stage 1

Land Use	Maximum GLA (m <sup>2</sup> )
Total Warehousing	111,000
Total Office	7,000
<b>Total GLA</b>	<b>118,000</b>

- D7. The Applicant shall ensure Stage 1 is consistent with the development controls in **Table 2: Development Controls** in Condition B10.

#### NOTIFICATION OF COMMENCEMENT

- D8. The date of commencement of each of the following phases of Stage 1 must be notified to the Department in writing, at least one month before that date, or otherwise agreed with the Planning Secretary:
- (a) construction; and
  - (b) operation.

- D9. If the construction or operation of Stage 1 is to be delivered in sub-stages, the Department must be notified in writing at least one month before the commencement of each sub-stage, of the date of commencement and the works to be carried out in that sub-stage.

#### **EVIDENCE OF CONSULTATION**

- D10. 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**

- D11. 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).
- D12. 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.
- D13. 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**

- D14. Before the commencement of construction of Stage 1, the Applicant must:
- (a) consult with the relevant owner and provider of services that are likely to be affected, 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.
- D15. 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 Stage 1; and
  - (b) relocate, or pay the full costs associated with relocating, any public infrastructure that needs to be relocated as a result of Stage 1.

#### **PROTECTION OF WATER NSW INFRASTRUCTURE**

- D16. Before the commencement of construction of Stage 1, the Applicant must:
- (a) prepare a dilapidation report identifying the condition of all infrastructure within the water pipelines corridor, in the vicinity of the WNSLR bridge crossing;
  - (b) implement all practical measures to protect this infrastructure, as required by Water NSW; and
  - (c) repair, or pay the full costs associated with repairing, any water supply infrastructure that is damaged by carrying out Stage 1.

#### **DEMOLITION**

- D17. All demolition must be carried out in accordance with *Australian Standard AS 2601-2001 The Demolition of Structures* (Standards Australia, 2001).

## STRUCTURAL ADEQUACY

- D18. 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 National Construction Code (NCC).

### Notes:

- 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

- D19. 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 Stage 1.

## DEVELOPER CONTRIBUTIONS

### Planning Agreement

- D20. The Applicant shall provide all monetary contributions and/or works-in-kind contributions under Subdivision 2 of Division 7.1 of Part 7 of the EP&A Act, in accordance with the Planning Agreement entered into between the Minister for Planning, Goodman Property Services (Aust) Pty Ltd (the developer) and BGMG 11 Pty Limited as trustee for the BGMG 1 Oakdale West Trust (the landowner) executed on 5 August 2019 and as attached in **Appendix 4**.

## OPERATION OF PLANT AND EQUIPMENT

- D21. All plant and equipment used on site, or to monitor the performance of Stage 1 must be:

- (a) maintained in a proper and efficient condition; and
- (b) operated in a proper and efficient manner.

## EASEMENTS

- D22. Within 12 months of commencing operation of Stage 1, or a timing otherwise agreed with Council, an easement under section 88A and/or restriction or public positive covenant under section 88E of the *Conveyancing Act 1919* (NSW) naming the Council as the prescribed authority, which can only be revoked, varied or modified with the consent of the Council, and provides for a drainage outlet swale from bio-retention basin 1, must be registered on title of Lot 19 DP 1250578.

## EXTERNAL WALLS AND CLADDING

- D23. The external walls of all buildings including additions to existing buildings must comply with the relevant requirements of the NCC.
- D24. Before the issue of a Construction Certificate and an Occupation Certificate, the Applicant must provide the Certifying Authority 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 NCC.
- D25. The Applicant must provide a copy of the documentation given to the Certifying Authority to the Planning Secretary within seven days after the Certifying Authority accepts it.

## UTILITIES AND SERVICES

- D26. Before the construction of any utility works associated with Stage 1, the Applicant must obtain relevant approvals from service providers.
- D27. Before the commencement of operation of Stage 1, the Applicant must obtain a Compliance Certificate for water and sewerage infrastructure servicing Stage 1, under section 73 of the *Sydney Water Act 1994* (NSW).
- D28. Before the issue of a Subdivision or Construction Certificate for Stage 1, the Applicant (whether or not a constitutional corporation) is to provide evidence, satisfactory to the Certifying Authority, that arrangements have been made for the provision of communication facilities to Stage 1.
- D29. The Applicant must demonstrate that the carrier has confirmed in writing they are satisfied that the fibre ready facilities are fit for purpose.

## TRANSGRID EASEMENT

- D30. The Applicant must:

- (a) provide safe and unobstructed access for TransGrid plant and personnel to access the transmission towers, lines and easement on the Site, 24 hours a day, 7 days a week;
- (b) comply with the requirements of TransGrid for any works in the TransGrid easement on the Site; and
- (c) advise TransGrid of any proposed amended or modified encroachment into the easement.

#### **WATER NSW**

D31. The Applicant must:

- (a) comply with the requirements of Water NSW for any works adjacent to, or over, the water pipelines corridor;
- (b) consult with Water NSW during detailed design of Stage 1 works near the corridor including:
  - (i) design of drainage upgrade works within the corridor;
  - (ii) batters and access tracks;
  - (iii) final bridge design for the WNSLR;
- (c) obtain from Water NSW, an access consent and construction licence to work within the water pipelines corridor, prior to the commencement of construction;
- (d) consult with Water NSW during preparation of the CEMP, in accordance with Condition D119, and attend a site visit with Water NSW personnel, prior to finalising the CEMP, to mark the exact works area for the WNSLR bridge crossing; and
- (e) notify any incidents that affect or could affect the water pipelines corridor to Water NSW on the 24-hour Incident Notification Number **1800 061 069**, as a matter of urgency.

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

D32. Before the issue of the final Occupation Certificate for Stage 1, 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 PCA.

#### **APPLICABILITY OF GUIDELINES**

- D33. 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.
- D34. 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 Stage 1. No condition of this consent removes any obligation to obtain, renew or comply with such licences, permits, approvals and consents.

## PART 2 – ENVIRONMENTAL PERFORMANCE CONDITIONS

### VISUAL AMENITY

#### Landscape Management Plan

- D35. Prior to the commencement of construction of Stage 1, the Applicant must prepare a Landscape Management Plan (LMP), to the satisfaction of the Planning Secretary. The plan must form part of the CEMP in accordance with Condition D119 and the OEMP in accordance with Condition D130 and must:
- (a) be prepared in consultation with Council;
  - (b) detail procedures for the retention of existing native vegetation in the north-western corner of the Site and protection of this vegetation from construction impacts;
  - (c) include visual impact mitigation measures for construction including but not limited to:
    - (i) the location of site sheds, compounds and machinery parking areas, avoiding the western and southern site boundaries, or other locations highly visible from adjacent residential properties;
    - (ii) procedures for progressive grassing of exposed soil, as soon as reasonably practicable after disturbance, focusing on areas where building construction will occur at a later stage;
  - (d) detail the works required to construct the landscape bund along the western boundary of the Site, as shown on **Figure 5 in Appendix 2**, including provision for the landscaping to incorporate mature trees (no less than 75 litre pot size);
  - (e) include a schedule of works which prioritises the construction of the landscape bund along the western boundary of the Site, as shown on **Figure 5 in Appendix 2**.
  - (f) include a program for implementing the landscape bund as soon as reasonably practicable, and no later than prior to operation of Stage 1;
  - (g) describe the integration of landscaping with fixed elements, including retaining walls and noise walls; and
  - (h) describe the monitoring and maintenance procedures to ensure the success of the landscaping works over the life of the Development.
- D36. The Applicant must:
- (a) not commence construction of Stage 1 until the LMP is approved by the Planning Secretary.
  - (b) must implement the most recent version of the LMP approved by the Planning Secretary; and
  - (c) include the monitoring and maintenance procedures contained in the LMP within the OEMP required in accordance with Condition D130.

#### Landscaping

- D37. The Applicant must complete the landscape bund along the western boundary of the Site as shown on **Figure 5 in Appendix 2** within six months of commencing any construction including bulk earthworks.
- D38. The Applicant must maintain all landscaping implemented as part of Stage 1, as shown on **Figure 5 in Appendix 2**, for the duration of the Development. If the monitoring carried out as part of Condition D35 indicates that any aspect of the landscaping has not been successful, the Applicant must undertake re-planting and rehabilitation works, as soon as reasonably practicable.

#### Setbacks

- D39. The Applicant must ensure building services including tanks are integrated into the building design and landscaped areas to reduce visibility from public areas, unless otherwise required by an authority or Australian Standard, to be located within the front boundary setback.

#### Lighting and Security Cameras

- D40. The Applicant must ensure the lighting associated with Stage 1:
- (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.
- D41. The Applicant must ensure any security cameras installed as part of Stage 1 are directed away from adjacent private properties.

## Reflectivity

- D42. The visible light reflectivity from building materials used in the facades and roofs of the warehouses and offices must be designed to minimise glare. A report demonstrating compliance with these requirements is to be submitted to the satisfaction of the Certifying Authority prior to the issue of the relevant Construction Certificate.

## Signage and Fencing

- D43. All signage and fencing must be erected in accordance with the plans in the RtS.

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

- D44. All fencing along building frontages must be located behind the landscape setbacks and not along the front boundary. The fencing must be a maximum height of 2.1 metre and be an open style.

- D45. The Applicant must:

- (a) remove existing rural fencing along the water pipelines corridor adjacent the site and dispose to an appropriate waste facility licensed to accept the waste;
- (b) install and maintain temporary security fencing along the water pipelines corridor adjacent the site, for the duration of construction, or until a permanent fence is installed;
- (c) install permanent 2.4-metre-high fencing along the water pipelines corridor adjacent the site, including the approaches to the WNSLR bridge over the water pipelines corridor and above retaining walls, unless otherwise agreed with Water NSW;
- (d) install concrete barriers or barrier guard rails (including barriers leading up to bridge structure) to the WNSLR where there is potential for large vehicles to drive over retaining walls and into the water pipelines corridor. Barriers must be rated to withstand impact from B-Double size vehicles; and
- (e) install cranked throw screens on both sides of the WNSLR bridge crossing the Water NSW water pipeline corridor.

## WESTERN NORTH-SOUTH LINK ROAD (WNSLR)

### General Requirements

- D46. The Applicant must design and construct the WNSLR in accordance with the requirements of:

- (a) Council, the PCA and any approval issued under section 138 of the *Roads Act 1993* including the Works Authorisation Deed (WAD);
- (b) TfNSW for the bridge crossing of the future WSFL; and
- (c) Water NSW for the bridge crossing of the water pipelines corridor.

- D47. The Applicant must design and construct the intersections of the WNSLR with Estate Road 1 and Lockwood Road to the satisfaction of the relevant roads authority.

### Works at Lenore Drive/Grady Crescent/WNSLR Intersection

- D48. Prior to the commencement of construction of the Lenore Drive/Grady Crescent/WNSLR intersection (the intersection), the Applicant must finalise the detailed design, including a Traffic Signal Plan, for the intersection works. The detailed design must:

- (a) cut back the median further with a taper in Grady Crescent to accommodate the dual B-Double swept paths turning from WNSLR onto Lenore Drive; and
- (b) include an angled pedestrian crossing on the south-eastern corner of the intersection so that pedestrians are not confused by the pedestrian lantern on the opposite side of the intersection.

- D49. The Applicant must enter into a WAD for works at the intersection with TfNSW (former RMS). The WAD must be executed prior to the submission of the detailed design required under condition D48 to TfNSW for approval.

- D50. The Applicant must design the proposed traffic control light at the intersection in accordance with Austroads guidelines, RMS Signal Design Manual and Australian Codes of Practice. The traffic control light design must be endorsed by a suitably qualified practitioner whose qualification has been approved by TfNSW (former RMS).

- D51. The Applicant must submit the certified copies of the traffic signal design plans to TfNSW (former RMS) for approval prior to the issue of a Construction Certificate.

- D52. The Applicant must submit a request to TfNSW (former RMS) Network Operations Team to obtain relevant approvals to remove the signalised pedestrian crossing on the eastern leg of the intersection.



- D53. The Applicant must carry out all public utility adjustment/relocation works necessary for the intersection works as required by relevant public utility authorities and/or their agents.
- D54. The Applicant must make a ten (10) year maintenance contribution for the intersection to TfNSW (former RMS).
- D55. The intersection works must be carried out at no cost to TfNSW (former RMS).

#### **Pre-Construction**

- D56. Prior to the commencement of construction of the WNSLR, the Applicant must:
- (a) obtain the written consent of the Minister for Planning and Public Spaces under the Biodiversity Covenant, to construct the WNSLR over the Erskine Park Biodiversity Corridor; and
  - (b) provide evidence to the satisfaction of the Planning Secretary, demonstrating the design of the WNSLR and bridge crossings have been agreed with the relevant roads authority, Council, TfNSW and Water NSW.

#### **Consultation**

- D57. The Applicant must develop a schedule for consultation with and approval by TfNSW for the construction of the bridge foundations over the future WSFL, including geotechnical and structural certification as required by TfNSW. The schedule must form part of the CEMP required by Condition D119.
- D58. The Applicant must develop a schedule for consultation with and approval by Water NSW for the construction of the bridge over the water pipelines corridor. This schedule must form part of the CEMP required by Condition D119.

#### **Pre-Operation**

- D59. Prior to operation of any Stage of the Development, the Applicant must complete construction of the WNSLR to the satisfaction of the relevant roads authority and the PCA.
- D60. Prior to the commencement of operation of the WNSLR, the Applicant must provide works-as-executed drawings to Water NSW for the WNSLR bridge. The drawings must clearly show any changes to the bridge design or the works adjacent to the water pipelines corridor.
- D61. Prior to the commencement of operation of the WNSLR, the Applicant must design and construct a stormwater management system for the WNSLR. The system must:
- (a) be designed by a suitably qualified and experienced person(s);
  - (b) be generally in accordance with the conceptual design in the RtS;
  - (c) ensure that the system capacity has been designed in accordance with AUSTROADS guidelines;
  - (d) achieve the pollutant reduction targets specified in RMS's *Water Sensitive Urban Design (WSUD) Guidelines* (March 2016) and Council's *Water Sensitive Urban Design (WSUD) Policy* (December 2013); and
  - (e) ensure the outlet structures are designed in accordance with NRAR's *Guidelines for Controlled Activities on Waterfront Land* (May 2018).

#### **Dedication of Infrastructure and Land**

- D62. Prior to the completion of construction of the WNSLR, the Applicant must consult with Water NSW regarding land subdivision and stratum arrangements for the acquisition and dedication of Water NSW land to Council for the WNSLR bridge.
- D63. Following completion of construction of the WNSLR to the satisfaction of the relevant roads authority, the Applicant must dedicate the WNSLR and its associated land owned by Water NSW and BGMG 11 Pty Limited as trustee for the BGMG 1 Oakdale West Trust, to the relevant roads authority in accordance with the requirements of the Planning Agreement.
- D64. The Applicant shall retain care, control and ownership of bio-retention basin no. 1 associated with the WNSLR.

### **TRANSPORT, ACCESS AND PARKING**

#### **Construction Traffic Management Plan**

- D65. Prior to the commencement of construction of Stage 1, the Applicant must prepare a Construction Traffic Management Plan (CTMP) to the satisfaction of the Planning Secretary. The CTMP must form part of the CEMP required by Condition D119 and must:
- (a) be prepared by a suitably qualified and experienced person(s);

- (b) be prepared in consultation with Council, Mamre Anglican School, Emmaus Catholic College, Emmaus Catholic Care Village and Trinity Catholic Primary School;
- (c) detail specific measures to manage construction traffic to avoid school drop off and pick up times (Monday to Friday 8 am – 9.30 am and 2.30 pm – 4 pm) and Higher School Certificate exam periods, including any temporary infrastructure arrangements and traffic safety measures;
- (d) detail the measures to be implemented to ensure road safety and network efficiency during construction, including scheduling deliveries of heavy plant and equipment outside of peak periods, or during school holidays where possible;
- (e) detail heavy vehicle routes, access and parking arrangements;
- (f) include a Driver Code of Conduct to:
  - i. minimise the impacts of construction on the local and regional road network;
  - ii. minimise conflicts with other road users including the students, staff, visitors and residents of the neighbouring schools and aged care village;
  - iii. minimise road traffic noise, both on Bakers Lane and from construction vehicles on Site; and
  - iv. ensure truck drivers use specified routes and adhere to the speed restrictions on Bakers Lane;
- (g) include a program to monitor the effectiveness of these measures; and
- (h) detail procedures for early notification to residents and the community (including local schools), of any potential disruptions to routes.

D66. The Applicant must:

- (a) not commence construction of Stage 1 until the CTMP required by Condition D65 is approved by the Planning Secretary; and
- (b) implement the most recent version of the CTMP approved by the Planning Secretary for the duration of construction.

### **Estate Roads and Intersections**

D67. The Applicant must design and construct the internal estate roads and intersections to accommodate the turning path of a B-Double, to the satisfaction of the Relevant Roads Authority.

D68. Following the issue of a Subdivision Certificate, the estate roads shall be dedicated to the Relevant Roads Authority. Prior to any dedication, the Applicant shall ensure construction of the estate roads has been completed to the satisfaction of the Relevant Roads Authority and measures (such as a performance bond) are in place for any prescribed maintenance period, to the satisfaction of the Relevant Roads Authority.

### **Operating Conditions**

D69. 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) 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) parking for Stage 1 is provided in accordance with the rates in Condition B13;
- (c) 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;
- (d) Stage 1 does not result in any vehicles queuing on the public road network;
- (e) heavy vehicles associated with Stage 1 are not parked on local roads or footpaths in the vicinity of the Site;
- (f) all vehicles are wholly contained on site before being required to stop;
- (g) all loading and unloading of materials are carried out on Site;
- (h) all trucks entering or leaving the Site with loads have their loads covered and do not track dirt onto the public road network; and
- (i) the proposed turning areas in the car parks are kept clear of any obstacles, including parked cars, at all times.

## NOISE

### Hours of Work

D70. The Applicant must comply with the hours detailed in **Table 5**, unless otherwise agreed in writing by the Planning Secretary.

**Table 5:** Hours of Work

Activity	Day	Time
Construction	Monday – Friday	7 am to 6 pm
	Saturday	8 am to 1 pm
Operation	Monday – Sunday (including public holidays)	24 hours

D71. Works outside of the hours identified in Condition D70 may be undertaken in the following circumstances:

- (a) works that are inaudible at the nearest sensitive receivers;
- (b) works agreed to in writing by the Planning Secretary;
- (c) for the delivery of materials required outside these hours by the NSW Police Force or other authorities for safety reasons; or
- (d) where it is required in an emergency to avoid the loss of lives, property or to prevent environmental harm.

### Construction Noise Limits

D72. Stage 1 must be constructed with the aim of achieving 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 Construction Noise and Vibration Management Plan required by Condition D73.

### Construction Noise and Vibration Management Plan

D73. The Applicant must prepare a Construction Noise and Vibration Management Plan (CNVMP) for Stage 1, to the satisfaction of the Planning Secretary. The CNVMP must form part of a CEMP in accordance with Condition D119 and must:

- (a) be prepared by a suitably qualified and experienced noise expert;
- (b) 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);
- (c) describe the measures to be implemented to manage high noise generating works such as piling, in close proximity to sensitive receivers;
- (d) include strategies to minimise impacts to sensitive receivers, including, where practicable, starting noisy equipment away from sensitive receivers and implementing respite periods;
- (e) include strategies that have been developed with the sensitive receivers identified in **Appendix 5** for managing high noise generating works;
- (f) describe the community consultation undertaken to develop the strategies in Condition D73(e);
- (g) include a monitoring program that:
  - (i) includes a protocol for determining exceedances of the relevant conditions in this approval;
  - (ii) evaluates and reports on the effectiveness of the noise and vibration management measures;
  - (iii) include procedures to relocate, modify, mitigate or stop work to ensure compliance with relevant criteria; and
- (h) include a complaints management system that would be implemented for the duration of Stage 1.

D74. The Applicant must:

- (a) not commence construction of Stage 1 until the CNVMP required by Condition D73 is approved by the Planning Secretary; and

- (b) implement the most recent version of the CNVMP approved by the Planning Secretary for the duration of construction.

### **Operational Noise Limits**

- D75. The Applicant shall undertake operation of Stage 1 in a manner that ensures the Development complies with the noise limits for the Concept Proposal in Condition B18 of this consent.

### **VIBRATION**

#### **Vibration Criteria**

- D76. Vibration caused by construction works on the site, as measured at any residence or structure outside the site, must be limited to:
- (a) for structural damage, the latest version of *DIN 4150-3 (1992-02) Structural vibration - Effects of vibration on structures* (German Institute for Standardisation, 1999); and
  - (b) for human exposure, the acceptable vibration values set out in the *Environmental Noise Management Assessing Vibration: a technical guideline* (DEC, 2006) (as may be updated or replaced from time to time).
- D77. Vibratory compactors must not be used closer than 30 metres from residential buildings unless vibration monitoring confirms compliance with the vibration criteria specified in Condition D76.
- D78. The limits in Conditions D76 and D77 apply unless otherwise outlined in a CNVMP, approved as part of the CEMP required by Condition D119 of this consent.

### **SOILS & WATER**

#### **Imported Soil**

- D79. The Applicant must prepare a Fill Importation Protocol for Stage 1. The protocol must form part of the CEMP required by Condition D119 and must detail the measures to:
- (a) ensure 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 Department upon request.

#### **Erosion and Sediment Control**

- D80. The Applicant must prepare an Erosion and Sediment Control Plan for Stage 1, including the WNSLR, to the satisfaction of the Planning Secretary. The Plan must form part of a CEMP in accordance with Condition D119 and must:
- (a) be prepared by a suitably qualified and experienced person(s);
  - (b) be generally consistent with the Erosion and Sediment Control Plans in the RTS and those prepared by the contractor for each sequence of the works, as approved by the PCA;
  - (c) include detailed erosion and sediment controls developed in accordance with the relevant requirements of *Managing Urban Stormwater: Soils and Construction - Volume 1: Blue Book* (Landcom, 2004) guideline; and
  - (d) include procedures for maintaining erosion and sediment controls in efficient working order for the duration of construction, to ensure Stage 1 complies with Condition D82.
- D81. Prior to the commencement of bulk earthworks as part of Stage 1, the Applicant must implement erosion and sediment controls identified by Condition D80 and maintain those controls throughout bulk earthworks and construction, to ensure stormwater flows do not increase in any downstream areas. The Environmental Representative, appointed in accordance with Condition D123, shall make a written statement to the Planning Secretary confirming the erosion and sediment controls are operational, prior to the commencement of bulk earthworks and other construction activities required for Stage 1.

#### **Discharge Limits**

- D82. Stage 1 must comply with section 120 of the POEO Act, which prohibits the pollution of waters.

#### **Stormwater Management System**

- D83. The Applicant must design, construct and operate a stormwater management system for Stage 1 that:
- (a) is designed by a suitably qualified and experienced person(s);
  - (b) is generally in accordance with the conceptual design in the RtS;
  - (c) is in accordance with applicable Australian Standards;

- (d) ensures the system capacity is designed in accordance with *Australian Rainfall and Runoff* (Engineers Australia, 2016), *Managing Urban Stormwater: Council Handbook* (EPA, 1997) and *Stormwater Drainage Specifications for Building Development* (Penrith Council, May 2018);
  - (e) ensures peak stormwater flows from the Site do not exceed pre-development flows in any downstream areas for all rainfall events up to and including the 1 in 100-year average recurrence interval (ARI);
  - (f) ensures peak stormwater flows from the Site do not exceed existing flows in the Water NSW drainage lines and water pipelines corridor; and
  - (g) achieves the pollutant reduction targets specified in Council's *Water Sensitive Urban Design (WSUD) Policy*, (December 2013).
- D84. All stormwater drainage infrastructure on the Site, including bio-retention basins, shall remain under the care, control and ownership of the registered proprietor of the lots.
- D85. The Applicant shall create a drainage easement for the outlet swales from the bio-retention basins on the site, in accordance with the requirements of Council and Condition D22.

#### **Groundwater**

- D86. If groundwater is intersected during construction of Stage 1, the Applicant must:
- (a) obtain the necessary water licences or approvals from NRAR; and
  - (b) develop a Groundwater Management Plan (GMP) for the testing, dewatering, storage, movement and treatment of groundwater, to the satisfaction of NRAR.

#### **Waterfront Land**

- D87. The Applicant must carry out all works on or adjacent to waterfront land in accordance with the Department of Industry *Guidelines for Controlled Activities on Waterfront Lands 2012*.

#### **BIODIVERSITY**

##### **Flora and Fauna Management Plan**

- D88. The Applicant must prepare a Flora and Fauna Management Plan (FFMP) for Stage 1, to the satisfaction of the Planning Secretary. The Plan must form part of a CEMP in accordance with Condition D119 and must:
- (a) be prepared by a suitably qualified and experienced person(s);
  - (b) describe procedures to manage impacts on biodiversity values during earthworks, clearing and dam decommissioning;
  - (c) include procedures for clearing marking and protecting the areas of vegetation to be retained on the Site, including the mature vegetation in the north-western corner and the Biodiversity Offset Area, established in accordance with Condition D91 adjacent to Ropes Creek; and
  - (d) detail the specific erosion and sediment controls to protect the retained vegetation.
- D89. The Applicant must:
- (a) not commence bulk earthworks until the FFMP required by Condition D88 is approved by the Planning Secretary; and
  - (b) implement the most recent version of the FFMP approved by the Planning Secretary for the duration of bulk earthworks and construction.

##### **Offsets for Stage 1**

- D90. Within 12 months of the date of this development consent, or as otherwise agreed with the Planning Secretary, the Applicant must retire 172 ecosystem credits to offset the removal of 4.41 hectares of native vegetation on the Site.

**Note:** *If the Applicant seeks a variation to the offset rules, the Applicant must demonstrate that reasonable steps have been taken to find like-for-like offsets in accordance with Section 10.5.4.2 of the FBA and Appendix A of the OEH's NSW Biodiversity Offsets Policy for Major Projects 2014.*

*In accordance with Principle 3 of the OEH's NSW Biodiversity Offsets Policy for Major Projects 2014, the Policy does not allow variations to the offset rules to be applied to 'threatened species and ecological communities that are considered nationally significant (listed under the Environmental Protection and Biodiversity Conservation Act 1999)'. These must be offset in a like for like manner.*

- D91. The Applicant shall establish a Biodiversity Offset Area on the Site, consistent with the area described in the RtS, in accordance with a Biodiversity Stewardship Agreement with the Biodiversity Conservation Trust.

### **Biodiversity Management Action Plan**

D92. The Applicant must maintain the Biodiversity Offset Area on the Site in accordance with a Biodiversity Management Action Plan approved by the Biodiversity Conservation Trust.

### **Offsets for the WNSLR**

D93. Within 12 months of the date of this development consent, or as otherwise agreed with the Planning Secretary, the Applicant must:

- (a) offset 0.42 ha of vegetation lost in the Erskine Park Biodiversity Corridor as a result of the WNSLR by carrying out planting within the area shown in green edging on **Figure 9** in **Appendix 6**; and
- (b) plant the area shown in green edging on **Figure 9** of **Appendix 6** with species similar to those identified for zone 4a, on the south-eastern side of Ropes Creek, in the Biodiversity Management Plan Erskine Park Employment Area (HLA-Envirosciences, 2 May 2006).

D94. The Applicant shall monitor and maintain the planting for a period of six months to ensure a minimum 85% survival rate of the planting.

D95. The Applicant must notify the Planning Ministerial Corporation at least one month before the completion of planting to enable the Planning Ministerial Corporation to arrange ongoing maintenance.

### **Snake Management Measures**

D96. Prior to construction of Stage 1, the Applicant must implement snake management measures to limit, to the extent practicable, movement of snakes from the Site into the adjacent school and retirement village on the western boundary of the Site. The measures shall be detailed in the CEMP required by Condition D119 and shall include, but not be limited to, provision of alternative snake habitat on Site, fencing along the western boundary and installation of snake deterrents.

### **BUSHFIRE PROTECTION**

D97. The Applicant shall ensure Stage 1 complies with:

- (a) the relevant provisions of *Planning for Bushfire Protection 2006*;
- (b) the construction standards and asset protection zone requirements recommended in the Oakdale Industrial Estate - West Bushfire Protection Assessment, prepared by Australian Bushfire Protection Planners Pty Ltd, dated September 2016; and
- (c) *AS2419.1 – 2005 Fire Hydrant Installations* for firefighting water supply.

### **AIR QUALITY**

#### **Dust Minimisation**

D98. The Applicant must take all reasonable steps to minimise dust generated during all works authorised by this consent.

D99. During construction of Stage 1, 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 Stage 1 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.

#### **Construction Air Quality Management Plan**

D100. Prior to the commencement of construction of Stage 1, the Applicant must prepare a Construction Air Quality Management Plan (CAQMP) to the satisfaction of the Planning Secretary. The CAQMP must form part of the CEMP required by Condition D119 and must:

- (a) be prepared by a suitably qualified and experienced person(s);
- (b) detail and rank all emissions from all construction activities, including particulate emissions;
- (c) describe a program that is capable of evaluating the performance of the construction 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.

D101. The Applicant must:

- (a) not commence construction of Stage 1 until the CAQMP required by Condition D100 is approved by the Planning Secretary; and
- (b) implement the most recent version of the CAQMP approved by the Planning Secretary for the duration of construction.

### **Odour Management**

D102. The Applicant must ensure Stage 1 does not cause or permit the emission of any offensive odour, as defined in the POEO Act.

## **ABORIGINAL HERITAGE**

### **Statutory Requirements**

D103. Prior to the commencement of construction of Stage 1, the Applicant must register identified Aboriginal items or objects on the OEH's Aboriginal Heritage Information Management System (AHIMS) Aboriginal Sites Register.

### **Archaeological Test Excavation**

D104. Prior to the commencement of construction of Stage 1, the Applicant must undertake archaeological test excavation in the identified area of archaeological sensitivity adjacent to Ropes Creek and the ridgeline immediately to the west, that would be impacted by Stage 1. The test excavation must:

- (a) be undertaken in accordance with a methodology developed in consultation with registered Aboriginal parties;
- (b) be undertaken in accordance with the requirements of the Heritage and Community Engagement, Department of Premier and Cabinet (former NSW OEH Heritage Division); and
- (c) include a report detailing any further work, including archaeological salvage and monitoring, conducted in the presence of Aboriginal stakeholders.

D105. The Applicant must not commence construction of Stage 1 until the Archaeological Test Excavation Report is provided to the Heritage and Community Engagement, Department of Premier and Cabinet (former NSW OEH Heritage Division) and the Planning Secretary.

### **Unexpected Finds Protocol**

D106. 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 Biodiversity and Conservation Division of the Department must be contacted immediately.

D107. 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* (NSW).

## **HISTORIC HERITAGE**

### **Unexpected Finds Protocol**

D108. If any archaeological relics are uncovered during construction of Stage 1, then all works in the immediate vicinity of the relic must cease immediately. Unexpected finds must be evaluated and recorded in accordance the requirements of Department of Premier and Cabinet, Heritage (former NSW OEH Heritage Division).

## HAZARDS AND RISK

### Dangerous Goods

D109. 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

D110. 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).

## WASTE MANAGEMENT

### Waste Storage

D111. 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

D112. The Applicant must implement the Waste Management Plan (WMP) in the EIS for the duration of construction and operation of Stage 1.

### Statutory Requirements

D113. 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.

D114. Waste generated outside the Site must not be received at the Site for storage, treatment, processing, reprocessing, or disposal.

### Pests, Vermin and Noxious Weed Management

D115. 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 Biosecurity Act 2015 (NSW).

## CONTAMINATION

D116. Prior to the commencement of construction of Stage 1, the Applicant must prepare an unexpected finds protocol to ensure that potentially contaminated material is appropriately managed. The procedure must form part of the CEMP in accordance with Condition D119 and must ensure any material identified as contaminated is disposed offsite, with the disposal location and results of testing submitted to the Planning Secretary, prior to its removal from the Site.

## COMMUNITY ENGAGEMENT

D117. The Applicant must consult with the community regularly throughout Stage 1, including consultation with the nearby sensitive receivers identified in **Appendix 5**, relevant regulatory authorities, Registered Aboriginal Parties and other interested stakeholders. Community engagement shall be undertaken in accordance with the Community Communication Strategy approved in accordance with Condition C19.



### PART 3 – ENVIRONMENTAL MANAGEMENT, REPORTING AND AUDITING

#### MANAGEMENT PLAN REQUIREMENTS

D118. Management plans required under this consent must be prepared in accordance with relevant guidelines, and include:

- (a) 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, Stage 1 or any management measures;
- (b) a description of the measures to be implemented to comply with the relevant statutory requirements, limits, or performance measures and criteria;
- (c) a program to monitor and report on the:
  - (i) impacts and environmental performance of Stage 1; and
  - (ii) effectiveness of the management measures set out pursuant to paragraph (b) above;
- (d) 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;
- (e) a program to investigate and implement ways to improve the environmental performance of Stage 1 over time;
- (f) 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
- (g) 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

D119. The Applicant must prepare a Construction Environmental Management Plan (CEMP) for Stage 1, including the WNSLR, in accordance with the requirements of Condition D118 and to the satisfaction of the Planning Secretary. The Applicant may prepare separate CEMPs for the Stage 1 works and the WNSLR, addressing all relevant requirements of this consent.

D120. Prior to finalising the CEMP, the Applicant must consult with TfNSW (including the former RMS), Council and Water NSW. The Applicant must also attend a site visit with Water NSW personnel to mark the exact works area for the WNSLR bridge crossing.

D121. As part of the CEMP required under Condition D119 of this consent, the Applicant must include:

- (a) detailed procedures for managing bulk earthworks to avoid adverse water quality impacts on Ropes Creek, including, but not limited to:
  - (i) any staging of earthworks to minimise disturbed areas;
  - (ii) limits on the areal extent of earthworks;
  - (iii) progressive grassing of exposed areas, as soon as reasonably practicable, focusing on areas where building construction will occur at a later stage;
- (b) Landscape Management Plan (LMP) (see Condition D35);
- (c) Construction Traffic Management Plan (CTMP) (see Condition D65);
- (d) Consultation Schedule for TfNSW and Water NSW (see Conditions D57 and D58);
- (e) Construction Noise and Vibration Management Plan (CNVMP) (see Condition D73);
- (f) Fill Importation Protocol (see Condition D79) and Erosion and Sediment Control Plan (see Condition D80);
- (g) Flora and Fauna Management Plan (FFMP) (see Condition D88);

- (h) Snake Management Measures (see Condition D96);
- (i) Construction Air Quality Management Plan (CAQMP) (see Condition D100);
- (j) Unexpected Finds Protocol (see Conditions D106 and D108);
- (k) Unexpected Contamination Protocol (see Condition D116); and
- (l) a Community Consultation and Complaints Handling Procedure.

D122. The Applicant must:

- (a) not commence construction of Stage 1 until the CEMP is approved by the Planning Secretary; and
- (b) carry out the construction of Stage 1 in accordance with the CEMP approved by the Planning Secretary and as revised and approved by the Planning Secretary from time to time.

#### ENVIRONMENTAL REPRESENTATIVE

D123. The Applicant must engage an Environmental Representative (ER) to oversee construction of Stage 1. Construction of Stage 1 must not commence until an ER has been approved by the Planning Secretary and engaged by the Applicant.

D124. The Planning Secretary's approval of an ER must be sought no later than one month before the commencement of construction of Stage 1, or within another timeframe agreed with the Planning Secretary.

D125. The proposed ER must be a suitably qualified and experienced person who was not involved in the preparation of the EIS or RtS and is independent from the design and construction personnel for Stage 1.

D126. The Applicant may engage more than one ER for Stage 1, in which case the functions to be exercised by an ER under the terms of this approval may be carried out by any ER that is approved by the Planning Secretary for the purposes of Stage 1.

D127. For the duration of construction of Stage 1, or as agreed with the Planning Secretary, the approved ER must:

- (a) receive and respond to communication from the Planning Secretary in relation to the environmental performance of Stage 1;
- (b) consider and inform the Planning Secretary on matters specified in the terms of this consent;
- (c) consider and recommend to the Applicant any improvements that may be made to work practices to avoid or minimise adverse impact to the environment and to the community;
- (d) review the CEMP identified in Condition D119 and any other documents that are identified by the Planning Secretary, to ensure they are consistent with requirements in or under this consent, and if so:
  - (i) make a written statement to this effect before submission of such documents to the Planning Secretary (if those documents are required to be approved by the Planning Secretary); or
  - (ii) make a written statement to this effect before the implementation of such documents (if those documents are required to be submitted to the Planning Secretary/Department for information or are not required to be submitted to the Planning Secretary/Department);
- (e) regularly monitor the implementation of the CEMP, and any other documents identified by the Planning Secretary, to ensure implementation is being carried out in accordance with the document and the terms of this consent;
- (f) as may be requested by the Planning Secretary, help plan, attend or undertake audits of Stage 1 commissioned by the Department including scoping audits, programming audits, briefings, and site visits;
- (g) as may be requested by the Planning Secretary, assist the Department in the resolution of community complaints;
- (h) prepare and submit to the Planning Secretary and other relevant regulatory agencies, for information, an **Environmental Representative Monthly Report** providing the information set out in the Environmental Representative Protocol under the heading "Environmental Representative Monthly Reports." The **Environmental Representative Monthly Report** must be submitted within seven calendar days following the end of each month for the duration of the ER's engagement, or as otherwise agreed with the Planning Secretary.

D128. The Applicant must provide the ER with all documentation requested by the ER in order for the ER to perform their functions specified in Condition D127 (including preparation of the ER monthly report), as well as:

- (a) the complaints register; and
- (b) a copy of any assessment carried out by the Applicant of whether proposed work is consistent with the consent (which must be provided to the ER before the commencement of the subject work).

D129. The Planning Secretary may at any time commission an audit of an ER's exercise of its functions under Condition D142. The Applicant must:

- (a) facilitate and assist the Planning Secretary in any such audit; and
- (b) make it a term of their engagement of an ER that the ER facilitate and assist the Planning Secretary in any such audit.

#### **OPERATIONAL ENVIRONMENTAL MANAGEMENT PLAN**

D130. The Applicant must prepare an Operational Environmental Management Plan (OEMP) in accordance with the requirements of Condition D118 and to the satisfaction of the Planning Secretary.

D131. As part of the OEMP required under Condition D130 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 operation of Stage 1;
- (b) describe the procedures that would be implemented to:
  - (i) keep the local community and relevant agencies informed about the operation and environmental performance of Stage 1;
  - (ii) receive, handle, respond to, and record complaints;
  - (iii) resolve any disputes that may arise;
  - (iv) respond to any non-compliance;
  - (v) respond to emergencies; and
- (c) include the following environmental management plans:
  - (i) Landscape Management Plan (LMP) (see Condition D35);
  - (ii) Flora and Fauna Management Plan (FFMP) (see Condition D88);
  - (iii) Waste Management Plan (WMP) (see Condition D112).

D132. The Applicant must:

- (a) not commence operation until the OEMP is approved by the Planning Secretary; and
- (b) operate Stage 1 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**

D133. Within three months of:

- (a) the submission of a Compliance Report under Condition D141;
  - (b) the submission of an Environmental Representative Monthly Report under Condition D127;
  - (c) the submission of an incident report under Condition D135;
  - (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 D2(b) which requires a review,
- the strategies, plans and programs required under this consent must be reviewed.

D134. If necessary, to either improve the environmental performance of Stage 1, 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 Stage 1.

## REPORTING AND AUDITING

### Incident Notification, Reporting and Response

D135. The Department must be notified in writing to [compliance@planning.nsw.gov.au](mailto:compliance@planning.nsw.gov.au) immediately after the Applicant becomes aware of an incident. The notification must identify the development (including the development application number and the name of the development if it has one) and set out the location and nature of the incident. Subsequent notification requirements must be given, and reports submitted in accordance with the requirements set out in **Appendix 8**.

### Non-Compliance Notification

D136. The Department must be notified in writing to [compliance@planning.nsw.gov.au](mailto:compliance@planning.nsw.gov.au) within seven (7) days after the Applicant becomes aware of any non-compliance.

D137. 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.

D138. A non-compliance which has been notified as an incident does not need to also be notified as a non-compliance.

### Compliance Reporting

D139. No later than 6 weeks before the date notified for the commencement of construction, a Compliance Monitoring and Reporting Program prepared in accordance with the Compliance Reporting Post Approval Requirements (Department 2018) must be submitted to the Department.

D140. Compliance Reports of the Development must be carried out in accordance with the Compliance Reporting Post Approval Requirements (Department 2018).

D141. The Applicant must make each Compliance Report publicly available no later than 60 days after submitting it to the Department and notify the Department in writing at least 7 days before this is done.

### Monitoring and Environmental Audits

D142. 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

D143. 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 D2 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) the proposed staging plans for the Development if the construction, operation or decommissioning of the Development is to be staged;
  - (v) 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;
  - (vi) 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;
  - (vii) a summary of the current stage and progress of the Development;
  - (viii) contact details to enquire about the Development or to make a complaint;
  - (ix) a complaints register, updated monthly;

- (x) the Compliance Report of the Development;
  - (xi) audit reports prepared as part of any monitoring or environmental audit of the Development and the Applicant's response to the recommendations in any audit report;
  - (xii) 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 CONCEPT PROPOSAL

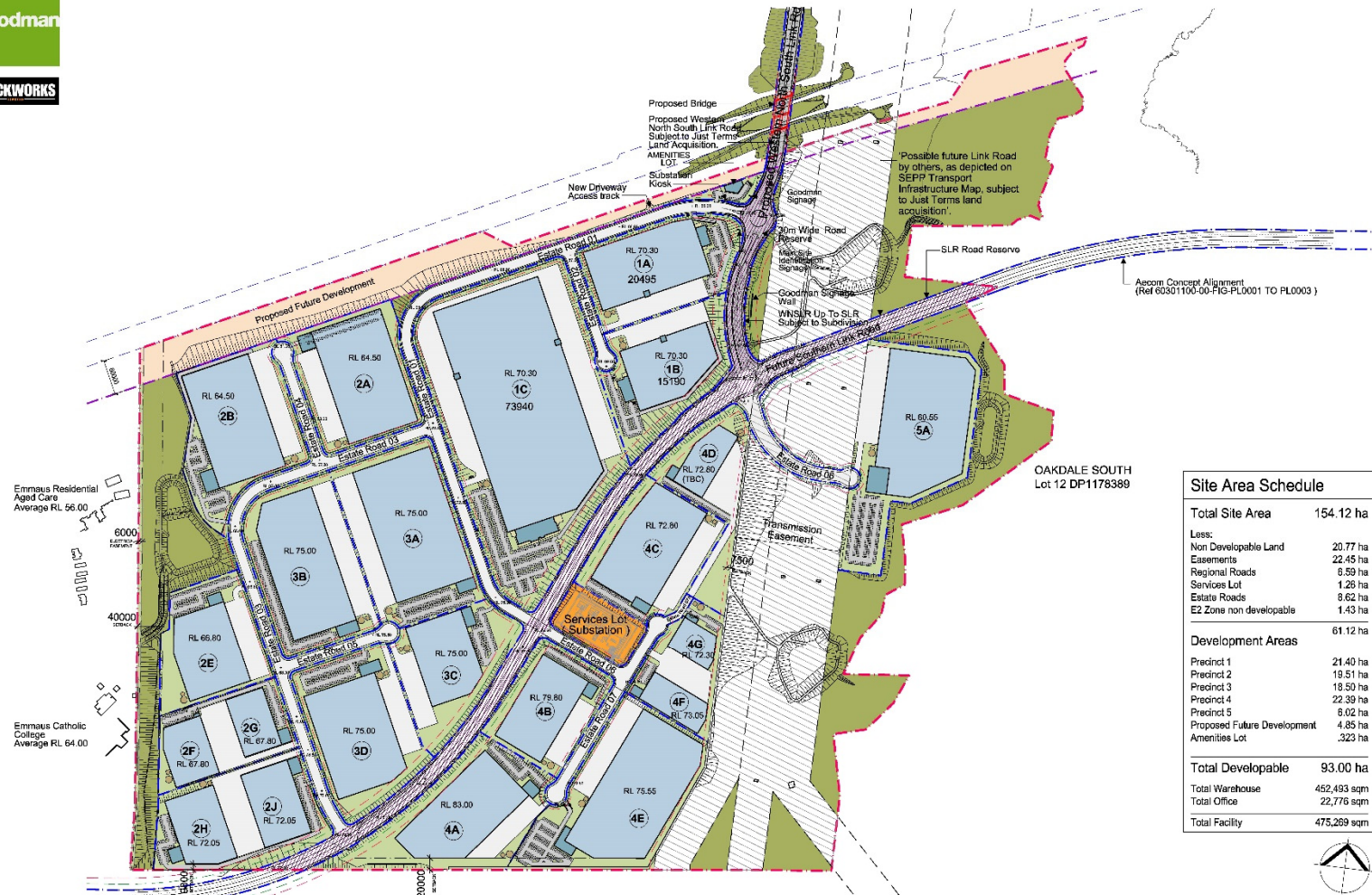
**Table 6:** Schedule of Approved Plans – Concept Proposal

Architectural Plans prepared by SBA Architects		
Drawing	Title	Date
OAK MP 02 (AW)	SSDA Estate Masterplan	21 Sept 2018
OAK MP 03 (X)	Western North South Link Road	21 Sept 2018
OAK MP 07 (U)	Indicative Ultimate Lot Layout	21 Sept 2018
OAK MP 13 (S)	Fire Protection Plan	21 Sept 2018
OAK MP 14 (Y)	Biodiversity Management Plan	21 Sept 2018

Landscape Plans prepared by Site Image Architects			
Drawing	Title	Issue	Date
LC-002	Landscape Concept Master Plan	G	11.10.2018
LC-003	Landscape Concept Master Plan	G	11.10.2018
LC-004	Vegetation Typologies	G	11.10.2018
LC-005	Vegetation Typologies	G	11.10.2018
LC-006	Vegetation Typologies – Indicative Species List and Reference Table	G	11.10.2018
LC-008	Street Tree Master Plan	G	11.10.2018
LC-011	Boundary Landscape Treatment Key Plan	G	11.10.2018
LC-012	Western Boundary Treatment Plan	G	11.10.2018

Civil Plans prepared by AT&L			
Drawing	Title	Issue	Date
15-272-C0001	General Arrangement Master Plan	A4	05-10-18
15-272-C0003	Precinct Plan	A3	21-09-18
15-272-C0006	Cut/Fill Plan	A3	21-09-18
15-272-C0008	Stormwater Drainage Catchment Plan (Developed)	A3	21-09-18
15-272-C0009	Erosion and Sediment Control Master Plan	A2	21-09-18
15-272-C0010	Typical Sections Sheet 1	A3	21-09-18
15-272-C0011	Typical Sections Sheet 2	A3	21-09-18
15-272-C0012	Typical Sections Sheet 3	A3	21-09-18
15-272-C0013	Typical Sections Sheet 4	A2	21-09-18

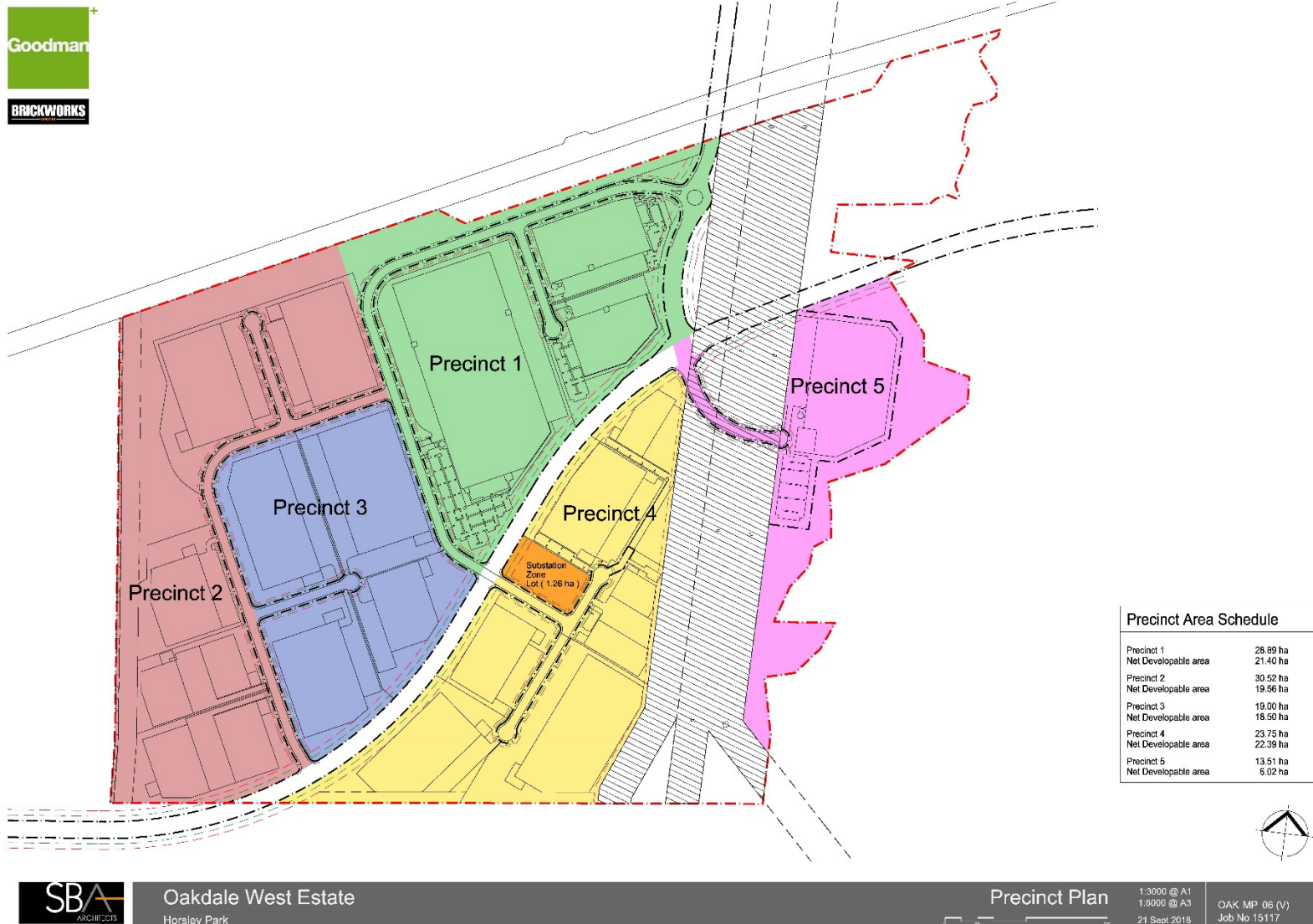
SEE DRAWING OAK MP03 FOR CONTINUATION



Site Area Schedule	
Total Site Area	154.12 ha
Less:	
Non Developable Land	20.77 ha
Easements	22.45 ha
Regional Roads	6.59 ha
Services Lot	1.28 ha
Estate Roads	8.62 ha
E2 Zone non developable	1.43 ha
Development Areas	61.12 ha
Predict 1	21.40 ha
Predict 2	19.51 ha
Predict 3	18.50 ha
Predict 4	22.39 ha
Predict 5	6.02 ha
Proposed Future Development	4.85 ha
Amenities Lot	.323 ha
Total Developable	93.00 ha
Total Warehouse	452,493 sqm
Total Office	22,776 sqm
Total Facility	475,269 sqm

**Figure 1: Concept Proposal Layout**





**Figure 2: Staging Plan**



## APPENDIX 2 STAGE 1 DA PLANS

**Table 7:** Schedule of Approved Plans – Stage 1 DA

Architectural Plans prepared by SBA Architects		
Drawing	Title	Date
OAK MP 04 (Z)	SSDA Stage 1 Development – Precinct 1	21 Sept 2018
OAK MP 05 (Z)	Precinct 1 Plan	21 Sept 2018
OAK MP 12 (12)	Signage Precinct 1 Plan	21 Sept 2018
Building 1A plans prepared by SBA Architects		
OAK 1A DA 10 (H)	Site Plan/Floor Plan	04 May 2018
OAK 1A DA 11 (C)	Roof Plan	03 April 2017
OAK 1A DA 12 (C)	Office Plan – Ground Floor	06 Sept 2016
OAK 1A DA 13 (c)	Office Plan – First Floor	06 Sept 2016
OAK 1A DA 14 (C)	Elevations Office	06 Sept 2016
OAK 1A DA 15 (C)	Elevations 1A	03 April 2017
OAK 1A DA 16 (D)	Sections	4 May 2018
Building 1B plans prepared by SBA Architects		
OAK 1B DA 20 (F)	Site Plan/Floor Plan	17 April 2018
OAK 1B DA 21 (C)	Roof Plan	06 Sept 2016
OAK 1B DA 22 (B)	Office Plan	06 Sept 2016
OAK 1B DA 24 (B)	Elevations Office	06 Sept 2016
OAK 1B DA 25(B)	Elevations 1B	06 Sept 2016
OAK 1B DA 26 (B)	Sections	06 Sept 2016
Building 1C plans prepared by SBA Architects		
OAK 1C DA 30 (H)	Site Plan/Floor Plan	17 April 2018
OAK 1C DA 31 (C)	Roof Plan	03 April 2017
OAK 1C DA 32 (B)	Office Plan – Ground Floor	06 Sept 2016
OAK 1C DA 33 (B)	Office Plan – First Floor	06 Sept 2016
OAK 1C DA 34 (B)	Elevations Office	06 Sept 2016
OAK 1C DA 35 (C)	Elevations Sheet 1	03 April 2017
OAK 1C DA 36 (C)	Elevations Sheet 2	03 Sept 2017
OAK 1C DA 37 (C)	Sections	03 April 2017

Landscape Plans prepared by Site Image Landscape Architects			
Drawing	Title	Issue	Date
ELW-101	-	G	11.10.2018
ELW-102	-	G	11.10.2018
ELW-103	-	G	11.10.2018
ELW-104	-	G	11.10.2018
ELW-105	-	G	11.10.2018
ELW-106	-	G	11.10.2018
ELW-107	-	G	11.10.2018
ELW-108	-	G	11.10.2018
ELW-109	-	G	11.10.2018
ELW-110	-	G	11.10.2018
ELW-111	-	G	11.10.2018
ELW-112	-	G	11.10.2018
ELW-113	-	G	11.10.2018
ELW-114	-	G	11.10.2018
WNSLR-101	-	G	11.10.2018
WNSLR-102	-	G	11.10.2018
ELW-502	Plant Schedule	G	11.10.2018
OLW-001	Precinct 1 Landscape Plan	G	11.10.2018
OLW-501	Planting Palette	G	11-10-2018

Civil Plans prepared by AT&L			
Drawing	Title	Issue	Date
15-272-C0004	Stage 1 SSD Approval Extents Sheet 1 of 2	A5	11-10-18
15-272-C0005	Stage 1 SSD Approval Extents Sheet 2 of 2	A4	21-09-18
15-272-C0020	Western North-South Link Road General Arrangement Plan	A3	21-09-18
15-272-C0022	Western North-South Link Road Stormwater Drainage Catchment Plan (Developed)	A3	21-09-18

15-272-C1004	Typical Site Sections Sheet 1 of 6	A4	21-09-18
15-272-C1005	Typical Site Sections Sheet 2 of 6	A4	21-09-18
15-272-C1006	Typical Site Sections Sheet 3 of 6	A4	21-09-18
15-272-C1007	Typical Site Sections Sheet 4 of 6	A3	21-09-18
15-272-C1008	Typical Site Sections Sheet 5 of 6	A3	11-10-18
15-272-C1009	Typical Site Sections Sheet 6 of 6	A4	28-09-18
15-272-C1010	Typical Road Sections	A3	21-09-18
15-272-C1015	Earthworks and Stormwater Drainage Plan Sheet 1 of 20	A3	21-09-18
15-272-C1016	Earthworks and Stormwater Drainage Plan Sheet 2 of 20	A3	21-09-18
15-272-C1017	Earthworks and Stormwater Drainage Plan Sheet 3 of 20	A3	21-09-18
15-272-C1018	Earthworks and Stormwater Drainage Plan Sheet 4 of 20	A3	21-09-18
15-272-C1019	Earthworks and Stormwater Drainage Plan Sheet 5 of 20	A3	21-09-18
15-272-C1020	Earthworks and Stormwater Drainage Plan Sheet 6 of 20	A3	21-09-18
15-272-C1021	Earthworks and Stormwater Drainage Plan Sheet 7 of 20	A3	21-09-18
15-272-C1022	Earthworks and Stormwater Drainage Plan Sheet 8 of 20	A3	21-09-18
15-272-C1023	Earthworks and Stormwater Drainage Plan Sheet 9 of 20	A3	21-09-18
15-272-C1024	Earthworks and Stormwater Drainage Plan Sheet 10 of 20	A3	21-09-18
15-272-C1025	Earthworks and Stormwater Drainage Plan Sheet 11 of 20	A3	21-09-18
15-272-C1026	Earthworks and Stormwater Drainage Plan Sheet 12 of 20	A3	21-09-18
15-272-C1027	Earthworks and Stormwater Drainage Plan Sheet 13 of 20	A3	21-09-18
15-272-C1028	Earthworks and Stormwater Drainage Plan Sheet 14 of 20	A3	21-09-18
15-272-C1029	Earthworks and Stormwater Drainage Plan Sheet 15 of 20	A4	04-10-18
15-272-C1030	Earthworks and Stormwater Drainage Plan Sheet 16 of 20	A3	21-09-18
15-272-C1031	Earthworks and Stormwater Drainage Plan Sheet 17 of 20	A3	21-09-18
15-272-C1032	Earthworks and Stormwater Drainage Plan Sheet 18 of 20	A3	21-09-18
15-272-C1033	Earthworks and Stormwater Drainage Plan Sheet 19 of 20	A3	21-09-18
15-272-C1034	Earthworks and Stormwater Drainage Plan Sheet 20 of 20	A3	21-09-18
15-272-C1040	Roadworks and Stormwater Drainage Plan Sheet 1 of 10	A3	21-09-18
15-272-C1041	Roadworks and Stormwater Drainage Plan Sheet 2 of 10	A3	21-09-18
15-272-C1042	Roadworks and Stormwater Drainage Plan Sheet 3 of 10	A3	21-09-18
15-272-C1043	Roadworks and Stormwater Drainage Plan Sheet 4 of 10	A3	21-09-18
15-272-C1044	Roadworks and Stormwater Drainage Plan Sheet 5 of 10	A3	21-09-18
15-272-C1045	Roadworks and Stormwater Drainage Plan Sheet 6 of 10	A3	21-09-18
15-272-C1046	Roadworks and Stormwater Drainage Plan Sheet 7 of 10	A3	21-09-18
15-272-C1047	Roadworks and Stormwater Drainage Plan Sheet 8 of 10	A3	21-09-18
15-272-C1048	Roadworks and Stormwater Drainage Plan Sheet 9 of 10	A2	21-09-18
15-272-C1049	Roadworks and Stormwater Drainage Plan Sheet 10 of 10	A2	21-09-18
15-272-C1050	Road and Longitudinal Sections Sheet 1 of 5	A3	21-09-18
15-272-C1051	Road and Longitudinal Sections Sheet 2 of 5	A3	21-09-18
15-272-C1052	Road and Longitudinal Sections Sheet 3 of 5	A3	21-09-18
15-272-C1053	Road and Longitudinal Sections Sheet 4 of 5	A3	21-09-18
15-272-C1054	Road and Longitudinal Sections Sheet 5 of 5	A3	21-09-18
15-272-C1062	Bio-Retention Basin No. 3 Detail Plan Sheet 1 of 2	A3	21-09-18
15-272-C1063	Bio-Retention Basin No. 3 Detail Plan Sheet 2 of 2	A2	21-09-18
15-272-C1064	Bio-Retention Basin No. 5 Detail Plan Sheet 1 of 2	A1	21-09-18
15-272-C1065	Bio-Retention Basin No. 5 Detail Plan Sheet 2 of 2	A3	21-09-18
15-272-C1066	Bio-Retention Basin No. 6 Detail Plan	A3	21-09-18
15-272-C1070	Retaining Wall General Arrangement Plan	A4	11-10-18
15-272-C1071	Retaining Wall Profiles Sheet 1 of 7	A3	21-09-18
15-272-C1072	Retaining Wall Profiles Sheet 2 of 7	A3	21-09-18
15-272-C1073	Retaining Wall Profiles Sheet 3 of 7	A3	21-09-18
15-272-C1074	Retaining Wall Profiles Sheet 4 of 7	A3	21-09-18
15-272-C1075	Retaining Wall Profiles Sheet 5 of 7	A3	21-09-18
15-272-C1076	Retaining Wall Profiles Sheet 6 of 7	A3	21-09-18
15-272-C1077	Retaining Wall Profiles Sheet 7 of 7	A2	21-09-18
12-272-C1080	Stage 1 Services and Utilities Coordination Plan Sheet 1 of 6	A3	21-09-18
12-272-C1081	Stage 1 Services and Utilities Coordination Plan Sheet 2 of 6	A3	21-09-18
12-272-C1082	Stage 1 Services and Utilities Coordination Plan Sheet 3 of 6	A3	21-09-18
12-272-C1083	Stage 1 Services and Utilities Coordination Plan Sheet 4 of 6	A3	21-09-18
12-272-C1084	Stage 1 Services and Utilities Coordination Plan Sheet 5 of 6	A3	21-09-18
12-272-C1085	Stage 1 Services and Utilities Coordination Plan Sheet 6 of 6	A3	21-09-18
12-272-C1090	Erosion and Sediment Control Plan Sheet 1 of 7	A3	21-09-18
12-272-C1091	Erosion and Sediment Control Plan Sheet 2 of 7	A3	21-09-18
12-272-C1092	Erosion and Sediment Control Plan Sheet 3 of 7	A3	21-09-18

12-272-C1093	Erosion and Sediment Control Plan Sheet 4 of 7	A3	21-09-18
12-272-C1094	Erosion and Sediment Control Plan Sheet 5 of 7	A3	21-09-18
12-272-C1095	Erosion and Sediment Control Plan Sheet 6 of 7	A3	21-09-18
12-272-C1096	Erosion and Sediment Control Plan Sheet 7 of 7	A3	21-09-18
12-272-C1097	Erosion and Sediment Control Details	A1	21-09-18
15-272-C2003	General Arrangement Plan	A3	21-09-18
15-272-C2010	Siteworks and Stormwater Drainage Plan Sheet 1 of 15	A3	21-09-18
15-272-C2011	Siteworks and Stormwater Drainage Plan Sheet 2 of 15	A3	21-09-18
15-272-C2012	Siteworks and Stormwater Drainage Plan Sheet 3 of 15	A3	21-09-18
15-272-C2013	Siteworks and Stormwater Drainage Plan Sheet 4 of 15	A3	21-09-18
15-272-C2014	Siteworks and Stormwater Drainage Plan Sheet 5 of 15	A3	21-09-18
15-272-C2015	Siteworks and Stormwater Drainage Plan Sheet 6 of 15	A3	21-09-18
15-272-C2016	Siteworks and Stormwater Drainage Plan Sheet 7 of 15	A3	21-09-18
15-272-C2017	Siteworks and Stormwater Drainage Plan Sheet 8 of 15	A3	21-09-18
15-272-C2018	Siteworks and Stormwater Drainage Plan Sheet 9 of 15	A3	21-09-18
15-272-C2019	Siteworks and Stormwater Drainage Plan Sheet 10 of 15	A3	21-09-18
15-272-C2020	Siteworks and Stormwater Drainage Plan Sheet 11 of 15	A3	21-09-18
15-272-C2021	Siteworks and Stormwater Drainage Plan Sheet 12 of 15	A3	21-09-18
15-272-C2022	Siteworks and Stormwater Drainage Plan Sheet 13 of 15	A3	21-09-18
15-272-C2023	Siteworks and Stormwater Drainage Plan Sheet 14 of 15	A3	21-09-18
15-272-C2024	Siteworks and Stormwater Drainage Plan Sheet 15 of 15	A3	21-09-18
15-272-C2030	Pavement Plan	A3	21-09-18
15-272-C3003	General Arrangement Plan	A3	21-09-18
15-272-C3010	Typical Road Sections	A3	21-09-18
15-272-C3020	Roadworks Plan and Longitudinal Section Sheet 1 of 5	A3	21-09-18
15-272-C3021	Roadworks Plan and Longitudinal Section Sheet 2 of 5	A3	21-09-18
15-272-C3022	Roadworks Plan and Longitudinal Section Sheet 3 of 5	A3	21-09-18
15-272-C3023	Roadworks Plan and Longitudinal Section Sheet 4 of 5	A3	21-09-18
15-272-C3024	Roadworks Plan and Longitudinal Section Sheet 5 of 5	A3	21-09-18
15-272-C3030	Road Longitudinal Sections	A3	21-09-18
15-272-C3040	Bridge Elevation and Typical Section	A4	04-10-18
15-272-C3050	Stormwater Drainage Plan Sheet 1 of 5	A3	21-09-18
15-272-C3051	Stormwater Drainage Plan Sheet 2 of 5	A3	21-09-18
15-272-C3052	Stormwater Drainage Plan Sheet 3 of 5	A3	21-09-18
15-272-C3053	Stormwater Drainage Plan Sheet 4 of 5	A3	21-09-18
15-272-C3054	Stormwater Drainage Plan Sheet 5 of 5	A3	21-09-18
15-272-C3058	Stormwater Drainage Catchment Plan (Post-Developed)	A2	21-09-18
15-272-C3060	Bio-Retention Basin NO. 1 Detail Plan	A3	21-09-18
15-272-C3070	Pavement Plan Sheet 1 of 5	A3	21-09-18
15-272-C3071	Pavement Plan Sheet 2 of 5	A3	21-09-18
15-272-C3072	Pavement Plan Sheet 3 of 5	A3	21-09-18
15-272-C3073	Pavement Plan Sheet 4 of 5	A3	21-09-18
15-272-C3074	Pavement Plan Sheet 5 of 5	A2	21-09-18
15-272-C3080	Retaining Wall Plan and Elevation	A1	21-09-18
15-272-C3081	Retaining Wall Sections Sheet 1 of 4	A1	21-09-18
15-272-C3082	Retaining Wall Sections Sheet 2 of 4	A1	21-09-18
15-272-C3083	Retaining Wall Sections Sheet 3 of 4	A1	21-09-18
15-272-C3084	Retaining Wall Sections Sheet 4 of 4	A1	21-09-18





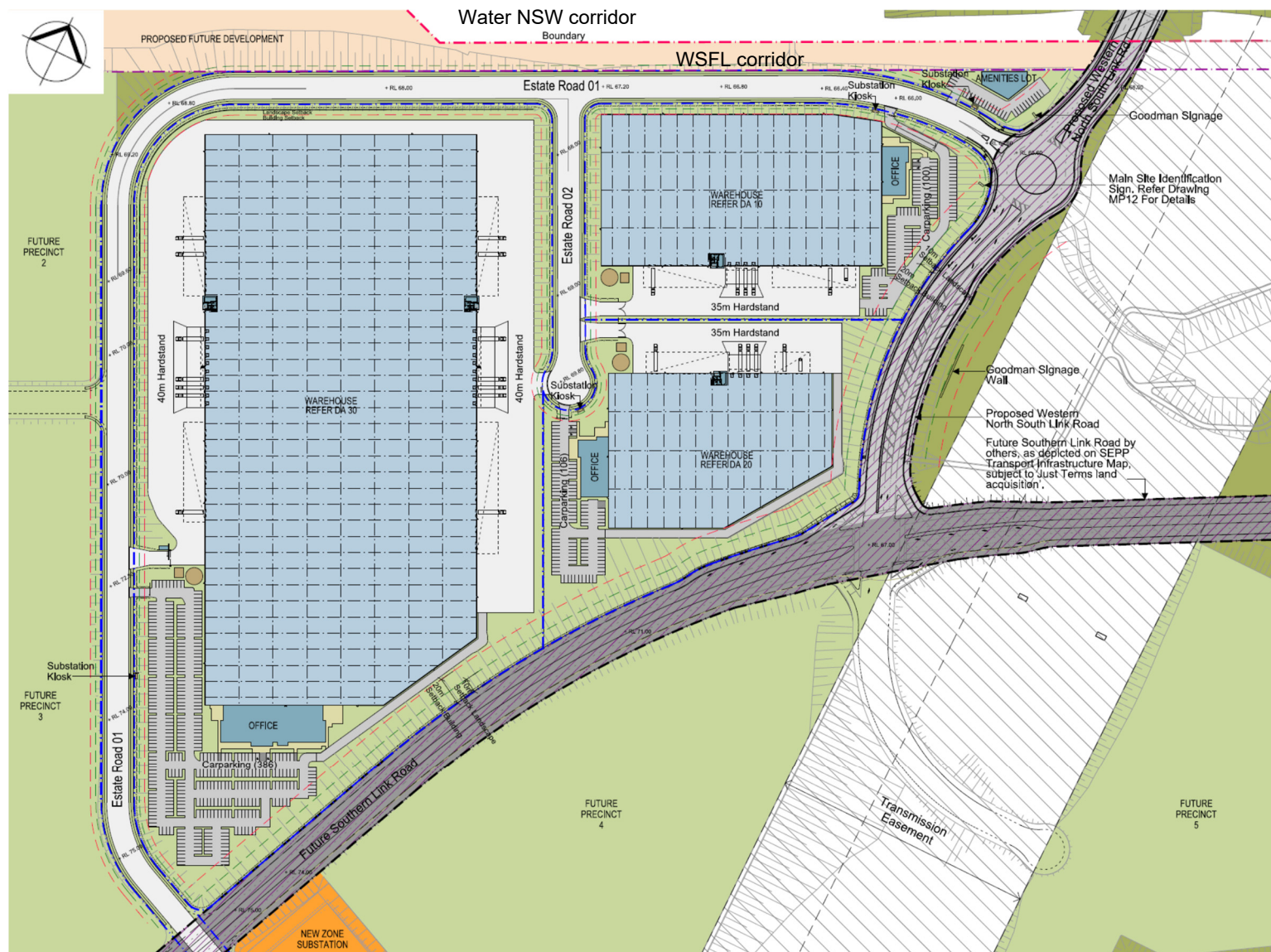
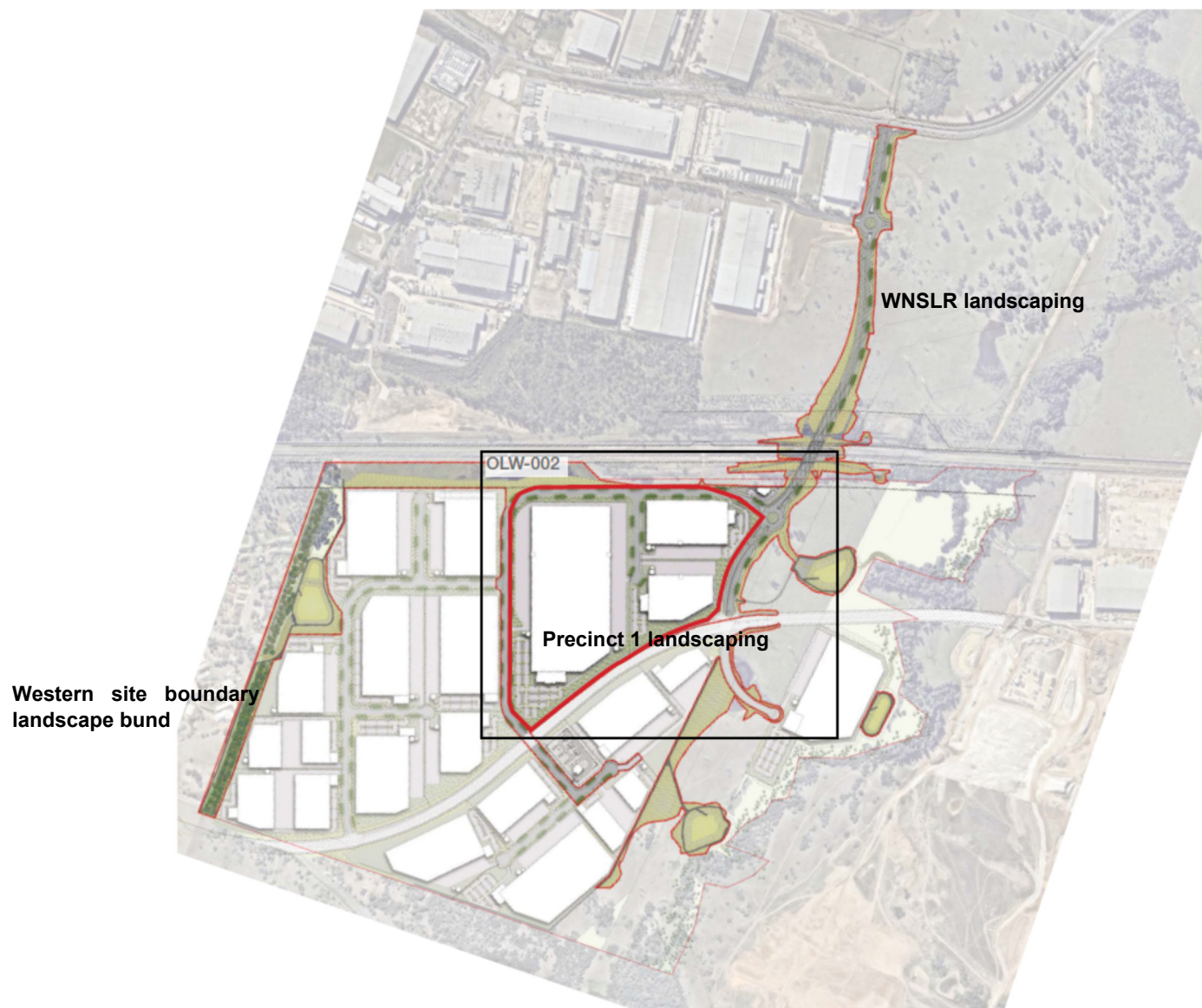


Figure 4: Stage 1 DA Detail



**Figure 5: Stage 1 Landscape Plan**



### APPENDIX 3 WNSLR PLANS

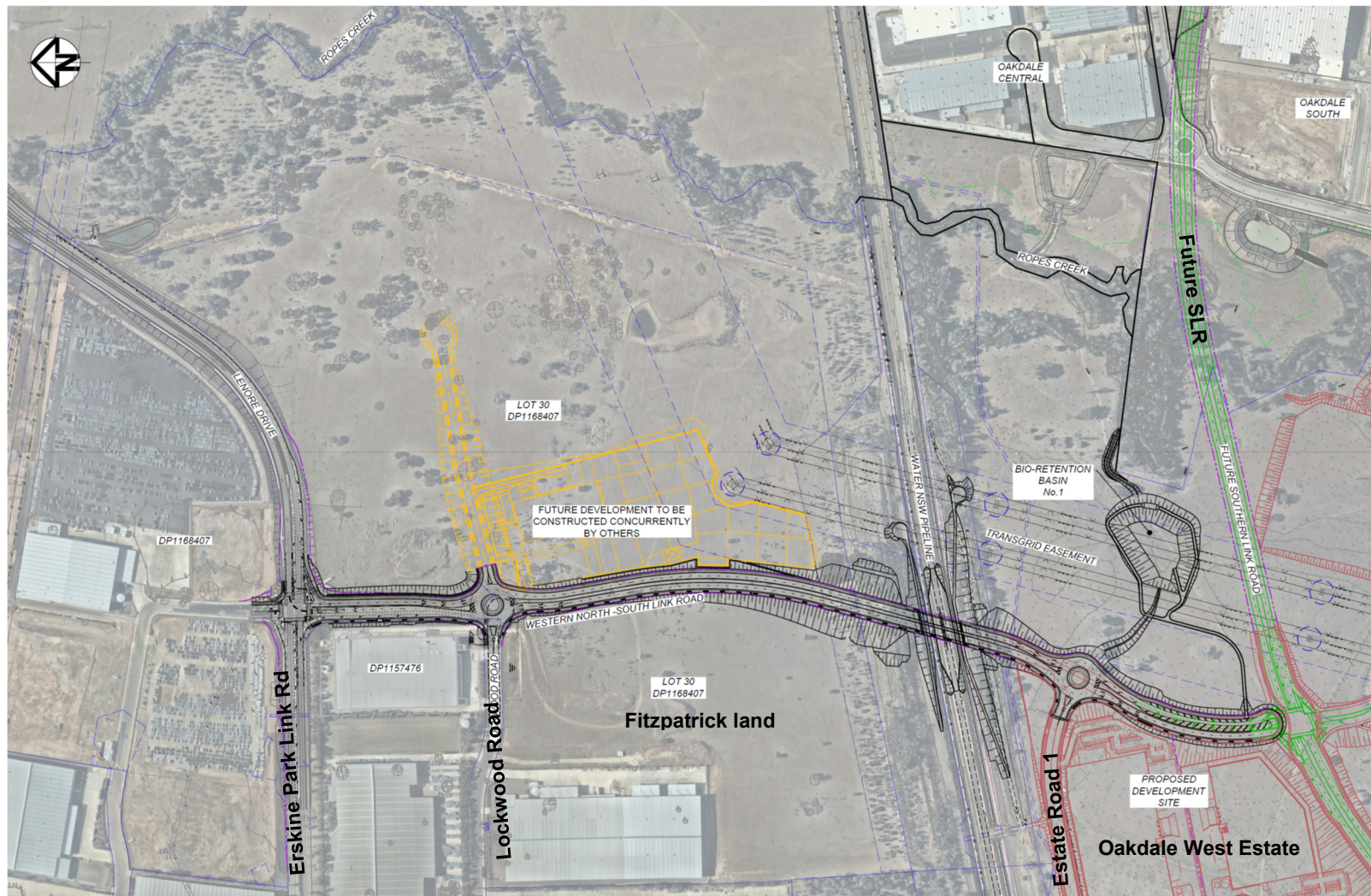


Figure 6: WNSLR


## APPENDIX 4 PLANNING AGREEMENT



# Oakdale West Estate

## Planning Agreement

Environmental Planning and Assessment Act 1979

Minister for Planning *and Public Spaces*   
Planning Minister

Goodman Property Services (Aust) Pty Ltd  
Developer

BGMG 11 Pty Limited as trustee for the BGMG 1 Oakdale West Trust  
Landowner

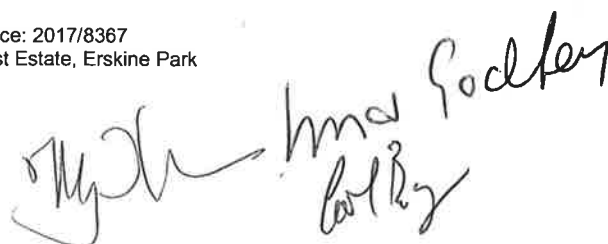
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Sydney NSW 2001  
Tel +61 2 9353 4000  
Fax +61 2 8220 6700  
[www.claytonutz.com](http://www.claytonutz.com)



Our reference /20526/80187084

VPA Reference: 2017/8367  
Oakdale West Estate, Erskine Park

L\325887957.12



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## Planning Agreement

Date

Parties

*and Public Spaces*  
*20 770 707468*  
**MINISTER FOR PLANNING** (ABN ~~38 755 709 681~~) of Level 15, 52 Martin Place, Sydney, New South Wales, 2000 (**Planning Minister**) *BW*

**GOODMAN PROPERTY SERVICES (AUST) PTY LTD** (ABN 40 088 981 793) of level 17, 60 Castlereagh Street, Sydney, New South Wales, 2000 (**Developer**)

**BGMG 11 PTY LTD** (ABN 73 616 276 076) **as trustee for the BGMG 1 OAKDALE WEST TRUST** (ABN 79 264 172 511) of Level 17, 60 Castlereagh Street, Sydney, New South Wales, 2000 (**Landowner**)

### Background

- A. The Landowner owns the Land.
- B. The Developer proposes to carry out the Development on the Land.
- C. The Developer has made one or more Development Applications to the Consent Authority in respect of the Development on the Land.
- D. Clause 29 of *State Environmental Planning Policy (Western Sydney Employment Area) 2009 (WSEA SEPP)* provides that the Consent Authority must not grant Development Consent to the Development unless the Secretary has certified in writing to the Consent Authority that satisfactory arrangements have been made to contribute to the provision of regional transport infrastructure and services (including the Erskine Park Link Road Network) in relation to the land to which the WSEA SEPP applies.
- E. The Developer has offered to enter into this deed with the Planning Minister to secure the Development Contributions in order to enable the Secretary to provide the certification required by clause 29 of the WSEA SEPP.

### Operative provisions

#### 1. Definitions and interpretation

##### 1.1 Definitions

In this deed, unless the context clearly indicates otherwise:

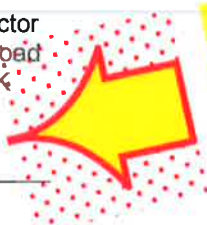
**Acceptable Contractor** means a Construction Contractor which:

- (a) is appointed pursuant to an arm's length competitive tender process which meets the requirements of the Planning Minister; and
- (b) satisfies the requirements of RMS for a contractor to construct regional public roads.

**Actual Costs** means:

- (a) the final certified contract cost paid by the Developer to the Construction Contractor following compliance with all of the Developer's obligations under the relevant Road Works Agreement in respect of the construction of the works comprising the WIK Contribution; and

*Brett Whitlock*



- (b) costs (not exceeding in total an amount that is 15% of the amount in paragraph (a) above) reasonably incurred in the delivery of the WIK Contribution and paid by the Developer to third parties for:
- (i) design of road works, project management, investigations, consultant fees, studies or reports specifically required for the road works; and
  - (ii) other matters where the approval of the Planning Minister to the inclusion of such costs has been given in writing to the Developer,

to the extent that they are reasonable in quantum and do not exceed the Maximum WIK Value.

**Acquisition Cost** means any loss, cost, expense, fee, charge, tax, rate, fine, Liability or penalty in connection with the acquisition by any person or the transfer to the Planning Minister or to the Nominated Transferee (including any other transfers which occur prior to that transfer) of any land.

**Address for Service** for a party means the contact details of that party appearing in Schedule 2 or any other contact details which that party notifies to all other parties as its Address for Service.

**Agreed Valuation Rate** has the meaning given to that term in clause 3.6(g) of Schedule 4.

**Approved Actual Costs** has the meaning given to that expression in clause 3.5(c) of Schedule 4.

**Associate** of a person means that person's officer, employee, adviser, contractor (including any other person with whom that person has a contractual relationship), subcontractor or invitee, or any related entity of that person (within the meaning of the *Corporations Act* 2001 (Cth)).

**Authorisation** means any consent, approval, authorisation, determination, licence, registration, order, permission or concurrence.

**Authority** means any Federal, State or local government or semi-governmental, statutory, judicial or public person, authority, instrumentality or department.

**Bank Guarantee** means an irrevocable and unconditional undertaking:

- (a) by an Australian bank which is an eligible financial institution for the purposes of Treasury Circular NSW TC14/01 dated 24 January 2014 as amended, supplemented or substituted from time to time;
- (b) on terms acceptable to the Planning Minister, in the Planning Minister's absolute discretion;
- (c) naming the "Minister for Planning" and the "Department of Planning and Environment ABN ~~38 755 769 681~~ <sup>20 770 707 468</sup>" as the relevant beneficiaries; *and Public Spaces* *Industry*
- (d) without an expiry date;

to pay the face value of that undertaking (being such amount as is required under this deed) on demand.

**Base CPI** means the CPI number for the quarter ending 31 March 2018.

**Business Day** means any day on which banks are open for business generally in Sydney, but does not include a Saturday, Sunday or public holiday, or any day between 25 December and 1 January inclusive.

**Compliance Certificate** has the same meaning as in the Planning Act.

**Consent Authority** has the same meaning as in the Planning Act.

**Construction Certificate** has the same meaning as in the Planning Act.

**Construction Contract** means a contract under which a Construction Contractor is engaged by the Developer to deliver the works comprising a WIK Contribution to which this deed relates.

**Construction Contractor** means a contractor engaged to deliver the works comprising a WIK Contribution to which this deed relates.

**Contamination** has the same meaning as in the *Contaminated Land Management Act* 1997 (NSW).

**Contribution Amount** means, for a particular Trigger Event, the amount of contribution which the Developer is required to make under this deed before the occurrence of that Trigger Event, as described in Schedule 4.

**Council** means Penrith City Council.

**CPI** means the Sydney Consumer Price Index (All Groups) published by the Commonwealth Statistician, or if that index no longer exists, any similar index which the Planning Minister specifies, in his or her sole discretion, for the purposes of this deed.

**CPI Adjustment Date** means 1 July 2018 and each anniversary of 1 July 2018.

**Current CPI** means the CPI number for the quarter ending immediately before 31 March in the year in which the relevant adjustment is made.

**Development** means the development of the Land in the Stages for the purposes of a warehouse and logistics estate known as the 'Oakdale West Estate', including as contemplated by:

- (a) State significant Development Application SSD7348; and
- (b) any future Development Applications for that development on the Land.

**Development Application** has the same meaning as in the Planning Act.

**Development Consent** has the same meaning as in the Planning Act.

**Development Contributions** means the total contributions to be provided by the Developer in accordance with Schedule 4.

**Explanatory Note** means the note exhibited with a copy of this deed when this deed is made available for inspection by the public pursuant to the Planning Act, as required by the Planning Regulation.

**External WSEA Obligation** means an obligation to make a development contribution relating to the provision of regional transport infrastructure and services on other land (not being the Land) to which the WSEA SEPP applies including any such land owned by an entity which is not a party to this deed.

**Fitzpatrick Developer** means the developer of the Fitzpatrick Industrial Estate, which as at the date of this deed is Fitzpatrick Investments Pty Ltd (ABN 42 001 662 862).

**Fitzpatrick Industrial Estate** means the land known as 177 - 299 Lenore Drive, Erskine Park.

**Fitzpatrick Road Land** means the part of the Fitzpatrick Industrial Estate as generally shown in light grey solid hatch on the plan at Annexure B, or a replacement plan agreed by the Planning Minister, that is:

- (a) required for the Northern WNSL Road Section; and
- (b) required for the part of the Southern WNSL Road Section that will be situated on the Fitzpatrick Industrial Estate,

but does not include any land on which batters and other support structures which are outside the paved surface of the road and verge, unless the Planning Minister determines otherwise.

**Fitzpatrick VPA** means a planning agreement between the Planning Minister and the Fitzpatrick Developer relating to the development of the eastern part of the Fitzpatrick Industrial Estate dated 30 August 2018.

**Future Southern Link Road** means the future road known as the "Southern Link Road" as generally shown on the plan at Annexure B.

**General Register of Deeds** means the land register maintained under the *Conveyancing Act* 1919 (NSW) and so titled.

**GST** means any form of goods and services tax payable under the GST Legislation.

**GST Legislation** means the *A New Tax System (Goods and Services Tax) Act* 1999 (Cth).

**Key Road Work Terms** means the key terms which are agreed or determined in accordance with clause 4.3(e).

**Land** means the land described in Schedule 3, as generally depicted in the plan at Annexure A.

**Land Contribution** means any land (excluding land owned by the Fitzpatrick Developer as at the date of this deed) which is the subject of a WIK Contribution, and which is transferred or proposed for transfer (as the case may be) to a Nominated Transferee by or on behalf of the Developer, at no cost to the Planning Minister, in accordance with clause 3.6 of Schedule 4, and which the Planning Minister approves for transfer in a WIK Approval.

**Land Parcel** means an allotment which contains part of the Land.

**Liabilities** means claims, actions, demands, proceedings, losses, costs, expenses, fines, penalties and other liabilities (including legal costs on an indemnity basis).

**Maximum WIK Value** for a WIK Contribution means the maximum value for that WIK Contribution for the purposes of this deed, as determined by the Planning Minister in accordance with Schedule 4.

**Mediation Program** means the Mediation Program of the Law Society of New South Wales as published on its website and as varied from time to time.

**Ministerial Corporation** means the Planning Ministerial Corporation, being the corporation constituted under Part 2 of the Planning Act.

**Monetary Contribution** means the contribution described in Schedule 4.

**NDA or Net Developable Area** means the net developable area of the Land or the relevant part of the Land calculated in accordance with Schedule 6 or, in the event of a dispute or ambiguity, as determined by the Secretary.

**Nominated Transferee** has that meaning given to that term in clause 3.6(b) of Schedule 4.

**Northern WNSL Road Section** means the part of the WNSL Road between Lenore Drive (also known as the Erskine Park Link Road) and Lockwood Road generally as shown in light grey solid hatch on the plan at Annexure C, including connection of the WNSL Road to Lockwood Road (which is currently a cul-de-sac) between Lenore Drive and Lockwood Road.

**Oakdale Central Deferred Contribution Amount** has the meaning given to that term in clause 4.2(a)(ii) of Schedule 4.

**Oakdale Central VPA** means the Oakdale Central and Oakdale South, Horsley Park Planning Agreement dated 12 March 2015 between the Planning Minister, Goodman Property Services (Aust) Pty Ltd, BGAI 6 Pty Ltd, BGMG 8 Pty Ltd and BGAI 2 Pty Ltd, as amended from time to time.

**Offset Credits** means the value, as determined in accordance with this deed, of any of the Development Contributions which the Developer has delivered in accordance with this deed, which have not been applied to discharge the Developer's obligation to provide a Contribution Amount under clause 2 of Schedule 4.

**Offset Credits Schedule** means a schedule which the Planning Minister has issued under clause 2.3 of Schedule 4, identifying the value of any Offset Credits at the time at which the schedule is issued.

**Plan of Subdivision** means a registered plan of subdivision within the meaning of section 195 of the *Conveyancing Act 1919* (NSW).

**Planning Act** means the *Environmental Planning and Assessment Act 1979* (NSW).

**Planning Minister** means the Minister for Planning and includes the Secretary, the Secretary's nominee and the Ministerial Corporation.

**Planning Regulation** means the *Environmental Planning and Assessment Regulation 2000* (NSW).

**Practical Completion** for a WIK Contribution means the point in time in the process of delivering a WIK Contribution at which:

- (a) the works comprising the WIK Contribution (including any associated works necessary for public access) have been completed and are ready for their intended public use and occupation or handover to the Roads Authority, as the case may be, except for minor omissions and minor defects which:
  - (i) have been so identified on a list issued to the Developer by the Roads Authority,
  - (ii) do not impede use of the WIK Contribution by the public for the continuous safe passage of vehicular traffic and pedestrians;
  - (iii) will not prejudice the convenient and safe use of the WIK Contribution during rectification; and
  - (iv) the Roads Authority determines that the Developer has reasonable grounds for not rectifying prior to public use and occupation;
- (b) any inspection and testing requirements of the Roads Authority have been complied with and any other tests necessary to be carried out and passed before the WIK Contribution, or a part of it, is used and occupied by the public or handed over to the Roads Authority have been carried and passed and all test results and conformance data identified by the Roads Authority have been provided to the Roads Authority;



- (c) all relevant requirements of the Roads Authority in respect of the WIK Contribution have been carried out or satisfied;
- (d) all documents, certifications and information required by the Roads Authority, which the Roads Authority considers necessary for the use, operation and maintenance of the WIK Contribution have been provided to the Roads Authority, including all "As-Built" and other drawings, and all original manufacturers' or suppliers' warranties required by the Roads Authority;
- (e) with the approval of the Roads Authority, the Developer has commissioned into operation all plant incorporated into the WIK Contribution and any traffic signalling equipment and has demonstrated to the satisfaction of the Roads Authority that the commissioning has been successful; and
- (f) the Roads Authority has certified in writing that practical completion of the WIK Contribution has been achieved,

unless that expression has been given a different meaning by the Key Road Work Terms, in which case the meaning given by the Key Road Works Terms shall apply.

**Real Property Act** means the *Real Property Act 1900 (NSW)*.

**Register** means the Torrens title register maintained under the Real Property Act.

**Relevant Land** has the meaning given to that term in clause 4.3.

**Residue Super Lot** means a residue Land Parcel which is intended for further subdivision for industrial or commercial purposes, which the Secretary, in her absolute discretion, certifies as a 'Residue Super Lot'.

**RMS** means Roads and Maritime Services, a statutory corporation established under the *Transport Administration Act 1988 (NSW)*.

**Road Works Agreement** means:

- (a) a works authorisation deed (or WAD) or other legally binding agreement between the Developer and RMS (or other relevant Roads Authority) which governs the delivery of road infrastructure; and
- (b) in the case of a Roads Authority other than RMS, includes
  - (i) an Authorisation granted by the Roads Authority under section 138 of the *Roads Act 1993 (NSW)*;
  - (ii) a Construction Certificate; or
  - (iii) a Subdivision Works Certificate,

for that road infrastructure instead of such a deed or agreement, if the Planning Minister agrees in accordance with clause 4.3(e)(iii), or determines in accordance with clause 4.3(e)(v), that the "Road Works Agreement" can take the form of that instrument.

**Roads Authority** means the Council unless the Planning Minister notifies the Developer in writing otherwise.

**Satisfactory Arrangements Certificate** in respect of any land means a certificate issued by the Secretary that satisfactory arrangements have been made to contribute to the provision of regional transport infrastructure and services (including the Erskine Park Link Road Network) in respect of that land in accordance with clause 29 of the WSEA SEPP.

**Secretary** means the Secretary of the Department of Planning and Environment.

**Security** means a Bank Guarantee.

**Separable Portion 1** means that portion of the WNSL Road comprising the Northern WNSL Road Section and the part of the Southern WNSL Road Section which is as generally shown in light grey solid hatch on the plan at Annexure D.

**Separable Portion 2** means that portion of the WNSL Road comprising the part of the Southern WNSL Road Section which is to the south of the future road marked 'Estate Road 1', as generally shown in dark grey solid hatch in the plan at Annexure D.

**Southern WNSL Road Section** means the part of the WNSL Road between Lockwood Road and the Future Southern Link Road as generally shown in dark grey solid hatch on the plan at Annexure C.

**Stage** means:

- (a) one of the five stages of the Development as generally described in the State significant Development Application SSD1773; and
- (b) any other stages of the Development contemplated by any future Development Applications for the Development.

**Subdivision Certificate** has the same meaning as in the Planning Act.

**Subdivision Works Certificate** has the same meaning as in the Planning Act.

**Sunset Date** means 30 June 2040 or such other date as may be agreed between the parties.

**Tax** means a tax, duty (including stamp duty and any other transaction duty), levy, impost, charge, fee (including a registration fee) together with all interest, penalties, fines and costs concerning them.

**Trigger Event** has the meaning given to that term in clause 2 of Schedule 4.

**WAD** means a works authorisation deed.

**WaterNSW Land** means the land owned by WaterNSW which is required for the WNSL Road, as generally shown in dark grey solid hatch and labelled 'WaterNSW' in the case of surface land and shown in black solid hatch and labelled 'WaterNSW Bridge Stratum' in the case of stratum land on the plan at Annexure B.

**WIK** means works-in-kind.

**WIK Approval** has the meaning given to that expression in clause 4.3(f).

**WIK Contribution** means the design, construction, completion and delivery to the Roads Authority of a road and related works the subject of a current WIK Proposal or a WIK Approval.

**WIK Estimate Notice** has the meaning given to that expression in clause 3.3(a) of Schedule 4.

**WIK Proposal** has the meaning given to that expression in clause 4.3(a).

**WNSL Road or Western North South Link Road** means a public road and ancillary works to be constructed between Lenore Drive and the Future Southern Link Road, including:

- (a) the Southern WNSL Road Section; and
- (b) the Northern WNSL Road Section,

as generally shown on the plan at Annexure C.

**WSEA SEPP** means *State Environmental Planning Policy (Western Sydney Employment Area) 2009*.

## 1.2 Interpretation

In this deed:

- (a) clause headings, the introduction and the table of contents are inserted for convenience only and do not form part of this deed;

and, unless the context clearly indicates otherwise:

- (b) a reference to this deed or another document means this deed or that other document and any document which varies, supplements, replaces, assigns or novates this deed or that other document;
- (c) a reference to legislation or a legislative provision includes any statutory modification, or substitution of that legislation or legislative provision and any subordinate legislation issued under that legislation or legislative provision;
- (d) a reference to a body or an office which ceases to exist is a reference to:
  - (i) whether the body or office holder is an Authority - the Authority which replaces that body or office holder, or (if there is no replacement Authority) having relevant functions which are substantially the same as or similar to those of the former body or office holder; or
  - (ii) whether the body or office holder is not an Authority - either a body of office that the parties agree to substitute for the named body or office or, failing agreement, to a body or office having objects or functions which are substantially the same as those of the named body or office;
- (e) a reference to the introduction, a clause, a schedule or an annexure is a reference to the introduction, a clause, a schedule or an annexure to or of this deed;
- (f) the schedules and annexures form part of this deed;
- (g) a reference to a person includes a natural person, corporation, statutory corporation, partnership, the Crown or any other organisation or legal entity;
- (h) a reference to a natural person includes their personal representatives, successors and permitted assigns;
- (i) a reference to a corporation includes its successors and permitted assigns;
- (j) a reference to a right or obligation of a party is a reference to a right or obligation of that party under this deed;
- (k) an obligation or warranty on the part of 2 or more persons binds them jointly and severally and an obligation or warranty in favour of 2 or more persons benefits them jointly and severally;

- (l) a requirement to do any thing includes a requirement to cause that thing to be done and a requirement not to do any thing includes a requirement to prevent that thing from being done;
- (m) a right for a person to do something, or a power for a person to agree to or determine or be satisfied as to something, is a right to determine to do or not do that thing, or a power to agree to or determine or be satisfied as to that thing (as the case may be), in the person's absolute discretion (and, in the case of a determination, with or without conditions);
- (n) "including" and "includes" are not words of limitation;
- (o) a word that is derived from a defined word has a corresponding meaning;
- (p) monetary amounts are expressed in Australian dollars;
- (q) the singular includes the plural and vice-versa;
- (r) words importing one gender include all other genders;
- (s) a reference to a thing includes each part of that thing; and
- (t) neither this deed nor any part of it is to be construed against a party on the basis that the party or its lawyers were responsible for its drafting.

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## **2. Operation and application of this deed**

### **2.1 Operation**

- (a) This deed commences on the date that this deed is signed by all the parties.
- (b) The Developer agrees that this deed operates as a deed poll in favour of:
  - (i) the Planning Minister, on and from the date of execution of this deed until the date on which this deed commences;
  - (ii) the Roads Authority, on and from the date of execution of this deed; and
  - (iii) the Nominated Transferee, on and from the date on which the Nominated Transferee is nominated by the Planning Minister.

### **2.2 Planning agreement under the Planning Act**

This deed constitutes a planning agreement within the meaning of section 7.4 of the Planning Act and the parties agree on the matters set out in Schedule 1.

### **2.3 Application**

This deed applies to:

- (a) the Land; and
- (b) the Development.

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## **3. Application of sections 7.11, 7.12 and 7.24 of the Planning Act**

The application of sections 7.11, 7.12 and 7.24 of the Planning Act are excluded to the extent stated in Schedule 1.

## 4. Development Contributions

### 4.1 Developer to provide Development Contributions

The Developer must provide to the Planning Minister, or the Nominated Transferee, the Development Contributions in accordance with this clause 4 and the provisions of Schedule 4.

### 4.2 Acknowledgement

The Developer acknowledges and agrees that subject to section 7.3 of the Planning Act, the Planning Minister:

- (a) has no obligation to use or expend the Development Contributions for a particular purpose despite any provision of this deed to the contrary and has no obligation to repay the Development Contributions or refund any amount to the Developer; and
- (b) in circumstances where the Development Contributions are transferred to any Authority, has not made any representation or warranty that the Development Contributions will or must be used for a particular purpose by that Authority.

### 4.3 Works-in-Kind Contribution and Land Contribution

- (a) The Developer may, by written notice to the Planning Minister in accordance with this clause 4.3, propose that the Developer provide a WIK Contribution and (if applicable) Land Contribution instead of providing some or all of the Monetary Contribution, in accordance with this clause 4.3 and Schedule 4 (**WIK Proposal**).
- (b) The Developer may make:
  - (i) a single WIK Proposal for Separable Portion 1 and Separable Portion 2 to be delivered together; or
  - (ii) a WIK Proposal for the delivery of Separable Portion 1, which may (but is not required to) be followed by a later WIK Proposal for Separable Portion 2.
- (c) If the Developer intends to submit a WIK Proposal to the Planning Minister, the Developer must give the Planning Minister 15 Business Days' written notice of that intention before submitting the WIK Proposal.
- (d) The Developer must, in the WIK Proposal:
  - (i) describe the WIK Contribution which the Developer proposes to provide;
  - (ii) specify, for all of the land which is the subject of that WIK Contribution (other than the Fitzpatrick Road Land) and any other Land Contribution in that WIK Proposal (**Relevant Land**):
    - A. the title details of that land and a plan showing that land;
    - B. the registered proprietor of that land; and
    - C. the estimated value of that land based on the Agreed Valuation Rate;
  - (iii) confirm:
    - A. that the Developer or the Landowner is the registered proprietor of the Relevant Land; or

- B. if the Developer or the Landowner is not the registered proprietor of any parts of the Relevant Land, that the Developer:
    - 1) has obtained the unconditional written consent of each owner of each of those parts of the Relevant Land to the transfer of that part to the Nominated Transferee; or
    - 2) if part of the Relevant Land is owned by WaterNSW, that the Developer has obtained the written consent of WaterNSW to the transfer of that part to the Nominated Transferee either unconditionally or subject to conditions which the Developer is able to satisfy;
  - (iv) provide an indicative estimate of the Actual Cost of that proposed WIK Contribution.
  - (e) The Developer must, when providing the WIK Proposal, also provide:
    - (i) a statement of the proposed Key Road Work Terms, including:
      - A. the nature and amount of security to be provided for the WIK Contribution;
      - B. the definition of "Practical Completion" for the WIK Contribution;
      - C. the process for achieving Practical Completion;
      - D. the date for Practical Completion for the WIK Contribution, which, in the case of Separable Portion 1, must be no later than 13 December 2023; and
      - E. the date for the handover of the completed WIK Contribution to the Roads Authority;
      - F. the form of Road Works Agreement which will apply to the WIK Contribution; and
    - (ii) written evidence:
      - A. that the Roads Authority agrees in principle to the provision of the WIK Contribution and (if applicable) the Land Contribution described in the WIK Proposal; and
      - B. of the Roads Authority's comments on the Key Road Works Terms as described in the WIK Proposal,
- and the following process will apply:
- (iii) the Planning Minister must notify the Developer in writing, within 20 Business Days after receiving a WIK Proposal and the material specified in clause 4.3(e)(i) and (ii), whether or not the Planning Minister agrees with those proposed Key Road Work Terms;
  - (iv) if the Planning Minister notifies the Developer that the Planning Minister does not agree with those proposed Key Road Work Terms, then the

parties must negotiate in good faith and use their best endeavours to agree the Key Road Work Terms; and

- (v) if 20 Business Days (or such other period as the parties may agree) have passed since the Developer's statement of proposed Key Road Work Terms and the material specified in clause 4.3(e)(ii) have been provided to the Planning Minister and the parties have not reached agreement on the Key Road Work Terms, then the Planning Minister may, within a further 10 Business Days, and if the Planning Minister has consulted with the Roads Authority, and by written notice to the Developer, determine the Key Road Work Terms.
- (f) The Developer may withdraw a WIK Proposal at any time up to the date on which the Key Road Work Terms are agreed under clause 4.3(e)(iii) or (iv), or, in the absence of agreement, the date which is 20 Business Days after the Planning Minister provides notice of the Key Road Work Terms under clause 4.3(e)(v). If the Developer does not withdraw a WIK Proposal before this time, then the Planning Minister must, within a further 20 Business Days, determine, in his absolute discretion, to:
  - (i) approve the WIK Contribution and (if applicable) the Land Contribution specified in the WIK Proposal, as varied to include the Key Road Work Terms as agreed or determined in accordance with clause 4.3(e) (**WIK Approval**); or
  - (ii) refuse to approve the WIK Proposal.
- (g) If the Planning Minister issues a WIK Approval for a WIK Contribution, the Developer:
  - (i) must use its best endeavours to ensure that any Road Works Agreement with the Roads Authority for that WIK Contribution incorporates the Key Road Work Terms, unless the Planning Minister notifies the Developer otherwise in writing; and
  - (ii) if the Key Road Work Terms are not incorporated into the Road Works Agreement, is bound by the Key Road Work Terms and must comply with the Key Road Work Terms as material obligations under this deed.
- (h) Nothing in this clause 4.3 prevents a party from providing the other party with a notice of dispute in accordance with clause 8.2 of this deed.

#### 4.4 Exclusion of future SIC Determination

If, after the date this deed is executed by the Developer and the Landowner, the Planning Minister:

- (a) executes this deed; and
  - (b) determines a special infrastructure contribution (SIC) under section 7.23 of the Planning Act for a special contributions area that includes any part of the Land (SIC Determination),
- then:
- (c) the SIC Determination is, notwithstanding its terms, taken not to apply to the Development; and
  - (d) the value of the Development Contributions required to be provided under this deed will not be affected by the SIC Determination.

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## **5. Interest for late provision of Contribution Amount**

- (a) If the Developer fails to provide a Contribution Amount (as indexed in accordance with Schedule 4) to the Planning Minister by the due date for provision of the Contribution Amount, the Developer must also pay to the Planning Minister interest on the value of the Contribution Amount, at a rate of 2% above the loan reference rate charged by the Commonwealth Bank of Australia from time to time.
- (b) Interest is to be compounded daily from the due date for provision of the Contribution Amount until all outstanding amounts (including interest on those amounts) have been provided to the Planning Minister.

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## **6. Enforcement**

### **6.1 Developer to provide Security**

The Developer has agreed to provide security to the Planning Minister for the performance of the Developer's obligations under this deed:

- (a) by providing the Security to the Planning Minister in accordance with the terms and procedures set out in Schedule 5; and
- (b) by registering this deed on the title to the Land in the Register in accordance with clause 7.

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## **7. Registration**

### **7.1 Registration of deed**

- (a) The Developer and the Landowner must, within 20 Business Days of receiving a copy of this deed executed by the Planning Minister, procure the lodgement of this deed at NSW Land Registry Services for registration by the Registrar-General in the relevant folio of the Register for the Land.
- (b) The Developer and the Landowner warrant that they have procured the consent of each person who has an interest in the Land to the registration of this deed.
- (c) The Developer and the Landowner must take all necessary steps to effect the prompt registration of this deed, including:
  - (i) the execution of any documents;
  - (ii) the production of the relevant certificates of title; and
  - (iii) the lodgement of this deed in a registrable form at NSW Land Registry Services for registration by the Registrar-General in the relevant folio of the Register for the Land.

### **7.2 Evidence of registration**

- (a) The Developer must provide the Planning Minister with evidence of the lodgement of this deed pursuant to clause 7.1(c)(iii) within 10 Business Days of that lodgement.
- (b) The Developer must provide the Planning Minister with a copy of the relevant folio of the Register for the Land and a copy of the registered dealing containing this deed within 10 Business Days of registration of this deed.



### **7.3 Release and discharge of deed**

- (a) The Planning Minister agrees to do all things reasonably required by the Developer to release and discharge this deed with respect to the Land after the Developer and the Landowner have satisfied all of their obligations under this deed.
- (b) The Planning Minister may, in his discretion, permit the release and discharge of this deed with respect to a Land Parcel if:
  - (i) the Developer has discharged its obligation to provide a Contribution Amount in respect of that Land Parcel;
  - (ii) the Developer has satisfied all of its obligations in this deed in respect of that Land Parcel; and
  - (iii) the Developer and the Landowner are not in breach of any obligations in this deed.

### **7.4 Landowner's interest in Land**

The Landowner represents and warrants that:

- (a) it is the registered proprietor of the Land and the beneficial owners of the Land are the direct beneficiaries under the BGMG 1 Oakdale West Trust; or
- (b) it is legally and beneficially entitled to become the owner of the Land and will become the legal and beneficial owner of the Land, prior to the date that this deed is required to be registered under clause 7.1 of this deed.

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## **8. Dispute Resolution**

### **8.1 Not commence**

A party must not commence any court proceedings relating to a dispute under or in relation to this deed unless it complies with this clause 8.

### **8.2 Written notice of dispute**

A party claiming that a dispute has arisen under or in relation to this deed must give written notice to the other parties specifying the nature of the dispute.

### **8.3 Attempt to resolve**

On receipt of notice under clause 8.2, the parties must endeavour in good faith to resolve the dispute expeditiously using informal dispute resolution processes such as mediation, expert evaluation or other methods agreed by them.

### **8.4 Mediation**

If the parties do not agree within 21 Business Days of receipt of notice under clause 8.2 (or any further period agreed in writing by them) as to:

- (a) the dispute resolution technique and procedures to be adopted;
- (b) the timetable for all steps in those procedures; or
- (c) the selection and compensation of the independent person required for such technique,

the parties must mediate the dispute in accordance with the Mediation Program. The parties must request the president of the Law Society of NSW or the president's nominee to select the mediator and determine the mediator's remuneration.

## **8.5 Court proceedings**

If the dispute is not resolved within 60 Business Days after notice is given under clause 8.2 or any other period agreed in writing by the parties, then any party which has complied with the provisions of this clause 8 may, by written notice to the other parties, terminate any dispute resolution process undertaken under this clause 8 and may then commence court proceedings in relation to the dispute.

## **8.6 Not use information**

The parties acknowledge that any exchange of information or documents or the making of any offer of settlement under this clause 8 is confidential to the parties and is done in an attempt to settle the dispute. No party may use any information or documents obtained through any dispute resolution process undertaken under this clause 8 for any purpose other than in an attempt to settle the dispute.

## **8.7 Continued performance of obligations**

Despite the existence of a dispute or any process under this clause 8, but subject to any order of a court or the agreement of the parties, the parties will (so far as is reasonably practicable) continue to perform and comply with their respective obligations under this deed.

## **8.8 No prejudice**

This clause 8 does not prejudice the right of a party to institute court proceedings for urgent injunctive or declaratory relief in relation to any matter arising out of or relating to this deed.

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# **9. GST**

## **9.1 Definitions**

Words used in this clause that are defined in the GST Legislation have the meaning given in the GST Legislation.

## **9.2 Intention of the parties**

The parties intend that:

- (a) Divisions 81 and 82 of the GST Legislation apply to the supplies made under and in respect of this deed; and
- (b) no additional amounts will be payable on account of GST and no tax invoices will be exchanged between the parties.

## **9.3 Reimbursement**

Any payment or reimbursement required to be made under this deed that is calculated by reference to a cost, expense, or other amount paid or incurred must be limited to the total cost, expense or amount less the amount of any input tax credit to which any entity is entitled for the acquisition to which the cost, expense or amount relates.

## **9.4 Consideration GST exclusive**

Unless otherwise expressly stated, all prices or other sums payable or consideration to be provided under this deed are exclusive of GST. Any consideration that is specified to be

inclusive of GST must not be taken into account in calculating the GST payable in relation to a supply for the purposes of this clause 9.

## 9.5 Additional Amounts for GST

To the extent an amount of GST is payable on a supply made by a party (**Supplier**) under or in connection with this deed (the **GST Amount**), the recipient must pay to the Supplier the GST Amount. However, where a GST Amount is payable by the Planning Minister as recipient of the supply, the Developer must ensure that:

- (a) the Developer makes payment of the GST Amount on behalf of the Planning Minister, including any gross up that may be required; and
- (b) the Developer provides a tax invoice to the Planning Minister.

## 9.6 Non monetary consideration

Clause 9.5 applies to non-monetary consideration.

## 9.7 Assumptions

The Developer acknowledges and agrees that in calculating any amounts payable under clause 9.5 the Developer must assume the Planning Minister is not entitled to any input tax credit.

## 9.8 No merger

This clause does not merge on completion or termination of this deed.

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# 10. Assignment and transfer

## 10.1 Right to assign or novate

- (a) The Developer and the Landowner must not assign or novate, or purport to assign or novate, any of their rights or obligations under this deed without the prior written consent of the Planning Minister, which consent must not be withheld or delayed unreasonably or granted subject to unreasonable conditions.
- (b) A party seeking to assign or novate any of its rights or obligations under this deed (**Assigning Party**) must:
  - (i) satisfy the Planning Minister (acting reasonably) that the person to whom the Assigning Party's rights or obligations are to be assigned or novated (**Incoming Party**) has sufficient assets, resources and expertise to perform the Assigning Party's obligations under this deed insofar as those obligations are to be assigned or novated to the Incoming Party;
  - (ii) procure the execution of an agreement by the Incoming Party with the Planning Minister on terms satisfactory to the Planning Minister (acting reasonably) under which the Incoming Party agrees to comply with the terms and conditions of this deed as though the Incoming Party were the Assigning Party; and
  - (iii) satisfy the Planning Minister (acting reasonably) that it is not in material breach of its obligations under this deed.
- (c) The Assigning Party must pay the Planning Minister's reasonable legal costs and expenses incurred in relation to this clause 10.1.

## 10.2 Right to transfer Land

- (a) The Developer and the Landowner must not sell or transfer, or purport to sell or transfer, to another person (**Transferee**) the whole or any part of the Land:
  - (i) on which this deed remains registered under section 7.6 of the Planning Act; or
  - (ii) for which the Development Contribution required under this deed remains outstanding,

without the prior written consent of the Planning Minister, which consent must not be withheld or delayed unreasonably or granted subject to unreasonable conditions.
- (b) A party seeking to sell or transfer the whole or any part of the Land to a Transferee (**Transferor**) must:
  - (i) satisfy the Planning Minister (acting reasonably) that the Transferee has sufficient assets, resources and expertise to perform any of the remaining obligations of the Transferor under this deed or satisfies the Planning Minister (acting reasonably) that the Transferor will continue to be bound by the terms of this deed after the transfer has been effected;
  - (ii) procure the execution of an agreement by the Transferee with the Planning Minister on terms satisfactory to the Planning Minister (acting reasonably) under which the Transferee agrees to comply with the terms and conditions of this deed as though the Transferee were the Transferor; and
  - (iii) satisfy the Planning Minister (acting reasonably) that it is not in material breach of its obligations under this deed.
- (c) The Transferor must pay the Planning Minister's reasonable legal costs and expenses incurred in relation to this clause 10.2.

## 10.3 Replacement Security

If:

- (a) the Developer and the Landowner have complied with clause 10.1 and 10.2; and
- (b) the Incoming Party or Transferee (as the case may be) has provided the Planning Minister with a replacement Security in accordance with the requirements of Schedule 5 which is equivalent to the Security which the Assigning Party or Transferor (as the case may be) has provided and is on terms acceptable to the Planning Minister (acting reasonably),

the Planning Minister will promptly return the Security to the Assigning Party or Transferor (as the case may be).

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## 11. Capacity

### 11.1 General warranties

Each party warrants to each other party that:

- (a) this deed creates legal, valid and binding obligations, enforceable against the relevant party in accordance with its terms; and

- (b) unless otherwise stated, it has not entered into this deed in the capacity of trustee of any trust.

## 11.2 Power of attorney

If an attorney executes this deed on behalf of any party, the attorney declares that it has no notice of the revocation of that power of attorney.

## 11.3 Trustees

The Trustee enters into this deed in the capacity, and on the terms, relating to the Trustee which are set out in Schedule 7.

## 11.4 Winding up of Developer

In the event that the Developer becomes insolvent or is wound up:

- (a) a reference in this deed to the Developer is to be taken as a reference to the Landowner; and
- (b) the Landowner must perform all obligations and discharge all liabilities under this deed as though it were the Developer on and from the date of this deed.

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## 12. Reporting requirement

- (a) By 1 September each year or as otherwise agreed with the Secretary, the Developer must deliver to the Secretary a report (in a format acceptable to the Secretary) for the period 1 July to 30 June of the preceding financial year which must include the following matters, as applicable:
  - (i) details of all Development Consents, Subdivision Certificates or Construction Certificates issued in relation to the Development or the Land;
  - (ii) a description of the status of the Development including a plan that identifies what parts of the Development have been completed, are under construction and are to be constructed;
  - (iii) a forecast in relation to the anticipated progression and completion of the Development;
  - (iv) a compliance schedule:
    - A. showing the details of all Contribution Amounts provided under this deed as at the date of the report;
    - B. providing a map which identifies those parts of the Land for which Contribution Amounts have been provided;
    - C. identifying the current balance of the Offset Credits;
    - D. identifying any non-compliance with this deed and the reason for the non-compliance;
  - (v) when the Developer expects to lodge the next Development Application;
  - (vi) when the Developer expects that the next Trigger Event will occur.

- (b) Upon the Secretary's request, the Developer must deliver to the Secretary all documents and other information which, in the reasonable opinion of the Secretary are necessary for the Secretary to assess the status of the Development and the Developer's compliance with this deed.

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## **13. General Provisions**

### **13.1 Entire deed**

This deed constitutes the entire agreement between the parties regarding the matters set out in it and supersedes any prior representations, understandings or arrangements made between the parties, whether orally or in writing.

### **13.2 Variation**

This deed must not be varied except by a later written document executed by all parties.

### **13.3 Waiver**

A right created by this deed cannot be waived except in writing signed by the party entitled to that right. Delay by a party in exercising a right does not constitute a waiver of that right, nor will a waiver (either wholly or in part) by a party of a right operate as a subsequent waiver of the same right or of any other right of that party.

### **13.4 Further assurances**

Each party must promptly execute all documents and do every thing necessary or desirable to give full effect to the arrangements contained in this deed.

### **13.5 Time for doing acts**

- (a) If:
- (i) the time for doing any act or thing required to be done; or
  - (ii) a notice period specified in this deed,
- expires on a day other than a Business Day, the time for doing that act or thing or the expiration of that notice period is extended until the following Business Day.
- (b) If any act or thing required to be done is done after 5 pm on the specified day, it is taken to have been done on the following Business Day.

### **13.6 Governing law and jurisdiction**

- (a) The laws applicable in New South Wales govern this deed.
- (b) The parties submit to the non-exclusive jurisdiction of the courts of New South Wales and any courts competent to hear appeals from those courts.

### **13.7 Severance**

If any clause or part of any clause is in any way unenforceable, invalid or illegal, it is to be read down so as to be enforceable, valid and legal. If this is not possible, the clause (or where possible, the offending part) is to be severed from this deed without affecting the enforceability, validity or legality of the remaining clauses (or parts of those clauses) which will continue in full force and effect.

### 13.8 Preservation of existing rights

The expiration or termination of this deed does not affect any right that has accrued to a party before the expiration or termination date.

### 13.9 No merger

Any right or obligation of any party that is expressed to operate or have effect on or after the completion, expiration or termination of this deed for any reason, does not merge on the occurrence of that event but remains in full force and effect.

### 13.10 Counterparts

This deed may be executed in any number of counterparts. All counterparts taken together constitute one instrument.

### 13.11 Relationship of parties

Unless otherwise stated:

- (a) nothing in this deed creates a joint venture, partnership, or the relationship of principal and agent, or employee and employer between the parties; and
- (b) no party has the authority to bind any other party by any representation, declaration or admission, or to make any contract or commitment on behalf of any other party or to pledge any other party's credit.

### 13.12 Good faith

Each party must act in good faith towards all other parties and use its best endeavours to comply with the spirit and intention of this deed.

### 13.13 No fetter

Nothing in this deed is to be construed as requiring the Planning Minister to do anything that would cause the Planning Minister to breach any of the Planning Minister's obligations at law and, without limitation, nothing in this deed shall be construed as limiting or fettering in any way the discretion of the Planning Minister in exercising any of the Planning Minister's statutory functions, powers, authorities or duties.

### 13.14 Explanatory note

The Explanatory Note must not be used to assist in construing this deed.

### 13.15 Expenses

- (a) The Developer must pay its own and the Planning Minister's reasonable valuation costs and legal costs and disbursements in connection with the negotiation, preparation, execution and carrying into effect of this deed.
- (b) The Developer must pay for all costs and expenses associated with the giving of public notice of this deed and the Explanatory Note in accordance with the Planning Regulation.
- (c) The Developer must pay all Taxes assessed on or in respect of this deed and any instrument or transaction required or contemplated by or necessary to give effect to this deed.

- (d) The Developer must provide the Planning Minister with bank cheques, or an alternative method of payment if agreed with the Planning Minister, in respect of the Planning Minister's costs pursuant to clauses 13.15(a) and (b):
  - (i) where the Planning Minister has provided the Developer with written notice of the sum of such costs prior to execution, on the date of execution of this deed; or
  - (ii) where the Planning Minister has not provided the Developer with prior written notice of the sum of such costs prior to execution, within 30 Business Days of demand by the Planning Minister for payment.

### 13.16 Notices

- (a) Any notice, demand, consent, approval, request or other communication (**Notice**) to be given under this deed must be in writing and must be given to the recipient at its Address for Service by being:
  - (i) hand delivered; or
  - (ii) sent by facsimile transmission; or
  - (iii) sent by prepaid ordinary mail within Australia; or
  - (iv) in the case of a Notice to be given by the Planning Minister or Secretary, sent by email.
- (b) A Notice is given if:
  - (i) hand delivered, on the date of delivery but if delivery occurs after 5pm New South Wales time or on a day that is not a Business Day, then is taken to be given on the next Business Day;
  - (ii) sent by facsimile and the sending party's facsimile machine reports that the facsimile has been successfully transmitted;
    - A. before 5pm on a Business Day, then on that day;
    - B. after 5pm on a Business Day, then on the next Business Day after it is sent; or
    - C. on a day that is not a Business Day, then on the next Business Day after it is sent; or
  - (iii) sent by prepaid ordinary mail within Australia, on the date that is 2 Business Days after the date of posting; or
  - (iv) sent by email:
    - A. before 5 pm on a Business Day, on that Day;
    - B. after 5 pm on a Business Day, on the next Business Day after it is sent; or
    - C. on a day that it is not a Business Day, on the next Business Day after it is sent,

and the sender does not receive a delivery failure notice.



## Schedule 1

**Table 1 - Requirements under section 7.4 of the Planning Act (clause 2.2)**

The parties acknowledge and agree that the table set out below provides for certain terms, conditions and procedures for the purpose of the deed complying with the Planning Act.

<b>Requirement under the Planning Act</b>	<b>This deed</b>
<b>Development application – (section 7.4(2))</b> The Developer has made, or proposes to make, a Development Application.	Yes
<b>Description of land to which this deed applies – (section 7.4(3)(a))</b>	See Schedule 3
<b>Description of development to which this deed applies – (section 7.4(3)(b))</b>	See definition of "Development" in clause 1.1
<b>Description of change to the environmental planning instrument to which this deed applies – (section 7.4(3)(b))</b>	N/A
<b>The scope, timing and manner of delivery of contribution required by this deed – (section 7.4(3)(c))</b>	See Schedule 4
<b>Applicability of sections 7.11 and 7.12 of the Planning Act – (section 7.4(3)(d))</b>	The application of sections 7.11 and 7.12 of the Planning Act is not excluded in respect of the Development.
<b>Applicability of section 7.24 of the Planning Act – (section 7.4(3)(d))</b>	The application of section 7.24 of the Planning Act is excluded in respect of the Development.
<b>Consideration of benefits under this deed if section 94 applies – (section 7.4(3)(e))</b>	No
<b>Mechanism for Dispute Resolution – (section 7.4(3)(f))</b>	See clause 8
<b>Enforcement of this deed – (section 7.4(3)(g))</b>	See clause 6
<b>No obligation to grant consent or exercise functions – (section 7.4(10))</b>	See clause 13.13

Table 2 – Other matters

Requirement under the Planning Act	This deed
<b>Registration of the Planning Agreement –</b> (section 7.6 of the Planning Act)	Yes (see clause 7)
<b>Whether the Planning Agreement specifies that certain requirements of the agreement must be complied with before a construction certificate is issued –</b> (clause 25E(2)(g) of the Planning Regulation)	Yes
<b>Whether the Planning Agreement specifies that certain requirements of the agreement must be complied with before an occupation certificate is issued –</b> (clause 25E(2)(g) of the Planning Regulation)	No
<b>Whether the Planning Agreement specifies that certain requirements of the agreement must be complied with before a subdivision certificate is issued –</b> (clause 25E(2)(g) of the Planning Regulation)	Yes

**Schedule 2 - Address for Service (clause 1.1)****Planning Minister**

**Contact:** The Secretary

**Address:** Department of Planning and Environment  
23-33 Bridge Street  
SYDNEY NSW 2000

**Facsimile No:** (02) 9228 6455

**Email:** [PlanningAgreements@planning.nsw.gov.au](mailto:PlanningAgreements@planning.nsw.gov.au)

**Developer**

**Contact:** Samantha Evans, General Counsel Australia

**Address:** Level 17, 60 Castlereagh Street  
SYDNEY NSW 2000

**Facsimile No:** (02) 9230 7444

**Email:** [Samantha.Evans@goodman.com](mailto:Samantha.Evans@goodman.com)

**Landowner**

**Contact:** Samantha Evans, General Counsel Australia

**Address:** Level 17, 60 Castlereagh Street  
SYDNEY NSW 2000

**Facsimile No:** (02) 9230 7444

**Email:** [Samantha.Evans@goodman.com](mailto:Samantha.Evans@goodman.com)

**Schedule 3 - Land (clause 1.1)**

<b>Lot</b>	<b>Deposited Plan</b>	<b>Registered Proprietor</b>
Lot 11	1178389	BGMG 11 Pty Limited as trustee for the BGMG 1 Oakdale West Trust
Lot 1	663937	BGMG 11 Pty Limited as trustee for the BGMG 1 Oakdale West Trust

## Schedule 4 - Development Contributions (clause 4)

### 1. Development Contributions

The Developer must provide the Development Contributions in accordance with the following schedule:

Development Contribution	Timing	Manner of delivery
Monetary Contributions	Pursuant to clause 2.1(a)(ii) of this Schedule 4.	Bank cheque or electronic funds transfer.
WIK Contribution (if applicable)	By the date for Practical Completion identified in the Road Works Agreement, which in the case of Separable Portion 1 must be no later than 13 December 2023.	Practical Completion of the WIK Contribution in accordance with clause 3.4 of this Schedule 4.
Land Contribution (if applicable)	By the date for Practical Completion of the associated WIK Contribution, unless a different date is agreed by the Planning Minister in writing.	Transfer of the Land Contribution to the Nominated Transferee in accordance with clause 3.6 of this Schedule 4.

### 2. Calculation of the value of a Contribution Amount

#### 2.1 Timing for payment of Contribution Amount

- (a) Before the occurrence of a Trigger Event, the Developer must:
- (i) pay a Monetary Contribution in the amount of the Contribution Amount calculated in accordance with clause 2.2 of this Schedule 4;
  - (ii) where the value of the Offset Credits equals or exceeds the value of that Contribution Amount:
    - A. satisfy the Planning Minister of that fact; and
    - B. obtain an updated Offset Credits Schedule from the Planning Minister showing that the value of the Offset Credits has decreased by the value of that Contribution Amount; or
  - (iii) where the value of the Offset Credits is more than zero but is less than the value of that Contribution Amount:
    - A. satisfy the Planning Minister of that fact;
    - B. pay a Monetary Contribution in the amount of the difference; and
    - C. obtain an updated Offset Credits Schedule from the Planning Minister showing that the value of the Offset Credits has decreased to zero.

- (b) For the purpose of this deed, a Trigger Event occurs each time:
- (i) a Subdivision Certificate is issued;
  - (ii) a Construction Certificate is issued; or
  - (iii) if any part of the Development may be carried out without the need for a Subdivision Certificate or a Construction Certificate, then on the earlier of the following:
    - A. commencement of that part of the Development;
    - B. the issue of a Complying Development Certificate in respect of that part of the Development.
- (c) The parties agree that each of the requirements to provide a Monetary Contribution in this clause 2.1 of Schedule 4 and/or to obtain an updated Offset Credits Schedule from the Planning Minister is:
- (i) where the Trigger Event relates to a Construction Certificate - a restriction on the issue of a Construction Certificate for the purposes of section 6.8 of the Planning Act; and
  - (ii) where the Trigger Event relates to a Subdivision Certificate - a restriction on the issue of a Subdivision Certificate for the purposes of section 6.15 of the Planning Act.

## 2.2 Calculation of Contribution Amount

- (a) Each Contribution Amount will be an amount equal to the sum represented by "CA" in the following formula:

$$CA = pNDA \times WCR$$

where:

"pNDA" means the number of hectares comprised in the NDA of each Land Parcel:

- (i) that is the subject of an application for a Construction Certificate; or
- (ii) that is the subject of an application for a Subdivision Certificate (excluding the NDA comprised in any Residue Super Lot that will be created upon the issue of that Subdivision Certificate); or
- (iii) on which any part of the Development is to be carried out without the need for a Construction Certificate or Subdivision Certificate,

excluding any NDA in that Land Parcel for which a Contribution Amount has already been provided under this deed.

"WCR" is the amount representing the WSEA contribution rate, which:

- (iv) at the date of this deed is \$193,636; and
  - (v) is adjusted from time to time in accordance with clause 2.2(b) of this Schedule 4.
- (b) On each CPI Adjustment Date, the value of WCR is to be adjusted by multiplying \$193,636 by an amount equal to the Current CPI divided by the Base CPI.

## 2.3 Offset Credits Schedule

- (a) The Planning Minister will prepare or update the Offset Credits Schedule:
- (i) on the commencement of this Deed;
  - (ii) after a Land Contribution is delivered in accordance with this deed - increasing the value of the Offset Credits by the amount of the value of that Land Contribution as determined in accordance with this deed;
  - (iii) after a reconciliation for a WIK Contribution has been completed in accordance with this deed - increasing the value of the Offset Credits by the amount of that WIK Contribution as determined in accordance with this deed;
  - (iv) after the Developer satisfies the Planning Minister in accordance with clause 2.4(b)(ii) of this Schedule 4 in relation to a Deferred Contribution Amount (as defined in clause 2.4(a) of this Schedule 4) - decreasing the value of the Offset Credits by the amount of that Deferred Contribution Amount;
  - (v) after an amount of Offset Credits has been applied to discharge (in whole or in part) an obligation to provide a Contribution Amount calculated under clause 2.2(a) of this Schedule 4 - decreasing the value of the Offset Credits by the amount applied;
  - (vi) upon the Planning Minister agreeing to the application of Offset Credits to discharge an External WSEA Obligation under clause 4.1 of this Schedule 4 - decreasing the value of the Offset Credits by the amount of the External WSEA Obligation;
  - (vii) upon the Sunset Date or the occurrence of the final reconciliation referred to in clause 4.3 of this Schedule 4;
  - (viii) if it becomes apparent that there is an error or inaccuracy in the Offset Credits Schedule - to correct that error or inaccuracy;
  - (ix) after each CPI Adjustment Date, showing the indexed value of the Offset Credits;
  - (x) upon request by the Developer; and
  - (xi) at such other times as the Planning Minister may determine.
- (b) The Planning Minister will use his best endeavours to provide an updated Offset Credits Schedule within 5 Business Days of the occurrence of any of the events listed at clause 2.3(a) of this Schedule 4.

## 2.4 Extension of time for payment of Contribution Amount

- (a) If:
- (i) a Monetary Contribution is required to be paid under clause 2.1(a)(i) or 2.1(a)(iii)B of this Schedule 4 because the Developer has insufficient Offset Credits to discharge the obligation to provide the Contribution Amount;
  - (ii) the Planning Minister grants a WIK Approval;

- (iii) the date for Practical Completion of the WIK Contribution the subject of that WIK Approval has not passed; and
- (iv) the Developer provides the Planning Minister with a further Bank Guarantee with a face value of 10% of the value of the Deferred Contribution Amount,

then, subject to clause 2.4(e) of this Schedule 4, the time for payment of part or all of that Contribution Amount (**Deferred Contribution Amount**) is extended until the earlier of:

- (v) the date of Practical Completion of the WIK Contribution; and
- (vi) the date for Practical Completion of the WIK Contribution.

(b) The Developer may discharge its obligation to pay a Deferred Contribution Amount at any time by:

- (i) paying the full amount of the Deferred Contribution Amount as determined in accordance with this deed at that time; or
- (ii) where the amount of the Offset Credits has increased since the Deferred Contribution Amount would have been payable but for clause 2.4 of this Schedule 4:
  - A. satisfying the Planning Minister that the value of the Offset Credits equals or exceeds the value of that Deferred Contribution Amount as determined in accordance with this deed at that time; and
  - B. obtaining an updated Offset Credits Schedule from the Planning Minister showing that the value of the Offset Credits has decreased by the value of that Deferred Contribution Amount.

(c) If the Developer discharges its obligation to pay a Deferred Contribution Amount in accordance with clause 2.4 of this Schedule 4, the Planning Minister will return the Bank Guarantee relating to that Deferred Contribution Amount.

(d) The Developer must pay interest in accordance with clause 5 on the value of a Deferred Contribution Amount, from the date for Practical Completion of the relevant WIK Contribution until the date of Practical Completion of the relevant WIK Contribution.

(e) The Planning Minister:

- (i) may not issue a demand for payment of a Deferred Contribution Amount until the earlier of the date of Practical Completion of the WIK Contribution and the date that is 12 months after the date for Practical Completion of the WIK Contribution if the Developer demonstrates to the Planning Minister's reasonable satisfaction that:
  - A. the Developer has used its best endeavours to achieve Practical Completion of the WIK Contribution by the date for Practical Completion of the WIK Contribution and the reason for it not being able to do so was beyond the Developer's control; and
  - B. the WIK Contribution is at least 60% complete and the developer confirms in writing to the Planning Minister that



Practical Completion of the WIK Contribution will be achieved by the date that is 12 months after the date for Practical Completion of the WIK Contribution.

- (ii) may not issue a demand for payment of a Deferred Contribution Amount until after the Planning Minister has issued an updated Offset Credits Schedule in accordance with clause 2.3(a)(iii) of this Schedule 4, increasing the value of the Offset Credits by the amount of the Approved Actual Costs, if:
  - A. Practical Completion of the WIK Contribution has been achieved; and
  - B. the Developer has been provided with an opportunity to provide a WIK Actual Contribution Report and has done so by the time required by clause 3.5 (a) of this Schedule 4.

## 2.5 Sunset Date

- (a) On the Sunset Date, the Developer must pay to the Planning Minister an amount representing the value of the Development Contributions for the whole of the Land (calculated in accordance with clause 2.5(b) of this Schedule 4) less the sum of the Contribution Amounts calculated in accordance with clause 2.2 of this Schedule 4 which have been provided by the Developer and the current balance of available Offset Credits:
  - (i) irrespective of whether or not the "Timing" for delivery of any part of the Development Contributions identified in clause 1 of this Schedule 4 has passed; and
  - (ii) irrespective of whether any Trigger Event has occurred, provided that at least one Trigger Event has occurred.

- (b) The value of the Development Contributions is the amount equal to the sum represented by "DC" in the following formula:

$$DC = NDH \times WCR$$

where:

"NDH" means the number of hectares comprised in the Net Developable Area of the Land as though an application for a Subdivision Certificate had been made in respect of the whole of the Land and there are no Residue Super Lots; and

"WCR" is the amount representing the WSEA contribution rate, which:

- (i) at the date of this deed is \$193,636; and
- (ii) is adjusted from time to time in accordance with clause 2.2(b) of this Schedule 4.

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## 3. Works in Kind Contribution and Land Contribution

### 3.1 Fitzpatrick Developer's election to provide WIK Contribution

- (a) The Developer acknowledges that the Fitzpatrick Developer and the Planning Minister have entered into the Fitzpatrick VPA with the Planning Minister under which the Fitzpatrick Developer may elect to deliver the Northern WNSL Road Section, unless by 31 December 2019, the Developer has submitted a WIK

Proposal which includes the Northern WNSL Road Section and obtained a WIK Approval for that WIK Proposal under this deed.

- (b) The Developer must provide the Fitzpatrick Developer with written notice as to the occurrence or non-occurrence of the submission and approval of the WIK Proposal referred to in clause 3.1(a) of this Schedule 4 by the date identified in that clause.
- (c) The Developer must, as soon as practicable, and by no later than 3 months after the date of this deed, prepare a survey plan delineating the Fitzpatrick Road Land for the purpose of enabling that land to be subdivided and dedicated by the Fitzpatrick Developer, and must provide that plan to the Planning Minister for review and approval.

### 3.2 Provision of WIK Contribution

If the Planning Minister issues a WIK Approval for a WIK Contribution in accordance with clause 4.3 of this deed, the delivery of the WIK Contribution and the determination of the value of the Offset Credits attributable to the WIK Contribution will follow a three step process, set out below in clauses 3.3 to 3.5 of this Schedule 4 which, in summary only, follows these steps:

- (a) **(Step 1 - Estimate)** reaching agreement on, or otherwise having determined as outlined below the Maximum WIK Value;
- (b) **(Step 2 - Delivery)** undertaking the necessary works to achieve Practical Completion of the WIK Contribution; and
- (c) **(Step 3 - Reconciliation)** a reconciliation of Actual Costs incurred by the Developer for the WIK Contribution with the Maximum WIK Value determined by the Planning Minister.

### 3.3 Step 1- Contributions Estimates

- (a) Prior to commencing work for a WIK Contribution and unless a later date is agreed with the Planning Minister, within 120 Business Days of receiving a WIK Approval relating to that WIK Contribution, the Developer must:
  - (i) obtain all necessary Authorisations to carry out the works for the WIK Contribution;
  - (ii) enter into a Road Works Agreement for the WIK Contribution in accordance with clause 4.3(g) of this Deed;
  - (iii) provide the Planning Minister with a notice (**WIK Estimate Notice**) which sets out:
    - A. an estimate of the Actual Costs to complete the WIK Contribution including reasonable contingencies;
    - B. details of:
      - 1) the Authorisations obtained to carry out the works for the WIK Contribution;
      - 2) any security which the Roads Authority requires for the WIK Contribution and (if applicable) the Land Contribution under the proposed Road Works Agreement; and

- (iv) provide construction drawings for the WIK Contribution which have been certified and approved by the Roads Authority and any other relevant public authorities; and
  - (v) provide a copy of the executed Road Works Agreement to the Planning Minister with the Contributions Estimate Notice.
- (b) The Planning Minister will not withhold his agreement to a later date under clause 3.3(a) of this Schedule 4 if the Developer satisfies the Planning Minister that the Developer has used its best endeavours to meet that date and the reason for it not being able to do so was the action or inaction of a third party which was beyond the Developer's control.
- (c) The Planning Minister will notify the Developer in writing, within 20 Business Days after receiving the WIK Estimate Notice and the material specified in clause 3.3(a) of this Schedule 4, whether or not the Planning Minister accepts the estimate of costs in the WIK Estimate Notice as the Maximum WIK Value.
- (d) If the Planning Minister notifies the Developer that the Planning Minister does not accept that estimate of costs as the Maximum WIK Value, the parties must negotiate in good faith and use their best endeavours to agree the Maximum WIK Value.
- (e) If 20 Business Days (or such other period as the parties may agree) have passed since the date on which the Planning Minister's notice was provided under clause 3.3(c) of this Schedule 4 and the parties have not reached agreement on the Maximum WIK Value, then the Planning Minister may, after consulting with the Roads Authority, and acting reasonably, determine the Maximum WIK Value.
- (f) Nothing in this clause 3.3 of this Schedule 4 prevents a party from providing the other party with a notice of dispute in accordance with clause 8.2 of this deed.

### 3.4 Step 2 - Delivery - WIK Contribution

The Developer must:

- (a) within 15 Business Days of receiving notice of the Planning Minister's determination of the Maximum WIK Value, provide any further security required under Schedule 5;
- (b) where the WIK Contribution is not the subject of a WAD:
  - (i) within 35 Business Days of receiving notice of the Planning Minister's determination of the Maximum WIK Value, provide to the Planning Minister (for the Planning Minister's review) the proposed Construction Contract for the delivery of the WIK Contribution, which:
    - A. is to be executed by the Developer and an Acceptable Contractor;
    - B. identifies a superintendent approved by the Planning Minister to oversee the work;
    - C. identifies the terms and conditions applicable to carrying out the construction of the WIK Contribution;
    - D. identifies the proposed contract value for the WIK Contribution; and
  - (ii) within 10 Business Days of receiving the Planning Minister's comments on the Construction Contract, provide the Planning Minister with a

revised version of the Construction Contract incorporating those comments, for the Planning Minister's approval;

- (c) where the WIK Contribution is the subject of a WAD, ensure that the Construction Contract:
  - (i) is entered into with an Acceptable Contractor (and not any other counterparty unless approved by the Planning Minister);
  - (ii) is consistent with the Key Road Work Terms;
  - (iii) identifies a superintendent to oversee the work under the Construction Contract;
  - (iv) identifies the terms and conditions applicable to carrying out the construction, practical completion and handover of the WIK Contribution; and
  - (v) identifies the proposed contract value for the WIK Contribution; and
- (d) within 15 Business Days of receiving the Planning Minister's approval to the proposed Construction Contract under clause 3.4(b) of this Schedule 4, or if the WIK Contribution is the subject of a WAD, within 15 Business Days of execution of the Construction Contract, provide the Planning Minister with a copy of the Construction Contract as executed by the Developer and the Acceptable Contractor;
- (e) comply in all respects with the Road Works Agreement for the WIK Contribution;
- (f) comply in all material respects with the Construction Contract for the WIK Contribution;
- (g) notify the Planning Minister if the Developer becomes aware that there has been, or is likely to be, a non-compliance with the Key Road Works Terms, or with the Road Works Agreement for the WIK Contribution that is likely to materially affect the date of Practical Completion, specifying:
  - (i) the nature of the non-compliance or likely non-compliance; and
  - (ii) how and when the Developer will ensure that the non-compliance is rectified or the likely non-compliance is avoided (as the case may be); and
- (h) give the Planning Minister written notice at least 40 Business Days prior to the date of Practical Completion of the WIK Contribution;
- (i) give the Planning Minister written confirmation from the Roads Authority that Practical Completion of the WIK Contribution has been achieved to its satisfaction; and
- (j) upon Practical Completion of a WIK Contribution involving Separable Portion 1, provide a final version of the survey plan approved under clause 3.1(c) of this Schedule 4 delineating the final boundaries of the Fitzpatrick Road Land.

### 3.5 Step 3 - WIK Reconciliation

- (a) Within 60 Business Days after Practical Completion of a WIK Contribution has been achieved, the Developer must submit:

- (i) a report to the Planning Minister (**WIK Actual Contribution Report**) which:
    - A. provides an itemised breakdown and details of the Actual Costs incurred by the Developer, including accounts for the Actual Costs;
    - B. shows that the Actual Costs have been reduced by the amount of any input tax credit which the Developer is entitled to claim; and
    - C. provides a reconciliation of the Actual Costs with the Maximum WIK Value, together with a report by an independent quantity surveyor who is appointed with the consent of the Planning Minister (acting reasonably), which supports that reconciliation and which confirms that it is the opinion of the quantity surveyor that each item of the proposed Actual Costs is reasonable in quantum and was reasonably incurred;
  - (ii) a tabulated and indexed folder of tax invoices for, and documentary evidence of the payment of, each of the items which the Developer proposes as Actual Costs;
  - (iii) such other information that the Planning Minister requests to enable the Planning Minister to determine the Actual Costs.
- (b) The Planning Minister may commission an accountant or a quantity surveyor (or both) at the Developer's expense, to review the materials submitted by the Developer and to assist with the Planning Minister's determination of the Actual Costs.
  - (c) Within 60 Business Days after receiving a WIK Actual Contribution Report from the Developer, the Planning Minister must advise the Developer in writing of the Approved Actual Costs, being the Actual Costs that the Planning Minister determines in accordance with the definition of Actual Costs will be applied for the purposes of the WIK Reconciliation.
  - (d) Nothing in this clause 3.5 of Schedule 4 prevents a party from providing the other party with a notice of dispute in accordance with clause 8.2 of this deed.

### 3.6 Provision of Land Contribution

If the Planning Minister issues a WIK Approval which relates to a Land Contribution, the delivery of the Land Contribution and the determination of the value of the Offset Credits attributable to the Land Contribution will follow the following process and is subject to the following requirements:

- (a) The Developer must (at its cost) prepare and register a plan of subdivision to create a separate lot or lots for any Land Contribution (which is to include batters that are outside the paved surface of the road and verge), before the due date for delivery of the Land Contribution (which, for the avoidance of doubt, will either be the date for Practical Completion of the associated WIK Contribution or a different date agreed by the Planning Minister in writing in accordance with clauses 3.6(d)(i) and 3.9 of Schedule 4).
- (b) On the date that is 80 Business Days before the anticipated date of Practical Completion of the associated WIK Contribution, the Developer must request that the Planning Minister give notice to the Developer nominating the person to whom the Land Contribution is to be transferred (**Nominated Transferee**).

- (c) Within 30 Business Days after receiving the request under clause 3.6(b) of this Schedule 4, the Planning Minister must issue a notice identifying the Nominated Transferee.
- (d) The Developer must:
  - (i) by the date for Practical Completion of the associated WIK Contribution, unless a different date is agreed by the Planning Minister in writing, procure the transfer of any Land Contribution to the Nominated Transferee for \$1; and
  - (ii) deliver to the Nominated Transferee:
    - A. a form of transfer in respect of the Land Contribution executed by the registered proprietor of that land and in registrable form; and
    - B. the certificates of title for the Land Contribution;
  - (iii) promptly comply, or procure compliance with, any requisitions raised by the Registrar-General in relation to the transfer of any Land Contribution; and
  - (iv) take any other necessary action (including paying stamp duty associated with the transfer or contract for sale) to give effect to the transfer of the title of the Land Contribution to the Nominated Transferee free of all encumbrances and affectations (including any, charge or liability for rates, Taxes and charges) except as agreed with the Nominated Transferee and the Planning Minister.
- (e) The Developer will pay, or shall procure that the registered proprietor of the relevant land pays, all rates and Taxes owing in respect of any Land Contribution up to and including the date on which the Developer delivers the form of transfer and certificates of title for the Land Contribution to the Nominated Transferee or the date on which the Nominated Transferee acquires the Land (as the case may be), after which time the Nominated Transferee will be responsible for all rates and Taxes in relation to the land subject to the Land Contribution.
- (f) The Developer indemnifies and agrees to keep indemnified the Planning Minister and the Nominated Transferee from and against all Liabilities connected in any way to any Contamination which:
  - (i) existed on or before the date on which the Land Contribution is transferred to or acquired by the Nominated Transferee; or
  - (ii) occurs as a result of the acts or omissions of the Developer or the Landowner or any of either of their Associates.
- (g) The Developer:
  - (i) must ensure that the Land Contribution is transferred to the Nominated Transferee without the Planning Minister or the Nominated Transferee incurring any Acquisition Cost in connection with that Land Contribution or its acquisition or transfer; and
  - (ii) indemnifies the Planning Minister and the Nominated Transferee in relation to any failure to comply with clause 3.6(g)(i) of this Schedule 4.
- (h) The value of a Land Contribution shall be calculated by reference to the following table, by multiplying the area of the land which meets the criteria in the first and

second columns by the corresponding rate in the third column (**Agreed Valuation Rate**):

Tenure	Zoning	Agreed Valuation Rate
Freehold	IN1 General Industrial	\$300 per m <sup>2</sup>
	E2 Environmental Conservation	\$90 per m <sup>2</sup>
Easement	Any	\$75 per m <sup>2</sup>
WaterNSW Land (surface land)	SP2 Infrastructure	\$90 per m <sup>2</sup>
WaterNSW Land (stratum land)	SP2 Infrastructure	\$25 per m <sup>2</sup>

On each CPI Adjustment Date that occurs on or after 1 July 2019, the Agreed Valuation Rate is to be adjusted by multiplying each of the rates specified in the third column by an amount equal to the Current CPI divided by the CPI number for the quarter ending 31 March 2019.

- (i) Subject to clause 3.6(j) of this Schedule 4, the Planning Minister will recognise the amount calculated under clause 3.6(h) of this Schedule 4 as the value of the Land Contribution upon the Land Contribution being:
  - (i) transferred to the Nominated Transferee in accordance with clause 3.6(d) of this Schedule 4; or
  - (ii) compulsorily acquired by the Planning Minister in accordance with clause 3.7 of this Schedule 4.
- (j) If the Developer has received, will receive, or has entered into any arrangement under which it may receive any financial benefit from a third party, for the reservation, transfer or acquisition of the Land Contribution, the value of the land which is the subject of the Land Contribution is deemed to have been reduced by an amount representing the value of that financial benefit.

### 3.7 Compulsory Acquisition

- (a) If the Developer or the Landowner does not transfer the Land Contribution as required by clause 3.6(d) of this Schedule 4, the Planning Minister may elect to, and the Developer and the Landowner consent to, the Planning Minister compulsorily acquiring the whole or any part of the Relevant Land in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991* (NSW), for the amount of \$1.
- (b) The Developer and the Planning Minister agree that:
  - (i) clause 3 of this Schedule 4 is an agreement between them for the purposes of section 30 of the *Land Acquisition (Just Terms Compensation) Act 1991* (NSW); and

- (ii) in clause 3 of this Schedule 4 they have agreed on all relevant matters concerning the compulsory acquisition and the compensation to be paid for the acquisition.
- (c) The Developer indemnifies and keeps indemnified the Planning Minister, the Nominated Transferee and the Roads Authority against any Acquisition Cost incurred by the Planning Minister, the Nominated Transferee or the Roads Authority in connection with any acquisition of the whole or any part of the Relevant Land, including any compensation or amount payable to any person who immediately before the acquisition had an 'interest' in the Relevant Land within the meaning of the *Land Acquisition (Just Terms Compensation) Act 1991* (NSW).

### 3.8 Reimbursement of the Planning Minister's Costs

The Developer must pay to the Planning Minister or the Nominated Transferee, promptly on demand, an amount equivalent to any Acquisition Costs which the Planning Minister or the Nominated Transferee incurs in acquiring the Relevant Land, if the Developer does not transfer the Land Contribution as required by clause 3.6(d) of this Schedule 4.

### 3.9 Extension of time for provision of Land Contribution

- (a) The Planning Minister will not withhold his agreement to a later date for the delivery of a Land Contribution under clause 3.6(d)(i) of this Schedule 4 if:
  - (i) the later date is not more than 12 months after the date of Practical Completion of the associated WIK Contribution;
  - (ii) the Developer satisfies the Planning Minister that:
    - A. the Developer has used its best endeavours to deliver the Land Contribution by the date for Practical Completion of the associated WIK Contribution and the reason for it not being able to do so was the inaction of another Government Authority which was beyond the Developer's control;
    - B. members of the public will, at all times, have the right to access, be on and use the WIK Contribution as if it had been dedicated as a public road and the Land Contribution had been delivered to the Nominated Transferee;
    - C. the Developer holds and will maintain at its cost, until the date that the Land Contribution is delivered to the Nominated Transferee, insurance policies on terms satisfactory to the Planning Minister (acting reasonably) which extend the benefit of cover to the Roads Authority and the Planning Minister by naming them as additional insureds and which provide cover on an occurrence basis for:
      - 1) any damage to or destruction of the associated WIK Contribution; and
      - 2) public liability risk in an amount of \$20 million.
- (b) If the Planning Minister agrees to a later date for the delivery of a Land Contribution under clause 3.6(d)(i) of this Schedule 4, the Developer must ensure that:
  - (i) clauses 3.9 (a)(ii) B, and (a)(ii)C of this Schedule 4 are satisfied;



- (ii) the works comprising the WIK Contribution are repaired and maintained at the Developer's cost to a standard acceptable to the Roads Authority until the Land Contribution is delivered to the Nominated Transferee;
  - (iii) any damage to the WIK Contribution which occurs before the Land Contribution is delivered to the Nominated Transferee is made good at the Developer's cost to a standard acceptable to the Roads Authority; and
  - (iv) any proceeds received by the Developer from a claim on the insurances for damage to or destruction of the associated WIK Contribution will be directed to the cost of rectifying or replacing the WIK Contribution.
- (c) The Developer must indemnify and keep indemnified the Planning Minister and the Roads Authority from and against all Liabilities that the Planning Minister or the Roads Authority may sustain or incur as a result, arising out of or in connection with:
- (i) any breach of this clause 3.9 of Schedule 4 by the Developer;
  - (ii) any injury to or death of any person including any injury to or death of a member of the public having the right to access, be on and use the WIK Contribution;
  - (iii) any damage to the WIK Contribution; or
  - (iv) any damage to or loss of property arising out of the use of the WIK Contribution.
- (d) The indemnity in clause 3.9(c) of this Schedule 4 will not apply to the extent the Liability is directly caused or contributed to by the negligent or wilful acts or omissions of the Planning Minister or the Roads Authority.

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## **4. Excess Contributions and Additional Payments**

### **4.1 Use of Offset Credits at other WSEA SEPP land**

- (a) The Developer must not apply, or purport to apply, or agree to or allow any other person to apply or purport to apply, an amount of Offset Credits to discharge an obligation to make a development contribution except in accordance with this deed.
- (b) The Planning Minister may, in his absolute discretion, allow the Developer to apply an amount of Offset Credits to discharge an External WSEA Obligation.
- (c) If the Planning Minister agrees to allow an amount of Offset Credits to be applied to discharge an External WSEA Obligation:
  - (i) that amount of Offset Credits will be taken to have been surrendered to the Planning Minister; and
  - (ii) the Planning Minister will provide an updated Offset Credits Schedule to the Developer showing that the value of the Offset Credits has decreased by that amount.

### **4.2 Oakdale Central Deferred Contribution Amount**

- (a) Subject to clause 4.2(b) of this Schedule 4, if the Planning Minister issues a WIK Approval for Separable Portion 1 or the WNSL Road (with or without Separable Portion 2), the Developer may elect to have an obligation to make a development contribution under the Oakdale Central VPA treated as though it were an obligation

on the Developer to provide a Contribution Amount under this deed, with the effect that, on and from the date on which the WIK Approval is issued by the Planning Minister:

- (i) the obligation to make the development contribution under the Oakdale Central VPA is treated by the Planning Minister as having been discharged, and the Planning Minister agrees that this clause 4.2(a)(i) operates as a deed poll in favour of the parties to the Oakdale Central VPA;
  - (ii) the Developer is required to provide a Contribution Amount equal to the value of that development contribution (as indexed, and inclusive of interest calculated under the Oakdale Central VPA) (**Oakdale Central Deferred Contribution Amount**), in addition to any other obligations it has under this deed;
  - (iii) on each CPI Adjustment Date, the value of the Oakdale Central Deferred Contribution Amount is to be adjusted by multiplying it by an amount equal to the Current CPI divided by the Base CPI;
  - (iv) the Developer must pay interest in accordance with clause 5 of this deed on the value of the Oakdale Central Deferred Contribution Amount, on and from the date that the WIK Approval is issued, until the date on which the obligation to provide the Oakdale Central Deferred Contribution Amount is discharged in full under this deed;
  - (v) subject to clause 4.2(c), the time for payment of the Oakdale Central Deferred Contribution Amount is extended until the earlier of the date for Practical Completion of the WIK Contribution and the date of Practical Completion of the WIK Contribution; and
  - (vi) clauses 2.4(b) and (c) of this Schedule 4 apply to the Oakdale Central Deferred Contribution Amount as if it were a Deferred Contribution Amount.
- (b) The Developer must:
- (i) make the election under clause 4.2(a) of this Schedule 4 by written notice to the Planning Minister, within 10 Business Days of the issue of the WIK Approval to which that clause refers, unless a longer date is agreed with the Planning Minister;
  - (ii) prior to making the election:
    - A. provide the Planning Minister with a further Bank Guarantee with a face value equivalent to 110% of the value of the Oakdale Central Deferred Contribution Amount at that time, plus the future value of the interest which will be payable on the Oakdale Central Deferred Contribution Amount assuming that payment occurs on the date for Practical Completion of the WIK Contribution;
    - B. provide the Planning Minister with all necessary information and workings to enable the Planning Minister to determine the Oakdale Central Deferred Contribution Amount under the Oakdale Central VPA, and the amount of the further Bank Guarantee, independently of the Developer; and
    - C. satisfy the Planning Minister that the value of the WIK Contribution which is the subject of the WIK Approval to which that clause refers, and any associated Land Contribution, is

likely to exceed the value of the Development Contributions Amount (as defined in clause 4.3(b)(i) below) by an amount which is greater than or equal to the Oakdale Central Deferred Contribution Amount.

- (c) Clause 2.4(e) of this Schedule 4 applies to the Oakdale Central Deferred Contribution Amount as if it were a Deferred Contribution Amount.

### 4.3 Final reconciliation

- (a) The Developer must provide written notice to the Planning Minister, at least 30 Business Days prior to the occurrence of the final Trigger Event for the Development, evidence which the Planning Minister (acting reasonably) requires to determine that the Trigger Event will be the last to occur prior to completion of the Development (**Final Trigger Event Notice**).
- (b) As soon as practicable after receiving the Final Trigger Event Notice, the Planning Minister will undertake a final reconciliation which will:
- (i) determine the total value of the Contribution Amounts which would have been payable based on the actual NDA for the Land, calculated on the assumption that the Contribution Amounts would have been payable on the date of the final reconciliation (**Development Contributions Amount**); and
  - (ii) reconcile the Development Contributions Amount against the sum of:
    - A. the value (adjusted in accordance with clause 4.3(c) of this Schedule 4) of any Land Contribution which has been delivered to the Planning Minister or the Nominated Transferee;
    - B. the value (adjusted in accordance with clause 4.3(c) of this Schedule 4) of the Monetary Contributions which the Developer has paid;
    - C. if the Developer has elected to deliver, and has delivered, one or more WIK Contributions, the lesser of the aggregated Approved Actual Costs of the WIK Contributions delivered and the Maximum WIK Value (in either case, adjusted in accordance with clause 4.3(c) of this Schedule 4

less the value (adjusted in accordance with clause 4.3(c) of this Schedule 4) of any Offset Credits which have been applied, or any Monetary Contributions which have been paid, to discharge an External WSEA Obligation (including the Oakdale Central Deferred Contribution Amount) under clause 4.1 of Schedule 4, or any obligation to pay interest under this deed

**(Interim Contribution Amount).**
- (c) When calculating the Interim Contribution Amount, the Minister must adjust the value of any Development Contributions or Offset Credits referred to in clause 4.3(b)(ii) of this Schedule 4 by multiplying each original value by an amount equal to the Current CPI divided by the CPI number for the quarter ending immediately before 31 March in the year during which the relevant Development Contribution was made or the relevant Offset Credit was surrendered.
- (d) Where the final reconciliation indicates that the Interim Contribution Amount provided by the Developer in accordance with this Schedule 4 is less than the

Development Contributions Amount, then the Developer must pay the shortfall as a Monetary Contribution to the Planning Minister within 10 Business Days of receiving a notice from the Planning Minister notifying the Developer of the shortfall.

- (e) Where the final reconciliation indicates that the Interim Contribution Amount provided by the Developer in accordance with this Schedule 4 exceeds the Development Contributions Amount, then the Developer will be entitled to a credit for the amount that the value of the Development Contribution provided exceeds the Development Contributions Amount (**Excess Contributions Credit**) in accordance with clauses 4.3(f) and (g) of this Schedule 4.
- (f) Subject to clause 4.3(h) of this Schedule 4, any Excess Contributions Credit which has been generated under this deed may be used by:
  - (i) the Developer,
  - (ii) a Related Body Corporate (within the meaning of the *Corporations Act 2001* (Cth)) of the Developer; or
  - (iii) any other person which the Planning Minister determines to approve on written request by the Developer,

(**Contributions Credit Recipient**) to discharge an External WSEA Obligation which relates to land which is owned by that Contributions Credit Recipient.

- (g) An Excess Contributions Credit is taken to have been used for the purpose of this Schedule 4 when the Planning Agreement provides for the use of the Excess Contributions Credit or when the Contributions Credit Recipient notifies the Planning Minister that it wishes to use an Excess Contributions Credit and the Excess Contributions Credit is accounted for by the Planning Minister on its contributions credit schedule.
- (h) The parties agree that any Excess Contributions Credit which has been generated under this deed must be used by the Contributions Credit Recipient in accordance with this clause 4.3 of this Schedule 4 within 15 years of the date of the final reconciliation unless the Planning Minister agrees in writing to a longer period than 15 years. After that time it will be taken to have been wholly surrendered and forfeited to the Planning Minister and no Claim may be made against the Planning Minister in respect of any such surrender or forfeiture.
- (i) Any Excess Contributions Credit which has been generated under this deed, and which has not been used in accordance with clauses 4.3(f) – (h), will be adjusted on each CPI Adjustment date until that Excess Contribution Credit has been used, in accordance with the following formula:

$$CC = PC \times \frac{\text{Current CPI}}{\text{Base CPI}}$$

Where

**CC** is the newly adjusted Excess Contributions Credit

the terms **Current CPI** and **Base CPI** are defined in clause 1.1

**PC** means the amount of the Excess Contributions Credit on the date on which that Excess Contributions Credit was generated.

## Schedule 5 - Security terms (clause 6)

### 1. Provision of Security

- (a) Prior to the issue of a Satisfactory Arrangements Certificate by the Secretary for a Stage of the Development, the Developer must provide to the Planning Minister one or more Bank Guarantees with a total face value equivalent to 100% of the Monetary Contributions which the Planning Minister estimates would be payable under this deed for that Stage of the Development.
- (b) If, after execution of this deed, the Developer elects to provide a WIK Contribution, then within 15 Business Days of receiving notice of the Planning Minister's determination of the Maximum WIK Value, the Developer must provide to the Planning Minister further Bank Guarantees with a total face value equivalent to the difference between the Maximum WIK Value and the face value of the Security held by the Planning Minister which was provided under clause 1(a) of this Schedule 5.
- (c) If the Developer:
  - (i) enters into a Road Works Agreement with the Roads Authority in relation to the WIK Contribution in accordance with this deed; and
  - (ii) provides security to the Roads Authority under that Road Works Agreement which would have met the definition of a Bank Guarantee in clause 1.1 of this deed had it been provided to the Planning Minister under this deed,

then the amount of Security required to be provided under clauses 1(a) and (b) of this Schedule 5 for a particular Stage will be reduced by the amount of the security provided under that Road Works Agreement.

### 2. Claims under Bank Guarantees

- (a) The Planning Minister may:
  - (i) call upon the Security where the Developer has failed to comply with any obligation in this deed, including to:
    - A. pay a Contribution Amount, a Deferred Contribution Amount, the Oakdale Central Deferred Contribution Amount, or interest;
    - B. deliver a WIK Contribution or an associated Land Contribution; or
    - C. pay money to the Planning Minister under this deed (including for Acquisition Costs under clause 3.8 of Schedule 4),
 by the time required by this deed; and
  - (ii) retain and apply monies obtained from the call upon the Security towards any costs and expenses incurred by the Planning Minister in rectifying such failures.
- (b) For the purposes of this deed, any costs and expenses which another Authority incurs in rectifying a failure under this deed are taken to be costs and expenses incurred by the Planning Minister in rectifying such a failure.

- (c) Prior to calling upon the Security, the Planning Minister must give the Developer not less than 10 Business Days written notice of his or her intention to call upon the Security.
- (d) The Developer may, within 10 Business Days of the date of the notice in clause 2(c) of this Schedule 5, elect to pay to the Planning Minister an amount equivalent to the amount of the Planning Minister's proposed call. If payment is made by the Developer within 5 Business Days of such an election by the Developer, the Planning Minister shall no longer be entitled to call upon the Security to the extent of the amount that has been paid by the Developer.

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### **3. Release of Security**

If:

- (a) the Developer satisfies the Planning Minister that all of the obligations secured by the Security have been fulfilled; and
- (b) the whole of the monies secured by the Security have not been expended or applied towards the discharge of an obligation secured by the Security,

then the Planning Minister will promptly return the Security to the Developer.

**Schedule 6 - Definition of Net Developable Area (Schedule 4, clauses 1 and 2)**

- (a) The Net Developable Area of a part of the Land is the area of land, measured in hectares, comprising the allotments to which the relevant application for a Subdivision Certificate, Construction Certificate or Complying Development Certificate relates, subject to the other provisions of this Schedule 6.
- (b) The Net Developable Area includes the area of any land that a Development Consent authorises, or requires, to be used as a road, or reserved or dedicated as a public road, but does not include:
  - (i) any existing road which was constructed before the date of this deed to which works are required to be carried out under a Development Consent;
  - (ii) the area of any land (excluding easements) which is delivered as a Land Contribution under this deed; or
  - (iii) any road referred to in clauses (c)(xii) or (xiii).
- (c) The Net Developable Area does not include the area of any land that a Development Consent authorises, or requires, to be reserved, dedicated or otherwise set aside as, or for the purpose of, any of the following:
  - (i) government school (within the meaning of the *Education Act 1990*),
  - (ii) TAFE establishment,
  - (iii) emergency services facility,
  - (iv) health services facility owned or operated by a public authority,
  - (v) golf course,
  - (vi) passenger transport facility,
  - (vii) public reserve or drainage reserve (within the meaning of the *Local Government Act 1993*),
  - (viii) public transport corridor (other than a road corridor),
  - (ix) public utility undertaking,
  - (x) bus depot, whether or not owned or operated by a public authority,
  - (xi) recreation area,
  - (xii) roads, or other public amenities or public services, in connection with which development contributions have been imposed under section 7.11 or section 7.12 of the Planning Act or may be imposed in accordance with a contributions plan approved under section 7.18 of the Planning Act,
  - (xiii) roads or other infrastructure in connection with which special infrastructure contributions have been, or may be, imposed in accordance with a determination of the Planning Minister made under section 7.23 of the Planning Act before the date of this deed.

- (d) The following areas of land are also not to be included in the calculation of the Net Developable Area for the relevant development:
- (i) any part of the land to which the Development Consent for the relevant development relates that is at or below the level of a 1:100 ARI (average recurrent interval) flood event, if that part of the land is unsuitable for the relevant development by virtue of it being at or below that level,
  - (ii) any part of the land to which the Development Consent for the relevant development relates that is identified as public open space in a development control plan or in a contributions plan approved under section 7.18 of the Planning Act,
  - (iii) any area of land that is within Zone E2 Environmental Conservation,
  - (iv) any area of land that is subject to an easement in favour of a public utility undertaking for the purpose of the supply of the utility service to the public as shown on the title to that land, if the Secretary is satisfied that the area is rendered incapable of development by virtue of the easement.
- (e) The Net Developable Area for a relevant development comprising subdivision of land for the purpose only of creating a lot of more than 0.1 hectare in area to contain an existing lawful habitable dwelling is taken to be reduced by 0.1 hectare.
- (f) This clause applies to a relevant development if any lot of land to which the development consent for the development relates includes (wholly or partly):
- (i) land that is within the curtilage of a building listed on the State Heritage Register, or
  - (ii) land that is within Zone E4 Environmental Living.
- (g) For the purpose of calculating the Net Developable Area for a relevant development to which this clause applies, any such lot that is more than 0.1 hectare in area is taken to be 0.1 hectare.
- (h) In this clause, **curtilage**, in relation to a building, means the curtilage of that building, or the site of that building, as specified or described in the listing of the building on the State Heritage Register.
- (i) The Secretary may make any determination required to be made for the purpose of calculating the Net Developable Area for a relevant development and, for that purpose, may have regard to any information available at the time, such as construction plans and any measurements made by a registered surveyor of the land concerned.



## Schedule 7 - Trustee Limitation of Liability

### (a) Definitions

In this clause:

**Assets** includes all assets, property and rights real and personal of any value whatsoever of the Trust.

**Trust** means the BGMG 1 Oakdale West Trust (ABN 79 264 172 511).

**Trustee** means BGMG 11 Pty Ltd (ABN 73 616 276 076).

**Trustee's Capacity** means as trustee of the Trust.

### (b) Capacity

The Trustee's liability under this document is limited to the Trustee's Capacity and the Trustee is not liable in any other capacity.

### (c) Limitation

Subject to clause (e) of this Schedule 7, the liability of the Trustee in respect of any cause of action, claim or loss arising:

- (i) under or in connection with this document;
- (ii) in connection with any transaction, conduct or any other agreement contemplated by this document; or
- (iii) under or in connection with (to the extent permitted by law) any representation or undertaking given or to be given in connection with this document,

(each, a **Trust Claim**), is limited to the Assets. The right of the parties other than the Trustee to recover any amount in respect of any (and all) Trust Claims is limited to a right to recover an amount not exceeding the amount which the Trustee is entitled and able to recover from the Assets (after taking account of the costs of exercising its right of indemnity or exoneration) and if, after exercise of those rights, any such amount remains outstanding, no further Trust Claim may be made against the Trustee personally.

### (d) Acknowledgment of limitations

The parties other than the Trustee agree and acknowledge that they must not, in respect of any Trust Claim:

- (i) subject to clause (e) of this Schedule 7, bring proceedings against the Trustee in its personal capacity;
- (ii) seek to appoint an administrator or liquidator to the Trustee;
- (iii) commence the winding-up, dissolution or administration of the Trustee; or
- (iv) appoint a receiver, receiver and manager, administrative receiver or similar official to all or any of the Assets of the Trustee,

except to the extent that the steps taken affect any Assets or the Trustee's right of recourse against, and indemnity from, the Assets and nothing else.

### (e) Exception

If the Trustee acts negligently, fraudulently, with wilful misconduct or in breach of trust with a result that:

- (i) the Trustee's right of indemnity, exoneration or recoupment of the Assets; or
- (ii) the actual amount recoverable by the Trustee in exercise of those rights,

is reduced in whole or in part or does not exist, then to the extent that such right or the amount so recoverable is reduced or does not exist, the Trustee may be personally liable.

Executed as a deed.

Signed, sealed and delivered for and on behalf  
of the Minister for Planning and Public Spaces  
ABN 38 755 709 081, in the presence of:

10 770 707 468

Signature of witness

AMANDA CHRISTENSEN  
Full name of witness

Signature of the Minister for Planning or delegate

BRETT WHITWORTH  
Full name of Minister for Planning or delegate

Signed, sealed and delivered for and on behalf  
of BGMG 11 Pty Ltd ABN 73 616 276 076 as  
trustee for the BGMG 1 Oakdale West Trust  
ABN 79 264 172 511 by its attorneys under a  
power of attorney dated 21 December 2016  
registered in New South Wales with No. 800  
Book No. 4719 in the presence of:

Signature of attorney who declares that the attorney  
has not received any notice of the revocation of the  
power of attorney

LISA MARY GODFREY  
Full name of attorney

Signature of witness

Esther Gachuhi

Full name of witness


Signature of attorney who declares that the attorney  
has not received any notice of the revocation of the  
power of attorney

Full name of attorney MEGAN M KUBLINS

Signature of witness

Full name of witness

Signed, sealed and delivered for and on behalf  
of **Goodman Property Services (Aust) Pty  
Limited** (ABN 40 088 981 793) by its attorneys  
under a power of attorney dated 18/12/2006  
registered in New South Wales with No. Book 4507  
No. 75 in the presence of:

  
Signature of attorney who declares that the attorney  
has not received any notice of the revocation of the  
power of attorney

CARL BICEGO  
Full name of attorney

  
Signature of witness

Esther Gachuhi  
Full name of witness

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

# Annexure A - Plan showing Land



**Legend**

- Oakdale WEST Concept Plan (CP #1)
- Existing Boundary
- Proposed Boundary/Road Reserve
- IN1 General Industrial Zone
- E2 Conservation Zone



*Best Whitlock*



**SBA** Oakdale West Estate  
Horsley Park

**Existing Zoning**

1:3000 Scale A1  
1:6000 Scale A3  
21 Sept 2015

OAK UP 09/09  
Job No. 10117



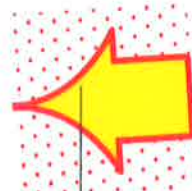
Annexure B

*Booth Whelan*





*Brett Whitcomb*



Brett Whitlock





## APPENDIX 5 NOISE RECEIVER LOCATIONS

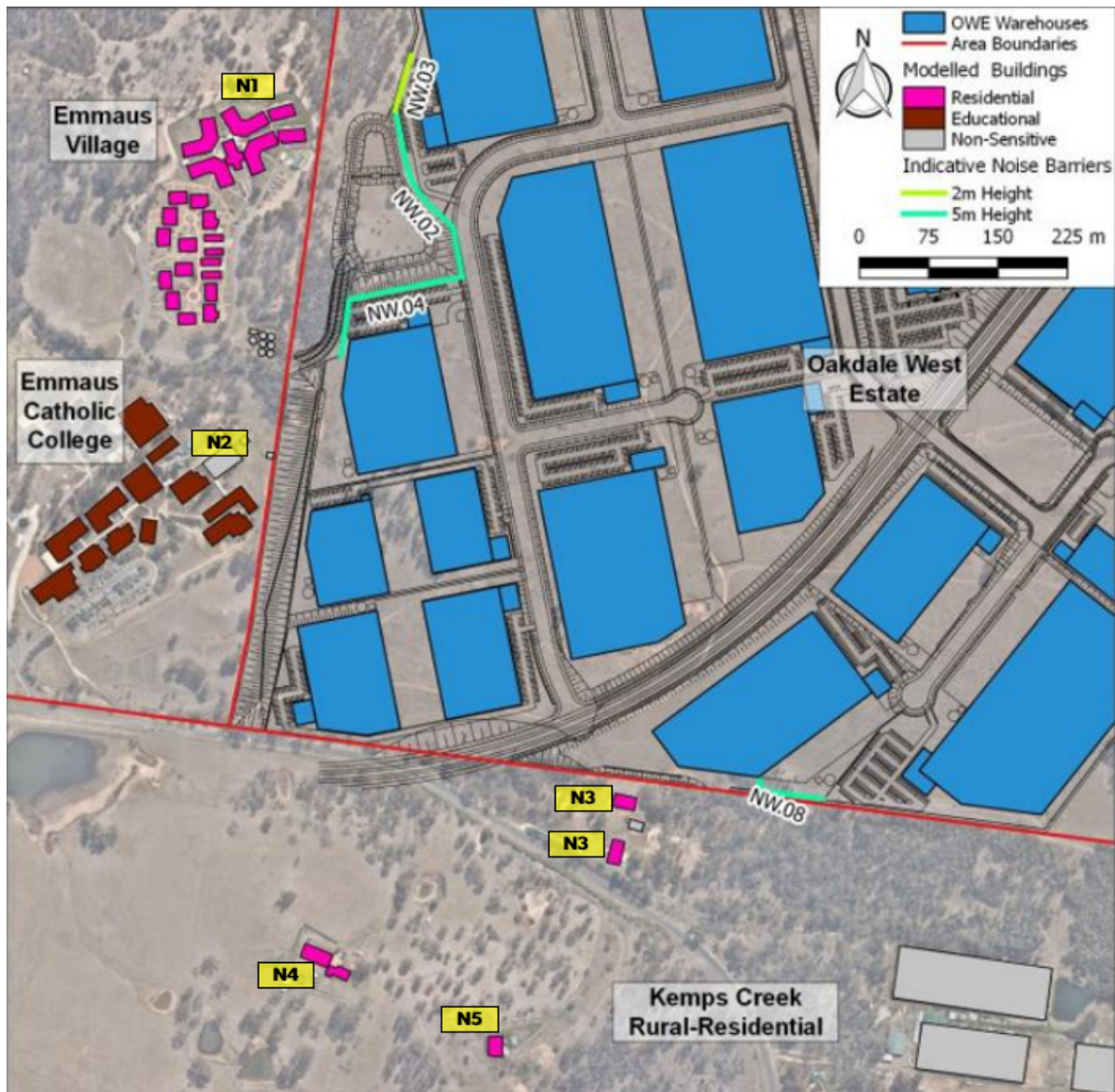
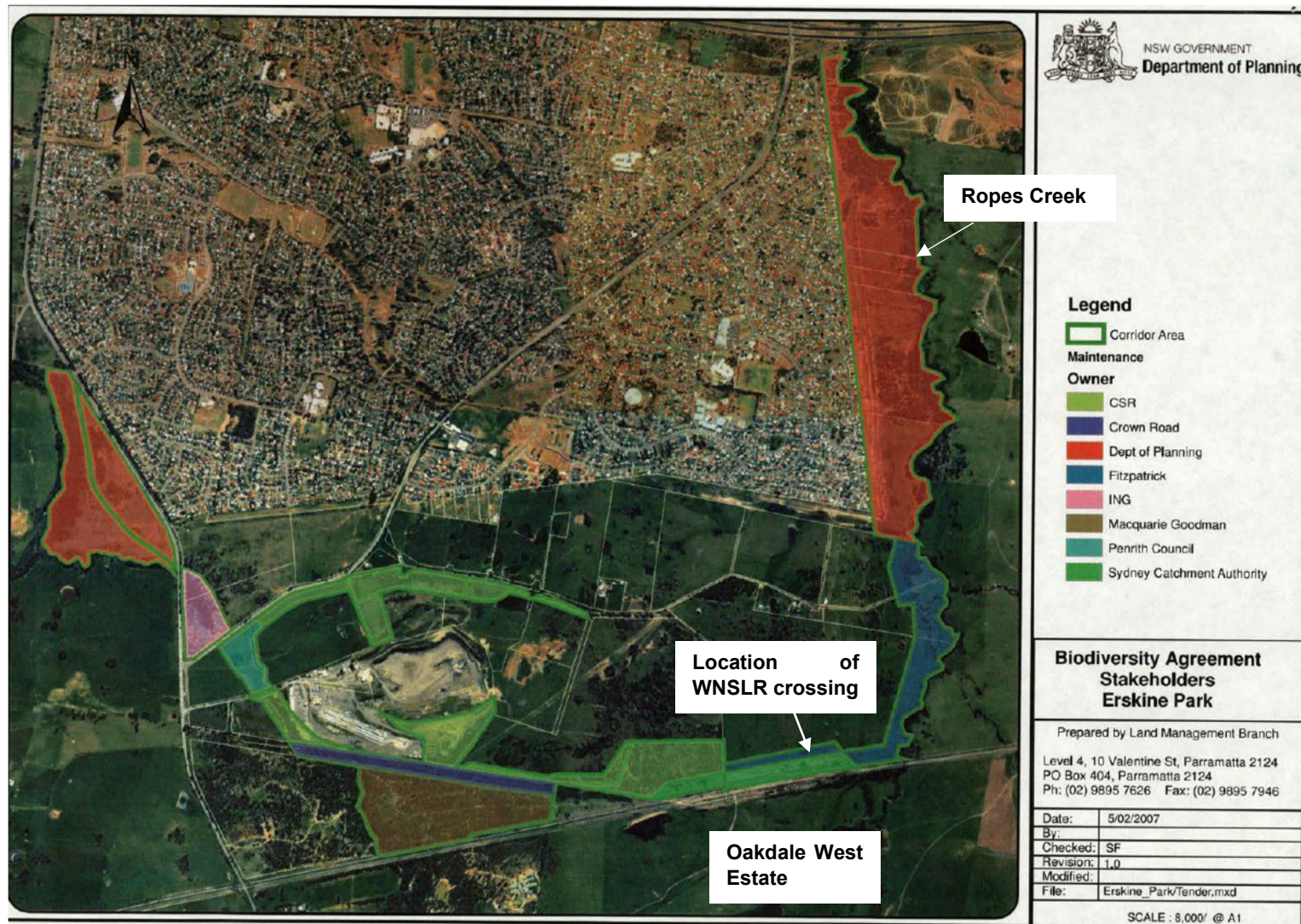


Figure 7: Sensitive Noise Receivers and Noise Wall Locations



## APPENDIX 6 BIODIVERSITY



**Figure 8: Erskine Park Biodiversity Corridor Land**

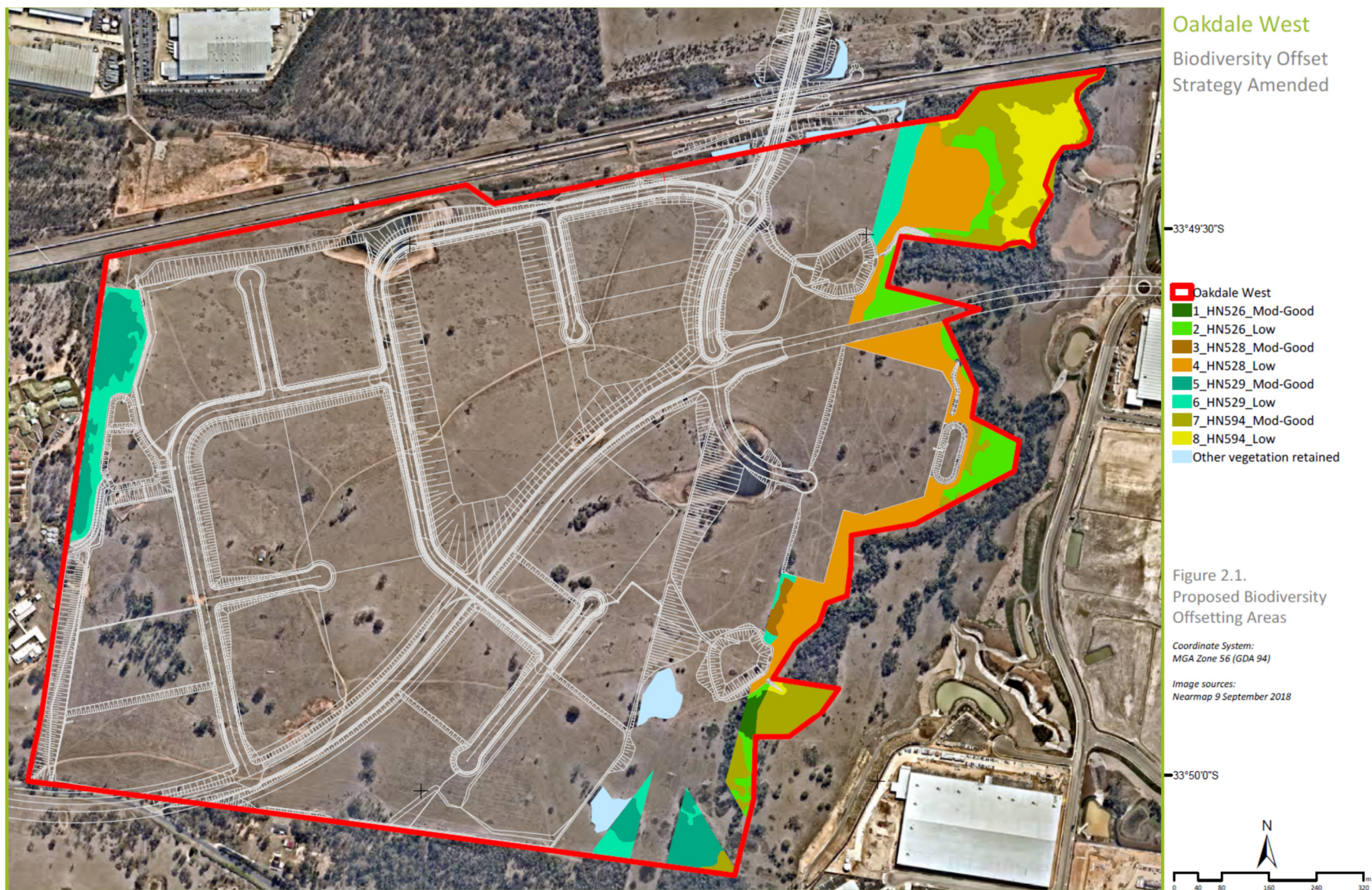




**Figure 9: Offsets for WNSLR – Planting Area**







**Figure 11: Offsets for Stage 1 - Biodiversity Offset Area**

## SUMMARY OF MITIGATION MEASURES

The collective measures required to mitigate the impacts associated with the proposed works are detailed in the table below.

**Table 8:** Applicant's Mitigation Measures

Issue	SSDA Component	Mitigation and Management
<b>Construction Management</b>		
General Construction Management	Stage 1 Development	<ul style="list-style-type: none"> <li>A CEMP to be prepared for the OWE Stage 1 Development capturing standard and specific management and mitigation measures as described in the SSDA, EIS and supporting technical documents.</li> </ul>
<b>Operational Management</b>		
General Operational Management	Concept Proposal Stage 1 Precinct Development	<ul style="list-style-type: none"> <li>An OEMP to be prepared for the OWE capturing standard and specific operational management and mitigation measures as described in the SSDA, EIS and supporting technical documents.</li> </ul>
<b>Transport</b>		
Construction Traffic	Stage 1 Development	<ul style="list-style-type: none"> <li>Preparation of a CTMP to form part of the CEMP addressing issues such as:                             <ul style="list-style-type: none"> <li>Truck haul routes, delivery schedules and curfews;</li> <li>Protocols for the management of construction traffic moving onto and off the site.</li> </ul> </li> </ul>
<b>Urban Design and Visual</b>		
Site Layout and Design	Concept Proposal	<ul style="list-style-type: none"> <li>Future development of the OWE to proceed in accordance with the approved Development Concept Proposal and DCP.</li> </ul>
Development Controls	Concept Proposal	<ul style="list-style-type: none"> <li>Design and development controls to be established for the OWE in the form of a DCP to guide future development on the site.</li> </ul>
Visual Impact	Concept Proposal/Stage 1 Development	<ul style="list-style-type: none"> <li>Design and development controls to be established for the OWE in the form of a DCP to guide future development on the site.</li> <li>Landscaping of key interfaces including the western boundary to minimise visual impact.</li> </ul>
<b>Soils and Water</b>		
Water Usage	Stage 1 Development	<ul style="list-style-type: none"> <li>Rainwater tanks to be provided for each development site with size determined in accordance with Penrith Council DCP requirements.</li> <li>Irrigation and toilet flushing for development to be plumbed to rainwater tanks.</li> <li>Consideration to be given to other possible rainwater reuse opportunities such as for truck washing.</li> <li>Measures and considerations for the minimisation of water use during construction and operation to be incorporated into CEMP and OEMP as relevant.</li> </ul>

Issue	SSDA Component	Mitigation and Management
Soils	Stage 1 Development	<ul style="list-style-type: none"> <li>• Mitigation measures inherent to the civil design of the proposal.</li> <li>• Sedimentation and erosion control measures are proposed as detailed in the Civil Design and Infrastructure Package and Traffic and Transport Impact Assessment.</li> </ul>
Salinity	Stage 1 Development	<ul style="list-style-type: none"> <li>• A Salinity Management Plan has been prepared for the proposed development.</li> <li>• Management measures described in the Salinity Management Plan to be adopted in the CEMP and OEMP as relevant.</li> </ul>
Contamination	Stage 1 Development	<ul style="list-style-type: none"> <li>• Identified areas of potential contamination to be subject to further investigation prior to the development of affected land.</li> </ul>
Earthworks	Stage 1 Development	<ul style="list-style-type: none"> <li>• Civil design achieves appropriate site levels with minimal impact upon hydrology.</li> <li>• Import of fill to be managed in accordance with CEMP.</li> <li>• Erosion and sediment controls included in the SSDA package.</li> </ul>
Mineral Resources	Concept Proposal	<ul style="list-style-type: none"> <li>• No mitigation required provided that mining activities under the existing mining lease applying to land to the east of the site (ref. ML1636) would not be constrained by the OWE development.</li> </ul>
Surface Water	Stage 1 Development	<ul style="list-style-type: none"> <li>• Stormwater issues addressed through design measures incorporated into proposed development.</li> <li>• Stormwater management system designed to meet the requirements of Penrith Council's Engineering Works and WSUD guidelines and relevant NOW guidelines.</li> <li>• Detailed on-lot stormwater for future stages of the OWE to be designed and assessed under future applications.</li> </ul>
Groundwater	Stage 1 Development	<ul style="list-style-type: none"> <li>• Methods and management of any required dewatering required during construction works to be detailed in the CEMP.</li> </ul>
Flooding	Stage 1 Development	<ul style="list-style-type: none"> <li>• OSD designed to ensure that development does not increase stormwater peak flows in downstream areas for events up to and including 1:100-year ARI.</li> <li>• OSD designed to mitigate post-development flows to pre-development flows for peak ARI events.</li> <li>• Finished floor levels to have minimum 500mm freeboard to 100-year overland flows.</li> <li>• Flood impacts on TransGrid easement would be mitigated through minor compensatory earthworks on the floodplain to convey locally diverted flows. These works are detailed in the civil drawings included in the SSDA package.</li> </ul>
Water Quality	Stage 1 Development	<ul style="list-style-type: none"> <li>• Erosion and sediment controls as detailed in SSDA package to be implemented through CEMP.</li> <li>• Stormwater to be treated to compliant levels prior to discharge.</li> <li>• Gross Pollutant Trap (GPT) to be installed within each development site on the final downstream stormwater pit prior to discharge.</li> </ul>

Issue	SSDA Component	Mitigation and Management
		<ul style="list-style-type: none"> <li>• WSUD measures adopted to achieve target reductions for the OWE: <ul style="list-style-type: none"> <li><input type="checkbox"/> 85% Total Suspended Solids</li> <li><input type="checkbox"/> 60% Total Phosphorus</li> <li><input type="checkbox"/> 45% Total Nitrogen</li> <li><input type="checkbox"/> 90% Gross Pollutants</li> </ul> </li> </ul>
<b>Infrastructure</b>		
Capacity and Upgrades	Concept Proposal	<ul style="list-style-type: none"> <li>• Management of issues in respect of infrastructure capacity and upgrades is in the form of design responses described in Section 4.0 of the EIS.</li> </ul>
Delivery and Staging	Concept Proposal/Stage 1 Development	<ul style="list-style-type: none"> <li>• Management of issues in respect of infrastructure capacity and upgrades is in the form of design responses described in Section 4.0 of the EIS.</li> <li>• Staging of development of the OWE would be aligned with infrastructure and services delivery.</li> </ul>
TransGrid Easement	Concept Proposal/Stage 1 Development	<ul style="list-style-type: none"> <li>• Further consultation would be undertaken with TransGrid in relation to potential impacts and required mitigation.</li> </ul>
<b>Other Environmental Issues</b>		
Flora and Fauna	Concept Proposal Stage 1 Development	<ul style="list-style-type: none"> <li>• Implementation of the Biodiversity Offset Strategy for the site.</li> <li>• Preparation of a Flora and Fauna Management Plan for the site to inform the CEMP and OEMP as relevant to manage potential impacts to biodiversity during construction and operation.</li> <li>• Retained areas of native vegetation, including the Ropes Creek riparian corridor, will be rehabilitated and/or restored and conserved in perpetuity under a Biodiversity Stewardship Agreement to be entered into with the Biodiversity Conservation Trust.</li> <li>• Other areas of the site including road batters, embankments and bio-retention basins will be planted with native plant species and turf species as specified in the Landscape Planting Schedule.</li> <li>• Ongoing maintenance and management of these areas in accordance with the provisions of both the Biodiversity Management Action Plan and Landscape Management Plan.</li> </ul>
Waterways and Riparian Lands		<ul style="list-style-type: none"> <li>• Restoration and ongoing management of Ropes riparian corridor to be in accordance with the Biodiversity Management Action Plan</li> </ul>



## **APPENDIX 8 INCIDENT NOTIFICATION AND REPORTING REQUIREMENTS**

### **WRITTEN INCIDENT NOTIFICATION REQUIREMENTS**

1. A written incident notification addressing the requirements set out below must be emailed to the Department at the following address: [compliance@planning.nsw.gov.au](mailto:compliance@planning.nsw.gov.au) within seven days after the Applicant becomes aware of an incident. Notification is required to be given under this condition even if the Applicant fails to give the notification required under Condition D135 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.