

## Development Consent

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

The Independent Planning Commission (the Commission), as the declared consent authority under clause 8A of the *State Environmental Planning Policy (State and Regional Development) 2011* and section 4.5(a) of the *Environmental Planning and Assessment Act 1979*, approves the development application referred to in Schedule 1, subject to the conditions in Schedule 2.

These conditions are required to:

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

Member of the Commission

Member of the Commission

Sydney

2018

#### **SCHEDULE 1**

**Application Number:**

SSD 8588

**Applicant:**

Frasers Property Australia

**Consent Authority:**

Independent Planning Commission

**Land:**

Rooty Hill Road South, Rooty Hill (Lot 1 DP 1103025, Lots 2 & 3 DP 1041487, Lot 100 DP 882326, Lots 1B, 2A, 3A, 3B, 4B, 5B & 13B DP 8681, Lot 1 DP 135665, Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, & 10 DP 830836, Lot A DP 358346, Lots 1, 3, 4, 5, 6, 7 & 8 DP 31130, Lots 11, 12 & 14 DP 882325 and Lots 1 & 2 DP 1069269)

**Approved Development:**

Detailed design, construction and operation of a convenience retail development on approved Lot 2 (Stage 1) with a gross floor area of ~~11,438~~ **11,424** sqm comprising:

- a supermarket
- specialty shops, food and drink premises
- a medical centre
- pharmacy

- gymnasium
- car parking for ~~433~~ **432** car spaces
- end-of-trip facilities
- community garden
- signage zones
- loading dock facilities
- associated landscaping and infrastructure

<b>Modification: SSD 8588 MOD 1:</b> Modifications to the detailed design of the retail centre building (in Stage 1) comprising façade realignment at the southwestern corner, changes to plant and services, rainwater tank, loading dock, trolley bay, waste and recycle room and reconfiguration of the internal layout.	Determined 21/11/2018
<b>Modification: SSD 8588 MOD 2:</b> Modifications to the layout of Lot 2 car park and location of the future development site building envelopes to be consistent with the changes proposed concurrently under the Concept Plan (SSD 5175).	Determined 18/7/2019
<b>SSD 8588 MOD 3:</b> Design refinements including updated solar panel layout, internal tenancy layout changes, provision of car park shade sails and signage content	Determined 29/11/2019
<b>SSD 8588 MOD 4:</b> Amend vehicle access from the car park allow vehicles to exit via the roundabout	Determined 2/07/2020
<b>SSD 8588 MOD 5:</b> Extension of the loading dock hours	Determined 6/04/2021
<b>SSD 8588 MOD 6:</b> Provision of an Internal Connection to ECQ Lot 3 and GFA changes.	Determined 11/07/2024

<b>SSD 8588 MOD 1</b>	<b>SSD 8588 MOD 2</b>	<b>SSD 8588 MOD 3</b>	<b>SSD 8588 MOD 4</b>
<b>SSD 8588 MOD 5</b>	<b>SSD 8588 MOD 6</b>		

## DEFINITIONS

<b>Applicant</b>	<b>Frasers Property Group, or any person carrying out any development to which this consent applies</b>
<b>Certifying Authority</b>	Professionals that are accredited by the Building Professionals Board to issue construction, occupation, subdivision, strata, compliance and complying development certificates under the EP&A Act, <i>Strata Schemes (Freehold Development) Act 1973</i> and <i>Strata Schemes (Leasehold Development) Act 1986</i> or in the case of Crown development, a person qualified to conduct a Certification of Crown Building works
<b>Conditions of this consent</b>	Conditions contained in Schedule 2 of this document
<b>Council</b>	Blacktown City Council
<b>Day</b>	The period from 7 am to 6 pm on Monday to Saturday, and 8 am to 6 pm on Sundays and Public Holidays
<b>Demolition</b>	The deconstruction and removal of buildings, sheds and other structures on the site
<b>Department</b>	NSW Department of Planning and Environment
<b>Development</b>	The development described in the EIS and Response to Submissions, including the works and activities comprising a convenience retail development, as modified by the conditions of this consent.
<b>EIS</b>	The Environmental Impact Statement titled Lot 2 Rooty Hill Road South, Eastern Creek, prepared by Ethos Urban dated 3 October 2017, submitted with the application for consent for the development, including any additional information provided by the Applicant in support of the application.
<b>Environment</b>	Includes all aspects of the surroundings of humans, whether affecting any human as an individual or in his or her social groupings
<b>EPA</b>	NSW Environment Protection Authority
<b>EP&amp;A Act</b>	<i>Environmental Planning and Assessment Act 1979</i>
<b>EP&amp;A Regulation</b>	<i>Environmental Planning and Assessment Regulation 2000</i>
<b>EPL</b>	Environment Protection Licence under the POEO Act
<b>Feasible</b>	Means what is possible and practical in the circumstances
<b>Incident</b>	An occurrence or set of circumstances that causes, or threatens to cause material harm and which may or may not be or cause a non-compliance. <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>Material harm</b>	Is harm that: (a) involves actual or potential harm to the health or safety of human beings or to the environment that is not trivial, or

<b>SSD 8588 MOD 1</b>	<b>SSD 8588 MOD 2</b>	<b>SSD 8588 MOD 3</b>	<b>SSD 8588 MOD 4</b>
<b>SSD 8588 MOD 5</b>	<b>SSD 8588 MOD 6</b>		

	(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).
<b>Minister</b>	NSW Minister for Planning (or delegate)
<b>NCC</b>	National Construction Code
<b>Non-compliance</b>	An occurrence, set of circumstances or development that is a breach of this consent
<b>OEH</b>	Office of Environment and Heritage
<b>Operation</b>	The carrying out of the approved purpose of the development upon completion of construction.
<b>PA</b>	Means a planning agreement within the meaning of the term in section 7.4 of the EP&A Act.
<b>Planning Secretary</b>	Planning Secretary under the EP&A Act, or nominee
<b>POEO Act</b>	<i>Protection of the Environment Operations Act 1997</i>
<b>Reasonable</b>	Means applying judgement in arriving at a decision, taking into account: mitigation benefits, costs of mitigation versus benefits provided, community views, and the nature and extent of potential improvements.
<b>Response to Submissions</b>	The Applicant's response to issues raised in submissions received in relation to the application for consent for the development under the EP&A Act.
<b>RHRS</b>	Rooty Hill Road South
<b>RMS</b>	Roads and Maritime Services

<b>SSD 8588 MOD 1</b>	<b>SSD 8588 MOD 2</b>	<b>SSD 8588 MOD 3</b>	<b>SSD 8588 MOD 4</b>
<b>SSD 8588 MOD 5</b>	<b>SSD 8588 MOD 6</b>		

## SCHEDULE 2

### PART A ADMINISTRATIVE CONDITIONS

#### OBLIGATION TO MINIMISE HARM TO THE ENVIRONMENT

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

#### TERMS OF CONSENT

- A2. The development may only be carried out:

- (a) in compliance with the conditions of this consent
- (b) in accordance with all written directions of the Planning Secretary
- (c) generally in accordance with the EIS and Response to Submissions
- (d) in accordance with the management and mitigation measures
- (e) generally in accordance with the approved modification(s)
- (f) the Statement of Environmental Effects MOD 2, dated 13 November 2018, Response to Submissions SSD 5175 MOD 4 and SSD 8588 MOD 2, dated 11 April 2019 and Additional Information SSD 5175 MOD 4 and SSD 8588 MOD 2, dated 3 July 2019, all prepared by Ethos Urban
- (g) the Statement of Environmental Effects SSD 8588 MOD 3, dated 5 September 2019 and Additional Information dated 21 October 2019, all prepared by Ethos Urban
- (h) Modification Report SSD 8588 MOD 4, dated 12 February 2020, prepared by Ethos Urban
- (i) Modification Report SSD 8588 MOD 5, dated 16 September 2020, prepared by Ethos Urban, Response to Submissions dated 16 February 2021 prepared by Ethos Urban and Additional Information dated 17 March 2021 prepared by Ethos Urban.
- (j) Modification Report SSD 8588 MOD 6, dated 15 December 2023
- (k) in accordance with the following drawings

Architectural Drawings prepared by i2C			
Drawing No.	Revision	Name of Plan	Date
DA05 <u>38</u>	<u>A C P3 P5</u> <u>P6 B</u>	<del>Proposed Site Plan – Stage 1</del> <u>Stage 1 Proposed Plan</u>	<del>24.01.18 23.07.18</del> <del>02.07.19 01.10.2019</del> <del>19.02.2020 27.11.2023</del>
DA06	<u>A B P3</u>	<del>Stage 1</del> Proposed Roof Plan - <u>Stage 1</u>	<del>11.09.17 31.08.18</del> <u>09.10.2019</u>
DA07	<u>A</u>	Entry 1	<u>11.09.17</u>
DA08	<u>A</u>	Entry 2	11.09.17
DA09	<u>A</u>	Entry 2	11.09.17
DA10- <u>A</u>	<u>A B</u>	Elevations 1	<del>11.09.17</del> <u>23.07.18</u>
<u>DA10-B</u>	<u>C</u>	<u>Elevations 2</u>	<u>23.07.18</u>
DA11- <u>A</u>	<u>A B</u>	<del>Elevations 2</del> <u>3</u>	<del>11.09.17</del> <u>16.07.18</u>
<u>DA11-B</u>	<u>B</u>	<u>Elevations 4</u>	<u>23.07.18</u>
DA12	<u>A</u>	True Elevations	11.09.17
DA13	<u>A</u>	Sections	11.09.17
DA18	<u>A C</u>	3D Perspectives	<del>11.09.17</del> <u>16.07.18</u>
<u>DA18-A</u>	<u>B</u>	<u>3D Perspectives</u>	<u>16.07.18</u>
SD01	<u>A</u>	Shopfront Design – Key Plan	11.09.17
SD02	<u>A</u>	Shopfront 1	11.09.17
SD03	<u>A</u>	Shopfront 2	11.09.17

SD04	A	Shopfront 3	11.09.17
SD05	A	Shopfront 4	11.09.17
SD06	A	Shopfront 5	11.09.17
<del>SZ01</del> <u>SK28.1</u>	<del>A</del>	Signage Zones – <u>Site Plan</u>	<del>11.09.17</del> <u>20.04.2018</u>
<del>SZ02</del> <u>SK28.3</u>	<del>A</del>	Signage Zones – <u>View 1</u>	<del>11.09.17</del> <u>20.04.2018</u>
<del>SZ03</del> <u>SK28.4</u>	<del>A</del>	Signage Zones – <u>View 2</u>	<del>11.09.17</del> <u>20.04.2018</u>
<del>SZ04</del> <u>SK28.5</u>	<del>A</del>	Signage Zones – <u>View 3</u>	<del>11.09.17</del> <u>20.04.2018</u>
<del>SZ05</del> <u>SK28.6</u>	<del>A</del>	Signage Zones – <u>View 4</u>	<del>11.09.17</del> <u>20.04.2018</u>
<del>SZ06</del> <u>SK28.7</u>	<del>A</del>	Signage Zones – <u>View 5</u>	<del>11.09.17</del> <u>20.04.2018</u>
<del>SZ07</del> <u>SK28.8</u>	<del>A</del>	Signage Zones – <u>View 6 and 7</u>	<del>11.09.17</del> <u>20.04.2018</u>
<del>SZ08</del> <u>SK28.9</u>	<del>A</del>	Signage Zones – <u>View 8 and 9</u>	<del>11.09.17</del> <u>20.04.2018</u>
<del>SZ09</del> <u>SK28.10</u>	<del>A</del>	Signage Zones – <u>View 10</u>	<del>11.09.17</del> <u>20.04.2018</u>
<del>SZ10</del> <u>SK28.11</u>	<del>A</del>	Signage Zones – <u>View 11</u>	<del>11.09.17</del> <u>20.04.2018</u>
<u>A9025</u>	<u>P4</u>	<u>Centre Signage Elevations 1</u>	<u>09.10.2019</u>
<u>A9026</u>	<u>P2</u>	<u>Centre Signage Elevations 2</u>	<u>09.10.2019</u>
<u>DA38A</u>	<u>P2</u>	<u>Stage 1 – Shade sail and Landscape details</u>	<u>09.10.2019</u>
<u>S-6776-DG-500-001.2</u>	<u>C</u>	<u>Proposed car park shade structures – design considerations</u>	<u>11.07.2019</u>
<u>S-6776-DG-500-001.3</u>	<u>C</u>	<u>Proposed car park shade structures – setout plan</u>	<u>11.07.2019</u>
<u>S-6776-DG-500-001.4</u>	<u>C</u>	<u>Proposed car park shade structures – structure plan</u>	<u>11.07.2019</u>
<u>S-6776-DG-500-001.5</u>	<u>C</u>	<u>Proposed car park shade structures – elevations</u>	<u>11.07.2019</u>
<u>S-6776-DG-500-001.6</u>	<u>C</u>	<u>Proposed car park shade structures – electrical routing provision plan</u>	<u>11.07.2019</u>

- A3. Consistent with the requirements in this consent, the Planning Secretary may make written directions to the Applicant in relation to:
- the content of any strategy, study, system, plan, program, review, audit, notification, report or correspondence submitted under or otherwise made in relation to this consent, including those that are required to be, and have been, approved by the Planning Secretary; and
  - the implementation of any actions or measures contained in any such document referred to in (a) above.
- A4. The conditions of this consent and directions of the Planning Secretary prevail to the extent of any inconsistency, ambiguity or conflict between them and a document listed in condition A2(c). In the event of an inconsistency, ambiguity or conflict between any of the documents listed in condition A2 (c), the most recent document prevails to the extent of the inconsistency, ambiguity or conflict.

#### EVIDENCE OF CONSULTATION

- A5. Where conditions of this consent require consultation with an identified party, the Applicant must:
- consult with the relevant party prior to submitting the subject document to the Planning Secretary for approval; and
  - provide details of the consultation undertaken including:
    - the outcome of that consultation, matters resolved and unresolved; and
    - details of any disagreement remaining between the party consulted and the Applicant and how the Applicant has addressed the matters not resolved.

## STRUCTURAL ADEQUACY

- A6. All new buildings and structures, and any alterations or additions to existing buildings and structures, that are part of the development, must be constructed in accordance with the relevant requirements of the BCA.

*Note:*

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

## APPLICABILITY OF GUIDELINES

- A7. References in the conditions of this consent to any guideline, protocol, Australian Standard or policy are in the form they are in as at the date of this consent.

However, consistent with the conditions of this consent and without altering any limits or criteria in this consent, the Planning Secretary may, when issuing directions under this consent in respect of ongoing monitoring and management obligations, require compliance with an updated or revised version of such a guideline, protocol, Standard or policy, or a replacement of them.

## MONITORING AND ENVIRONMENTAL AUDITS

- A8. Any condition of this consent that requires the carrying out of monitoring or an environmental audit, whether directly or by way of a plan, strategy or program, is taken to be a condition requiring monitoring or an environmental audit under Division 9.4 of Part 9 of the EP&A Act. This includes conditions in respect of incident notification, reporting and response, non-compliance notification and independent environmental auditing.

*Note: For the purposes of this condition, as set out in the EP&A Act, "monitoring" is monitoring of the development to provide data on compliance with the consent or on the environmental impact of the development, and an "environmental audit" is a periodic or particular documented evaluation of the development to provide information on compliance with the consent or the environmental management or impact of the development.*

## INCIDENT NOTIFICATION, REPORTING AND RESPONSE

- A9. 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 must be given and reports submitted in accordance with the requirements set out in Appendix 1.

## NON-COMPLIANCE NOTIFICATION

- A10. The Department must be notified in writing to [compliance@planning.nsw.gov.au](mailto:compliance@planning.nsw.gov.au) within seven days after the Applicant becomes aware of any non-compliance. The Certifying Authority must also notify the Department in writing to [compliance@planning.nsw.gov.au](mailto:compliance@planning.nsw.gov.au) within seven days after they identify any non-compliance.

The notification must identify the development and the application number for it, set out the condition of consent that the development is non-compliant with, the way in which it does not comply and the reasons for the non-compliance (if known) and what actions have been, or will be, undertaken to address the non-compliance.

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

## REVISION OF STRATEGIES, PLANS AND PROGRAMS

- A11. Within three months of:

- (a) the submission of a compliance report under condition C4 and C6;
- (b) the submission of an incident report under condition A9;
- (c) the submission of an Independent Audit under condition C9;
- (d) the approval of any modification of the conditions of this consent; or
- (e) the issue of a direction of the Planning Secretary under condition A2 which requires a review,

The strategies, plans and programs required under this consent must be reviewed, and the Department must be notified in writing that a review is being carried out.

If necessary to either improve the environmental performance of the development, cater for a modification or comply with a direction, the strategies, plans and programs required under this consent must be revised, to the satisfaction of the Planning Secretary. Where revisions are required, the revised document must be submitted to the Planning Secretary for approval within six weeks of the review.

*Note: This is to ensure strategies, plans and programs are updated on a regular basis and to incorporate any recommended measures to improve the environmental performance of the development.*

## **OPERATION OF PLANT AND EQUIPMENT**

A12. All plant and equipment used on site, or to monitor the performance of the development must be:

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

## **GROSS FLOOR AREA**

A13. The maximum gross floor area (GFA) for the total development allowed by this consent for the convenience retail development on approved Lot 2 (Stage 1) shall not exceed 11,438 **11,424** sqm.

**A detailed GFA table shall be submitted to the Planning Secretary for approval within 14 days of the determination of MOD 6**

## **FIT-OUT AND USE OF COMMERCIAL TENANCIES**

A14. The fit-out and use of individual commercial tenancies except for the supermarket will be subject to separate approval unless it complies with the exempt development provisions in accordance with State Environmental Planning Policy (Western Sydney Parklands) 2009.

## **EXTERNAL ~~ADVERTISING~~ BUSINESS IDENTIFICATION SIGNAGE**

A15. ~~The details of the advertising within the signage zones identified on the approved plans listed in Condition A2 will be subject to separate approval unless it complies with the exempt development provisions in accordance with State Environmental Planning Policy (Western Sydney Parklands) 2009.~~

**The replacement of external business identification signage, or the content of such a sign, as shown in the approved Eastern Creek Quarter Signage Zones, prepared by i2C, dated 9 October 2019 and identified in the approved plans listed in Condition A2, does not require approval if the replacement signage is business identification signage or content and must meet the following requirements:**

**(a) replace a lawful sign, and**

**(b) not be greater in size than the sign that it replaces, and**

**(c) not be a sign that is animated, flashing or illuminated, unless the sign it replaces is the subject of a development consent to be an illuminated sign, and**

**(d) not involve any alteration to the structure on which the sign is displayed, and**

**(e) not obstruct or interfere with traffic signs.**

## **CIRCULATION AREAS**

A16. The internal circulation areas are to be maintained for that purpose. Additional pop-up kiosks or counter shops are not to be placed in the circulation areas.



## PART B PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

### EXTERNAL WALLS AND CLADDING

- B1. The external walls of all buildings must comply with the relevant requirements of the NCC.
- B2. 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.
- B3. 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.

### DESIGN VERIFICATION

- B4. A design verification statement from a qualified designer shall be submitted for review and endorsement of the Planning Secretary. The statement shall confirm the Construction Certificate plans and specifications achieve or improve the design quality of the development for which consent is granted, having regard to Eastern Creek Business Hub Design Guidelines dated ~~4 July 2017~~ **11 April 2019**. The statement shall include:
- a) a detailed material and finishes schedule of all the boundary fencing, acoustic wall/screening, concealment of rooftop plant (excluding minor elements such as individual tenancy exhaust fans and the like), building facades including the roof, the pedestrian entry, alfresco dining area, outdoor seating areas, pathways and external signage.
  - b) plans, sections and photomontages of the architectural wall along RHRS frontage of the site
  - c) details of a high quality timber finish (not a lapped and capped timber fence) or other natural material between the stone feature walls of the architectural wall along RHRS
  - d) details of a 2.5m high acoustic fence at the common boundary of the adjacent residential properties at Beggs Road.

### DETAILED LANDSCAPE PLAN

- B5. A comprehensive landscape design plan and specifications prepared by a qualified landscape designer and incorporating the planting and landscape elements in the ~~Eastern Creek Quarter Development Application Issue B landscape concept prepared by Arcadia dated September 2017~~ **ECQ Stage 1 Landscape Plan prepared by Arcadia dated March 2019** shall be submitted for review and endorsement of the Planning Secretary prior to the issue of a Construction Certificate. The required comprehensive landscape design plan and specifications shall include:
- a) cross sections at various locations through the landscape setbacks at the perimeter of the site
  - b) proposed contours or spot levels
  - c) botanical names, quantities and container size of all proposed trees, shrubs and ground cover,
  - d) details of any retaining walls and drainage
  - e) on-going maintenance.

**The landscape maintenance schedule is to be updated to include monitoring of the trees planted between the car park shade sail void during the establishment of the trees, to the satisfaction of the Principal Certifying Authority, prior to the issue of the relevant Construction Certificate.**

### NATIONAL CONSTRUCTION CODE (NCC) COMPLIANCE

- B6. The proposed works must comply with the applicable performance requirements of the NCC so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the ongoing benefit of the community. Compliance with the performance requirements can only be achieved by:
- a) complying with the deemed to satisfy provisions, or
  - b) formulating an alternative solution which:
    - i) complies with the performance requirements, or
    - ii) is shown to be at least equivalent to the deemed to satisfy provision, or
    - iii) a combination of a) and b).

## BUSHFIRE PROTECTION

- B7. Details shall be provided by a qualified bushfire consultant demonstrating compliance with the *Planning for Bushfire Protection Guidelines 2006* including Asset Protection Zones to the satisfaction of the Certifying Authority, prior to the issue of a Construction Certificate.

## SIGNAGE STRATEGY

- B8. ~~Prior to the issue of a Construction Certificate, the Applicant is to provide an amended signage strategy showing the deletion of Sign K on the external face of the end-of-trip and bicycle storage building facing RHRS.~~

## REFLECTIVITY

- B9. The building materials used on the facades of the buildings must have a maximum normal specular reflectivity of visible light of 20 per cent and must be designed so as not to result in glare that causes any discomfort or threatens the safety of pedestrians or drivers. A report / statement demonstrating compliance with these requirements is to be submitted to the satisfaction of the Certifying Authority prior to the issue of Construction Certificate.

## CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN (CPTED)

- B10. To minimise the opportunity for crime in accordance with CPTED principles, the recommendations provided in the Crime Prevention Through Environmental Design Assessment report prepared by Ethos Urban, dated 13 September 2017 shall be incorporated and demonstrated on the detailed drawings to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

## CAR PARKING

- B11. The development shall provide car parking in accordance with the following requirements:

- a) a total of ~~433~~ **432** on-site car parking spaces comprising:
  - i. ~~448~~ **417** retail/ **ancillary** car parking spaces
  - ii. 10 accessible car spaces
  - iii. 4 pick-up spaces for the supermarket tenancy
  - iv. 1 pick-up/drop-off space
- b) The layout of the proposed car parking areas associated with the subject development (including driveways, ramps, grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) shall be in accordance with AS 2890.1-2004, AS 2890.6 for accessible spaces and AS2890.2-2002 for heavy vehicles where applicable.

## LOADING AND UNLOADING AREAS

- B12. Plans demonstrating compliance with the following loading and unloading area requirements must be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate:
- a) the layout of the loading and unloading areas associated with the subject development parking associated with the proposal (including queuing areas, grades, turn paths, sight distance requirements, aisle widths, and parking bays) must be in accordance with AS 2890.2-2002 for heavy vehicle usage
  - b) appropriate pedestrian advisory signs are to be provided at the egress from the loading and unloading area
  - c) the swept path of the longest vehicle (including garbage trucks) entering and exiting the Site, as well as manoeuvrability through the Site, must be in accordance with AUSTROADS.

## BICYCLE PARKING AND FACILITIES

- B13. The layout, design and security of bicycle facilities must comply with the minimum requirements of *Australian Standard AS 2890.3 – 1993 Parking Facilities Part 3: Bicycle Parking Facilities*
- B14. Storage, change room and shower facilities for staff of the retail centre shall be provided within the End of Trip facility shown on the Approved Plans and details submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

## PRE-CONSTRUCTION DILAPIDATION REPORTS

- B15. The Applicant is to engage a qualified structural engineer to prepare a Pre-Construction Dilapidation Report detailing the current structural condition of all adjoining buildings, infrastructure and roads within the 'zone of influence'. Any entry into private land is subject to the consent of the owner(s) and any inspection of buildings on privately affected land shall include details of the whole building where only part of the building may fall within the 'zone of influence'. The report shall be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate. A copy of the report is to be forwarded to the Council and each of the affected property owners.

In the event that access for undertaking a Pre-Construction Dilapidation Report is denied by an adjoining owner, the Applicant must demonstrate, in writing, to the satisfaction of the Secretary that all reasonable steps have been

taken to obtain access and advise the affected property owner of the reason for the report and that these steps have failed.

## **STRUCTURAL DETAILS**

B16. Prior to the issue of a Construction Certificate, the Applicant shall submit to the satisfaction of the Certifying Authority structural drawings prepared and signed by a suitably qualified practising Structural Engineer that demonstrate compliance with:

- a) the relevant clauses of the NCC
- b) the development consent.

## **MECHANICAL VENTILATION**

B17. Details of any mechanical ventilation and/or air conditioning system complying with *AS1668.1 - The Use of Mechanical Ventilation and Air conditioning in Buildings – Fire and Smoke Control in Multi-compartment Buildings* and *AS1668.2 - The Use of Ventilation and Air-conditioning in Buildings – Mechanical Ventilation in Buildings*, the NCC, and relevant Australian Standards shall be prepared by a suitably qualified person to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

## **STORAGE AND HANDLING OF WASTE**

B18. Details of the storage of garbage bins and recycling containers and all waste and recyclable material in accordance with the relevant requirements of *Part G Site Waste Management and Minimisation City of Blacktown Development Control Plan 2005* shall be prepared by a suitably qualified person to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

## **ECOLOGICALLY SUSTAINABLE DEVELOPMENT**

B19. Prior to the issue of a Construction Certificate, the Applicant is to provide a report, prepared by a suitably qualified person, to the satisfaction of the Certifying Authority demonstrating the design achieves the sustainability concepts in the Ecologically Sustainable Development Report prepared by Frasers Property Australia dated 7 September 2017.

## **NOISE MITIGATION MEASURES**

B20. Details of noise mitigation measures recommended in the Noise Impact Assessment prepared by Acoustic Logic dated 22 May 2018 Revision 8 are to be detailed on the construction certificate drawings. Certification from an appropriately qualified acoustic engineer that the proposed measures will achieve compliance with the requirements of *Environmental Protection Authority's (EPAs) Industrial Noise Policy* and other guidelines applicable to the development is required to be submitted to the Certifying Authority prior to the issue of the Construction Certificate.

## **STORMWATER AND DRAINAGE MANAGEMENT**

B21. Prior to the issue of a Construction Certificate being issued, details of any proposed stormwater disposal and drainage from the development and details of the provision and maintenance of overland flow paths must be submitted to the Certifying Authority. All details for the disposal of stormwater and drainage are to be designed in accordance with the relevant requirements under *Part R Blacktown Development Control Plan 2015* and *Blacktown Engineering Guide for Development 2005* unless otherwise agreed with Council.

## **EROSION AND SEDIMENT CONTROL**

B22. Soil erosion and sediment control measures shall be designed in accordance with the document *Managing Urban Stormwater – Soils & Construction Volume 1* (2004) by Landcom. Details are to be included in the Construction Environmental Management Plan (see **Condition C14**) submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

## **DISABLED ACCESS - GENERAL**

B23. Access and facilities for people with disabilities must be designed in accordance with Part D3 of the NCC. Prior to the issue of the Construction Certificate - Structure, certification of compliance with this condition from an appropriately qualified person must be provided to the Certifying Authority.

## **FOOD STANDARDS CODE**

B24. Prior to the issue of a Construction Certificate, the Applicant shall submit to the satisfaction of the Certifying Authority detailed drawings demonstrating the construction, fitout and finishes of the supermarket complies with Standard 3.2.3 of the *Australian and New Zealand Food Standards Code* under the *Food Act 2003 and AS 4674 – 2004 Design, Construction and Fitout of Food Premises*.

## **LIGHTING SCHEME**

- B25. Prior to the issue of a Construction Certificate, the Applicant shall submit to the Certifying Authority a report demonstrating the detailed design of the external lighting scheme complies with *AS4282: 1997 Control of the Obtrusive Effects of Outdoor Lighting* to protect the amenity of the surrounding area from light spill. All external lighting associated with the loading docks shall be designed and appropriately shielded and directed away from the adjoining dwellings.

## **FLOOD RISK**

- B26. Prior to the issue of a Construction Certificate, the Applicant is to provide a report and plans by a suitably qualified person to the satisfaction of the Certifying Authority demonstrating the floor levels will comply with the relevant requirements in *New South Wales Floodplain Development Manual 2005*, and the site and gradient levels have been designed to ensure a safe path of egress from the site to Rooty Hill Road South, which is more than 1000mm above the height of the possible flood extents.

## PART C PRIOR TO COMMENCEMENT OF WORKS

### NOTIFICATION OF COMMENCEMENT

- C1. The Department must be notified in writing of the dates of commencement of physical work and operation at least 48 hours before those dates.
- C2. If the construction or operation of the development is to be staged, the Department must be notified in writing at least 48 hours before the commencement of each stage, of the date of commencement and the development to be carried out in that stage.

### ACCESS TO INFORMATION

- C3. At least 48 hours before the commencement of construction until the completion of all works under this consent, or such other time as agreed by the Planning Secretary, the Applicant must:
  - (a) make the following information and documents (as they are obtained or approved) publicly available on its website:
    - i. the documents referred to in condition A2 of this consent;
    - ii. all current statutory approvals for the development;
    - iii. all approved strategies, plans and programs required under the conditions of this consent;
    - iv. regular reporting on the environmental performance of the development in accordance with the reporting arrangements in any plans or programs approved under the conditions of this consent;
    - v. a comprehensive summary of the monitoring results of the development, reported in accordance with the specifications in any conditions of this consent, or any approved plans and programs;
    - vi. a summary of the current stage and progress of the development;
    - vii. contact details to enquire about the development or to make a complaint;
    - viii. a complaints register, updated monthly;
    - ix. audit reports prepared as part of any independent environmental audit of the development and the Applicant's response to the recommendations in any audit report;
    - x. any other matter required by the Planning Secretary; and
  - (b) keep such information up to date, to the satisfaction of the Planning Secretary.

### COMPLIANCE REPORTING

- C4. A Pre-Construction Compliance Report must be prepared for the development, and submitted to the Certifying Authority for approval before the commencement of construction. A copy of the endorsed compliance report must be provided to the Department at [compliance@planning.nsw.gov.au](mailto:compliance@planning.nsw.gov.au) before the commencement of construction.
- C5. The Pre-Construction Compliance Report must include:
  - (a) details of how the terms of this consent that must be addressed before the commencement of construction have been complied with; and
  - (b) the expected commencement date for construction.
- C6. Construction Compliance Reports must be submitted to the Department at [compliance@planning.nsw.gov.au](mailto:compliance@planning.nsw.gov.au) for information every six months from the date of the commencement of construction, for the duration of construction. The Construction Compliance Reports must provide details on the compliance performance of the development for the preceding six months and must be submitted within one month following the end of each six-month period for the duration of construction of the development, or such other timeframe as required by the Secretary.
- C7. The Construction Compliance Reports must include:
  - (a) a results summary and analysis of environmental monitoring;
  - (b) the number of any complaints received, including a summary of main areas of complaint, action taken, response given and proposed strategies for reducing the recurrence of such complaints;
  - (c) details of any review of the CEMP and the Environmental Management Strategy and associated sub-plans as a result of construction carried out during the reporting period;
  - (d) a register of any modifications undertaken and their status;
  - (e) results of any independent environmental audits and details of any actions taken in response to the recommendations of an audit;

- (f) a summary of all incidents notified in accordance with this consent; and
- (g) any other matter relating to compliance with the terms of this consent or requested by the Secretary.

## COMPLIANCE

- C8. The Applicant must ensure that all of its employees, contractors (and their sub-contractors) are made aware of, and are instructed to comply with, the conditions of this consent relevant to activities they carry out in respect of the development.

## INDEPENDENT ENVIRONMENTAL AUDIT

- C9. No later than one month before the commencement of construction or within another timeframe agreed with the Secretary, a program of independent environmental audits must be prepared for the development in accordance with *AS/NZS ISO 19011-2014: Guidelines for Auditing Management Systems* (Standards Australia, 2014) and submitted to the Planning Secretary for approval.
- C10. The scope of each audit must be defined in the program. The program must ensure that environmental performance of the development in relation to each compliance requirement that forms the audit scope is assessed at least once in each audit cycle.
- C11. The environmental audit program prepared and submitted to the Secretary in accordance with conditions C9 and C10 above must be implemented and complied with for the duration of the development.
- C12. All independent environmental audits of the development must be conducted by a suitably qualified, experienced and independent team of experts and be documented in an audit report which:
- (a) assesses the environmental performance of the development, and its effects on the surrounding environment including the community;
  - (b) assesses whether the development is complying with the terms of this consent;
  - (c) reviews the adequacy of any document required under this consent; and
  - (d) recommends measures or actions to improve the environmental performance of the development, and improvements to any document required under this consent.
- C13. Within three months of commencing an Independent Environmental Audit, or within another timeframe agreed by the Secretary, a copy of the audit report must be submitted to the Secretary, and any other NSW agency that requests it, together with a response to any recommendations contained in the audit report, and a timetable for the implementation of the recommendations. The recommendations must be implemented to the satisfaction of the Secretary.

*Note: The audit team must be led by a suitably qualified auditor and include experts in any fields specified by the Planning Secretary.*

## CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN (CEMP)

- C14. Prior to the commencement of any works on site, a **Construction Environmental Management Plan (CEMP)** shall be submitted to the Certifying Authority. The CEMP shall be informed by the Construction Management Plan submitted with the EIS. The CEMP shall address, but not be limited to, the following matters where relevant:
- a) hours of work
  - b) 24 hour contact details of site manager and details of complaint handling
  - c) traffic management, in consultation with Council, TfNSW and RMS
  - d) construction noise and vibration management, prepared by a suitably qualified person
  - e) management of dust to protect the amenity of the neighbourhood
  - f) erosion and sediment control
  - g) measures to ensure that sediment and other materials are not tracked onto the roadway by vehicles leaving the Site
  - h) external lighting in compliance with *AS4282: 1997 Control of the Obtrusive Effects of Outdoor Lighting*
  - i) works in accordance with any remedial works plan
  - j) air quality management including issues associated with odour, minimising dust on site and prevention of dust from leaving the site during construction works
  - k) incorporation of all acoustic management and treatments.
  - l) ground disturbance works in accordance with Condition C13 of the original Concept Approval (SSD 5175).**

The CEMP must not include works that have not been explicitly approved in the development consent. In the event of any inconsistency between the consent and the CEMP, the consent shall prevail.

## CONSTRUCTION PEDESTRIAN AND TRAFFIC MANAGEMENT PLAN (CPTMP)

- C15. Prior to the commencement of any works on site the Applicant shall prepare a **Construction Pedestrian and Traffic Management Plan (CPTMP)** in consultation with the RMS and Council. The CPTMP needs to specify, but not limited to, the following:

- a) location of the proposed work zone
- b) haulage routes
- c) construction vehicle access arrangements
- d) proposed construction hours
- e) estimated number of construction vehicle movements
- f) construction program
- g) consultation strategy for liaison with surrounding stakeholders
- h) any potential impacts to general traffic, cyclists, pedestrians and bus services within the vicinity of the site from construction vehicles during the construction of the proposed works
- i) should any impact be identified, the duration of the impacts and measures proposed to mitigate any associated general traffic, public transport, pedestrian and cyclist impacts should be clearly identified and included in the CPTMP.

Prior to the commencement of work, the Applicant shall submit a copy of the endorsed CPTMP to the Certifying Authority and the Planning Secretary.

#### **CONSTRUCTION NOISE AND VIBRATION MANAGEMENT PLAN (CNVMP)**

C16. Prior to the commencement of construction activities, a detailed and site specific **Construction Noise and Vibration Management Plan** (CNVMP) shall be prepared by a suitably qualified person (who is eligible for membership of the Australian Acoustic Society, Institute of Engineers Australia or the Australian Association of Acoustic Consultants) in consultation with Council and submitted to the Certifying Authority. The CNVMP shall include, but not be limited to:

- a) identification of each work area, site compound and access route (both private and public)
- b) identification of the specific activities that will be carried out and associated noise sources at the premises and access routes
- c) identification of all potentially affected sensitive receivers
- d) the construction noise objectives identified in accordance with the *Interim Construction Noise Guidelines* (DECC 2009)
- e) assessment of potential noise and vibration from the proposed construction methods (including noise from construction traffic) against the objectives identified in (d)
- f) where the objectives are predicted to be exceeded an analysis of feasible and reasonable noise mitigation measures that can be implemented to reduce construction noise impacts
- g) description of management methods and procedures and specific noise mitigation treatments that will be implemented to control noise and vibration during construction, including the early erection of operational noise control barriers
- h) procedures for notifying residents of construction activities that are likely to affect their noise and vibration amenity
- i) measures to monitor noise performance and respond to complaints.

The CNVMP should also consider demolition methods that do not require the use of rock breakers or other similar high noise generating equipment, such as rock (or concrete) splitting of building sections for transport and break up off site, unless not feasible and reasonable. Where rock breakers or other high noise generating equipment are to be used such that the appropriate criteria are exceeded, the hours of operation for high noise generating equipment must include respite periods.

The Applicant shall submit a copy of the CNVMP to the Planning Secretary and Council prior to the commencement of work.

#### **CONSTRUCTION WASTE MANAGEMENT PLAN (CWMP)**

C17. Prior to the commencement of any works on site, a detailed **Construction Waste Management Plan** (CWMP) prepared by a suitably qualified person, in consultation with Council, shall be submitted to the Certifying Authority. The CWMP shall address, but not be limited to, the following matters:

- a) recycling of demolition materials including concrete
- b) removal of hazardous materials and disposal at an approved waste disposal facility in accordance with the requirements of the relevant legislation, codes, standards and guidelines, prior to the commencement of any building works.

The Applicant shall submit a copy of the CWMP to the Planning Secretary and Council prior to commencement of work.

C18. Details demonstrating compliance with the relevant legislative requirements, associated with the removal of hazardous waste, particularly the method of containment and control of emission of fibres to the air, are to be submitted to the satisfaction of the Certifying Authority prior to the removal of any hazardous materials.

## **AIR QUALITY MANAGEMENT PLAN (AQMP)**

- C19. Prior to the commencement of construction works an **Air Quality Management Plan (AQMP)** prepared by a suitably qualified person and shall be submitted to the Certifying Authority to minimise the migration of dust to the surrounding area during the construction phase. The AQMP must be prepared accordance with the EPA's *Approved Methods for the Modelling and Assessment of Air Pollutants in NSW* (the Approved Methods).
- C20. The Applicant shall submit a copy of the AQMP to the Planning Secretary and Council prior to commencement of work.

## **CONTACT TELEPHONE NUMBER**

- C21. Prior to the commencement of the works, the Applicant shall forward to the Certifying Authority a 24 hour telephone number to be operated for the duration of the construction works.

## **UTILITY SERVICES**

- C22. Prior to the commencement of work the Applicant is to obtain written approval from the utility authorities (electricity supply authority, an approved telecommunications carrier and an approved gas carrier, where relevant) in connection with the relocation and/or adjustment of the services affected by the construction of the underground structure. Any costs in the relocation, adjustment or support of services are to be the responsibility of the Applicant.
- C23. Prior to the commencement of work the Applicant is to obtain written advice from an electricity supply authority, an approved telecommunications carrier and an approved gas carrier (where relevant) that satisfactory arrangements are in place to ensure provision of adequate services.

## **BARRICADE PERMIT**

- C24. Where construction/building works require the use of a public place including a road or footpath, approval under section 138 of the *Roads Act 1993* for a Barricade Permit is to be obtained prior to the commencement of work. Details of the barricade construction, area of enclosure and period of work are required to be submitted to the satisfaction of the relevant road authority.

## **HOARDING**

- C25. A separate application under section 138 of the *Roads Act 1993* is to be made to the relevant road authority to erect a hoarding and/or scaffolding in a public road (if required) and such application is to include:
- a) architectural, construction and structural details of the design as well as proposed artwork
  - b) structural certification prepared and signed by an appropriately qualified practising structural engineer.

Evidence of the issue of a Structural Works Inspection Certificate and structural certification will be required prior to the commencement of construction works on site.

## **GEOTECHNICAL REPORTS**

- C26. Prior to the commencement of any drilling/piling works on site, the Applicant shall submit to the Certifying Authority, the results of a detailed geotechnical investigation on the site. The report is to address such matters as:
- a) appropriate drilling methods and techniques
  - b) vibration management and monitoring
  - c) dilapidation survey
  - d) support and retention of excavated faces
  - e) hydrogeological considerations.

The recommendations of the report are to be implemented during the course of the works.



## PART D DURING CONSTRUCTION

### HOURS OF CONSTRUCTION

- D1. Construction, including the delivery of materials to and from the site, may only be carried out between the following hours:
- (a) between 7:00am and 6:00 pm, Mondays to Fridays inclusive; and
  - (b) between 8:00 am and 1:00 pm, Saturdays.
- D2. No work may be carried out on Sundays or public holidays.
- D3. Activities may be undertaken outside of the hours nominated in Condition D2 if required:
- (a) by the Police or a public authority for the delivery of vehicles, plant or materials; or
  - (b) in an emergency to avoid the loss of life, damage to property or to prevent environmental harm.
- Notification of such activities must be given to affected residents before undertaking the activities or as soon as is practical afterwards.
- D4. Rock breaking, rock hammering, sheet piling, pile driving and similar activities may only be carried out between the following hours:
- (a) 9.00 am to 12.00 pm, Monday to Friday;
  - (b) 2.00 pm to 5.00 pm Monday to Friday; and
  - (c) 9.00 am to 12.00 pm, Saturday.

### WORKS IN ACCORDANCE WITH PLANS

- D5. The Applicant must carry out all works on the site which form part of this development in accordance with:
- (a) CEMP approved under Condition C14. The CEMP must document and incorporate all of the following Plans required under this consent
  - (b) CPTMP approved under Condition C15
  - (c) CNVMP approved under Condition C16
  - (d) CWMP approved under Condition C17
  - (e) AQMP approved under Condition C19

### EROSION AND SEDIMENT CONTROL

- D6. All erosion and sediment control measures, as designed in accordance with **Condition B23**, are to be effectively implemented and maintained at or above design capacity for the duration of the construction works and until all ground disturbed by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment.

### UTILITIES

- D7. The Applicant shall be responsible for all public utility adjustment/relocation works, necessitated by the development and as required by the various public utility authorities and/or their agents.

### CONSTRUCTION NOISE AND VIBRATION MANAGEMENT

- D8. The development must comply with the construction noise management levels detailed in the *Interim Construction Noise Guideline* (Department of Environment and Climate Change, 2009). All feasible and reasonable noise mitigation measures shall be implemented and any activities that could exceed the construction noise management levels shall be identified and managed in accordance with the CNVMP, approved as part of the CEMP.
- D9. Any noise generated during the construction of the development must not be offensive noise within the meaning of the *Protection of the Environment Operations Act 1997* or exceed approved noise limits for the Subject Site.
- D10. Where all control measures within the CNVMP (refer to **Condition C16**) have been implemented and the resultant noise and/or vibration levels at any sensitive receiver continue to exceed applicable criteria in the Construction Hours / Noise Code 1992 or *Interim Construction Noise Guidelines* and giving rise to sustained complaints then the contractor must provide regular, appropriate and sustained periods of respite in consultation with Council's Health and Building unit. Approval to vary the authorised noise and vibration levels must be received in writing by the proponent from Council prior to activities being undertaken that exceed sanctioned emission levels. Such periods must be set and agreed to by Council.
- D11. Vibration caused by construction at any residence or structure outside the subject site must be limited to:
- (a) for structural damage vibration to heritage buildings, German Standard DIN 4150 Part 3 Structural Vibration in Buildings Effects on Structure

- (b) for human exposure to vibration, the evaluation criteria presented in British Standard BS 6472- Guide to Evaluate Human Exposure to Vibration in Buildings (1Hz to 80 Hz) for low probability of adverse comment
- (c) These limits apply unless otherwise outlined in the CEMP.

#### **WORK COVER REQUIREMENTS**

- D12. To protect the safety of work personnel and the public, the work site shall be adequately secured to prevent access by unauthorised personnel, and work shall be conducted at all times in accordance with relevant Work Cover requirements.

#### **COVERING OF LOADS**

- D13. All vehicles involved in the excavation and / or demolition process and departing from the property with materials, spoil or loose matter must have their loads fully covered before entering the public roadway.

#### **VEHICLE CLEANSING**

- D14. Prior to the commencement of work, suitable measures are to be implemented to ensure that sediment and other materials are not tracked onto the roadway by vehicles leaving the Site. It is an offence to allow, permit or cause materials to pollute or be placed in a position from which they may pollute waters.

#### **DUST CONTROL MEASURES**

- D15. Adequate measures shall be taken to prevent dust from affecting the amenity of the neighbourhood during construction.

#### **NO OBSTRUCTION OF PUBLIC WAY**

- D16. The public way must not be obstructed by any materials, vehicles, refuse skips or the like, under any circumstances. Non-compliance with this requirement will result in the issue of a notice by the Planning Secretary to stop all work on site.

#### **EXTERNAL LIGHTING**

- D17. External Lighting shall comply with *AS4282: 1997 Control of the Obtrusive Effects of Outdoor Lighting*.

#### **SITE NOTICE**

- D18. A site notice(s) shall be prominently displayed at the boundaries of the site for the purposes of informing the public of project details including, but not limited to the details of the Builder, Certifying Authority and Structural Engineer. The notice(s) is to satisfy all but not be limited to, the following requirements:
- (a) The notice is to be able to be read by the general public from a public road or other public place adjacent to the site
  - (b) The notice is to be rigid, durable and weatherproof and is to be displayed throughout the works period
  - (c) The approved hours of work, the name of the site/project manager, the responsible managing company (if any), its address and 24 hour contact phone number for any inquiries, including construction/noise complaint are to be displayed on the site notice
  - (d) The notice(s) is to be mounted at eye level on the perimeter hoardings/fencing and is to state that unauthorised entry to the Site is not permitted.

#### **CONTACT TELEPHONE NUMBER**

- D19. The Applicant shall ensure that the 24 hour contact telephone number is continually attended by a person with authority over the works for the duration of the development.

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

- D20. A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the site at all times and shall be readily available for perusal by Council, the Department or the Certifying Authority.
- D21. In the event that surface disturbance identifies a new Aboriginal object, all works must halt in the immediate area to prevent any further impacts to the object(s). A suitably qualified archaeologist and a registered Aboriginal representative must be contacted to determine the significance of the object(s). The site is to be registered in the Aboriginal Heritage Information Management System (AHIMS) which is managed by OEH and the management outcome for the site included in the information provided to AHIMS. The applicant must consult with the Aboriginal community representatives, the archaeologist and the OEH to develop and implement management strategies for all objects/ sites. Aboriginal heritage management is to be carried out in accordance with an AHIP applicable to the site.

## **PART E PRIOR TO OCCUPATION OR COMMENCEMENT OF USE**

### **PROTECTION OF PUBLIC INFRASTRUCTURE**

- E1. Unless the Applicant and the applicable authority agree otherwise, the Applicant must:
- (a) repair, or pay the full costs associated with repairing, any public infrastructure that is damaged by carrying out the development; and
  - (b) relocate, or pay the full costs associated with relocating any infrastructure that needs to be relocated as a result of the development.

### **OCCUPATION CERTIFICATE**

- E2. An Occupation Certificate must be obtained from the Certifying Authority prior to commencement of occupation or use of the whole or any part of a new building, an altered portion of, or an extension to an existing building.

### **ROAD INFRASTRUCTURE WORKS**

- E3. Prior to the issue of the first Occupation Certificate, the Applicant shall provide evidence to the Certifying Authority and Planning Secretary demonstrating that the road upgrade infrastructure works along RHRS and Beggs Road have been completed in accordance with RMS requirements.

### **STRUCTURAL INSPECTION CERTIFICATE**

- E4. A Structural Inspection Certificate or a Compliance Certificate must be submitted to the satisfaction of the Certifying Authority prior to the issue of the relevant Occupation Certificate and/or use of the premises. A copy of the Certificate with an electronic set of final drawings (contact approval authority for specific electronic format) shall be submitted to the approval authority and the Council after:
- a) The site has been periodically inspected and the Certifier is satisfied that the Structural Works is deemed to comply with the final design drawings
  - b) The drawings listed on the Inspection Certificate have been checked with those listed on the final Design Certificate/s.

### **GFA AND BUILDING HEIGHT CERTIFICATION**

- E5. A Registered Surveyor is to certify that the development does not exceed the approved gross floor area and building height. Details shall be provided to the Certifying Authority demonstrating compliance with this condition prior to the issue of the final Occupation Certificate.

### **CRIME PREVENTION**

- E6. Prior to the issue of the relevant Occupation Certificate details shall be submitted to the satisfaction of the Certifying Authority that the CPTED works have been completed in accordance with **Condition B9**.

### **LOADING DOCK MANAGEMENT**

- E7. Prior to the issue of the relevant Occupation Certificate, a Loading Dock Management Plan (LDMP) shall be submitted to the Certifying Authority to ensure safe and efficient operation of the proposed loading area and minimise conflicts with adjoining residential properties. The LDMP shall include the following:
- a) allocation of sufficient loading spaces
  - b) measures to ensure the lighting of loading docks is turned off when the loading areas are not in operation
  - c) restrictions on delivery and operating times
  - d) controls on duration of stays
  - e) measures to ensure there is no queuing of delivery vehicles including details of alternate parking locations to redirect vehicles when queuing occurs
  - f) controls on the placement of skips, pallets, etc.
  - g) procedures for tradesman access and parking
  - h) allocation of delivery times for residential removalists
  - i) truck access routes.

### **MECHANICAL VENTILATION**

- E8. Following completion, installation and testing of all the mechanical ventilation systems, the Applicant shall provide evidence to the satisfaction of the Certifying Authority, prior to the issue of the relevant Occupation Certificate, that the installation and performance of the all mechanical systems complies with:
- a) the NCC/approved performance solution
  - b) Australian Standard AS1668 and other relevant codes or approved performance solution
  - c) the development consent and any relevant modifications.

- E9. Prior to issue of an Occupation Certificate and following completion, installation, and testing of all the mechanical ventilation systems, a Mechanical Ventilation Certificate of Completion and Performance in accordance with Clause A2.2(a)(iii) of the NCC must be submitted to and approved by the Certifying Authority.

#### **ENVIRONMENTAL PERFORMANCE**

- E10. The Applicant is to provide to the Certifying Authority and Planning Secretary documentation, prepared by a suitably qualified consultant, confirming that the development has been completed and assessed in accordance with the Green Building Council of Australia 6 Star Green Star rating (Design and As-built v1.1).

#### **GREEN TRAVEL PLAN**

- E11. To encourage travel modes other than private vehicle the Applicant shall prepare and implement a green travel plan and transport access guide for employees of the retail centre. Details are to be submitted to the Certifying Authority prior to the issue of the final Occupation Certificate.

#### **POST-CONSTRUCTION DILAPIDATION REPORT**

- E12. Prior to the issue of the relevant Occupation Certificate:
- a) the Applicant shall engage a suitably qualified person to prepare a post-construction dilapidation report at the completion of the construction works. This report is to ascertain whether the construction works created any structural damage to adjoining buildings, infrastructure and roads
  - b) the report is to be submitted to the Certifying Authority. In ascertaining whether adverse structural damage has occurred to adjoining buildings, infrastructure and roads, the Certifying Authority must:
    - i) compare the post-construction dilapidation report with the pre-construction dilapidation report required by these conditions
    - ii) have written confirmation from the relevant authority that there is no adverse structural damage to their infrastructure and roads
  - c) a copy of this report is to be forwarded to the Planning Secretary and each of the affected property owners.

#### **FIRE SAFETY CERTIFICATION**

- E13. Prior to the issue the relevant Occupation Certificate, a Fire Safety Certificate shall be obtained for all the relevant Essential Fire or Other Safety Measures forming part of this consent. A copy of the Fire Safety Certificate must be submitted to the relevant authority and Certifying Authority and be prominently displayed in the building.

#### **ROAD DAMAGE**

- E14. The cost of repairing any damage caused to Council or other public authority's assets in the vicinity of the subject site, as a result of construction works associated with the approved development, is to be met in full by the Applicant prior to the issue of the final Occupation Certificate.

#### **WASTE COLLECTION**

- E15. Prior to the issue of the relevant Occupation Certificate or commencement of the use, whichever is earlier, the Certifying Authority must be satisfied that waste handling works have been completed in accordance with the Waste Management Plan, other relevant conditions and Council's *Part G Site Waste Management and Minimisation City of Blacktown Development Control Plan 2005*.
- E16. Prior to an Occupation Certificate being issued and/or commencement of the use, whichever is earlier, the building owner must ensure that there is a contract with a licensed contractor for the removal of all waste.
- E17. Prior to the issue the relevant Occupation Certificate details shall be submitted to the satisfaction of the Certifying Authority that waste handling works have been completed in accordance with **Condition B18**.

#### **SYDNEY WATER**

- E18. A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water Corporation, if relevant. The application must be made through an authorised Water Servicing Coordinator. Please refer to the "Your Business" section of the web site [www.sydneywater.com.au](http://www.sydneywater.com.au) then follow the "e-Developer" icon or telephone 13 20 92 for assistance. Following the application a "Notice of Requirements" will advise of water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design. The Section 73 Certificate must be submitted to the Certifying Authority prior to occupation of the development.

#### **ACOUSTIC COMPLIANCE**

- E19. Prior to the issue of a relevant Occupation Certificate, evidence shall be submitted to the Certifying Authority demonstrating compliance with all recommendations of the Noise Impact Assessment prepared by Acoustic Logic Revision 6 dated 21 February 2018 and other guidelines applicable to the development.

## PEDESTRIAN FENCE (ROOTY HILL ROAD SOUTH)

- E20. A pedestrian fence shall be constructed within the central median along RHRS in accordance with the RMS requirements as approved under the Works Authorisation Deed (WAD) prior to the issue the relevant Occupation Certificate.

## FIT-OUT FOOD PREMISES (SUPERMARKET)

- E21. Prior to the issue of an Occupation Certificate the supermarket tenancy shall be registered with Council's Environmental Health Unit and a health inspection shall be conducted by Council's Environmental Health Officer to ensure that the fit out complies with the requirements of the Food Act 2003 and Australian Standard 4674-2004 *Design, construction and fit-out of food premises*. The NSW Food Authority shall be notified prior to commencement of operation.
- E22. The installation of any grease arrestor shall comply with the requirements of the Sydney Water Corporation. A copy of the Corporation's Trade Waste Agreement shall be submitted to Council prior to the issue of an Occupation Certificate.

## SITE INTERFACE

- E23. Prior to the issue of the first Occupation Certificate, the Applicant shall provide evidence to the Certifying Authority and Planning Secretary demonstrating that the architectural and acoustic wall along RHRS and the acoustic treatment adjacent residential properties in Beggs Road including the landscape measures and outdoor lighting details have been completed in accordance with the requirements of this development consent (**Condition B4**).
- E24. Prior to the issue of the first Occupation Certificate, the Applicant shall provide evidence to the Certifying Authority and Planning Secretary demonstrating that the landscape buffers at the perimeter of the site have been completed in accordance with the approved design guidelines and the detailed landscape plan and specification (**Condition B5**).

## LIGHTING SCHEME (LOADING DOCK)

- E25. Before the issue of the relevant Occupation Certificate, the Applicant shall provide evidence to the Certifying Authority and Planning Secretary demonstrating that the external lighting associated with the loading docks is appropriately shielded and directed away from the adjacent dwellings in Beggs Road and complies with *AS4282: 1997 Control of the Obtrusive Effects of Outdoor Lighting*.

## SURVEY CERTIFICATE

- E26. A Survey Certificate prepared by a Registered Surveyor must be submitted at the completion of the building works certifying the location of the building in relation to the boundaries of the allotment.

## WORKS AS EXECUTED - DRAINAGE WORKS

- E27. Before the issue of the relevant Occupation Certificate written verification from a suitably qualified professional civil engineer shall be obtained, stating that all stormwater drainage and related work has been designed and constructed in accordance with the approved plans. In addition, full works-as-executed plans, prepared and signed by a registered surveyor, shall be submitted to Council. These plans shall include levels and location for all drainage structures and works, buildings (including floor levels) and finished ground levels and pavement surface levels.

## LANDSCAPE SCREENING

- E28. Prior to the issue of an Occupation Certificate, two advanced growth *Cupaniopsis anacardioides* trees are to be planted in the deep soil zone adjacent to the rear of the neighbouring dwelling at 151 Rooty Hill Road South.

The trees are to have a minimum pot size of 100L and be at least 3 metres high at the time of planting to provide screening of Signs N and O, located on the external building wall adjacent to the loading dock entry off Rooty Hill Road South, from the neighbouring dwelling.

## PART F POST OCCUPATION

### HOURS OF OPERATION

F1. The retail centre shall operate in accordance with the following hours:

Tenancy	Day	Monday to Saturday	Sunday
Supermarket	7 days a week	7:00am to 12:00 am	
Liquor store		9:00am-10:00pm	10:00am-10:00pm
Gym		24 hours	
Pharmacy		7:00am – 10:00pm	
Medical Centre		7:00am – 10:00pm	
Specialty shops		7:00am – 10:00pm	

F2. The loading docks shall not operate outside the following hours:

Loading and Unloading		
	Monday to Saturday	Sunday
<u>Supermarket Loading Dock</u>	<u>5:00am – 10:00pm</u>	
<u>Speciality Retailers Loading Dock</u>	7:00am – 6:00pm	8:00am – 5:00pm

### LOADING AND UNLOADING

- F3. The loading and unloading of service vehicles and trucks in connection with the use of the premises must be carried out within the signposted loading spaces at all times and must not obstruct other properties or the public domain. The loading and unloading areas must be kept clear of goods and must not be used for storage purposes, including garbage storage.
- F4. All vehicles must enter and leave the Site in a forward direction.

### UNOBSTRUCTED DRIVEWAYS, PARKING AREAS AND EXTERNAL AREAS

- F5. All driveways and parking areas shall be unobstructed at all times. Driveways and car spaces shall not be used for the storage or display of goods, materials or any other equipment and shall be used solely for vehicular access and for the parking of vehicles associated with the use of the premises. The external areas of the building are not to be used for storage.

### PUBLIC WAY TO BE UNOBSTRUCTED

- F6. The public way must not be obstructed by any materials, vehicles, refuse, skips or the like under any circumstances.

### WASTE MANAGEMENT

- F7. No garbage is to be placed on the public way, e.g. footpaths, roadways, reserves, at any time. In addition:
- garbage and recycling must be undertaken within the confines of the site within signposted loading spaces at all times
  - the collection of waste and recycling must only occur between 9.00am and 5.00pm Monday to Sunday to avoid noise disruption to the surrounding area
  - the collection of waste shall occur inside the loading docks.
- F8. All waste generated on site must be classified and disposed of in accordance with the *Waste Classification Guidelines (DECC 2008)*.

### ENVIRONMENTAL PERFORMANCE

- F9. Within 12 to 18 months following the issue of the final Occupation Certificate, the Applicant is to provide to the Certifying Authority and Planning Secretary documentation, prepared by a suitably qualified consultant, confirming that the development operates in accordance with the Green Building Council of Australia 6 Star Green Star rating (Design and As-built v1.1).

## **NOISE CONTROL – MECHANICAL PLANT AND EQUIPMENT**

- F10. Noise associated with the operation of any plant, machinery or other equipment on the site, shall not give rise to any one or more of the following:
- a) transmission of “offensive noise” as defined in the *Protection of the Environment Operations Act 1997* to any place of different occupancy
  - b) a sound pressure level at any affected residential property that exceeds the background (LA90, 15 minute) noise level by more than 5dB(A). The background noise level must be measured in the absence of noise emitted from the premises. The source noise level must be assessed as a LAeq, 15 minute
  - c) notwithstanding compliance with (1) and (2) above, the noise from mechanical plant associated with the premises must not exceed 5dB(A) above the background noise level between the hours of 12.00 midnight and 7.00 am.

## **ANNUAL FIRE SAFETY CERTIFICATION**

- F11. The owner of the building shall certify to Council or the relevant authority every year that the essential services installed in the building for the purposes of fire safety have been inspected and at the time of inspection are capable of operating to the required minimum standard. This purpose of this condition is to ensure that there is adequate safety of persons in the building in the event of fire and for the prevention of fire, the suppression of fire and the prevention of spread of fire.

## **COMPLIANCE REPORT**

- F12. The Applicant, or any party acting upon this approval, shall submit to the Planning Secretary a report addressing compliance with all relevant conditions of this approval.

## **PROTECTION OF THE ENVIRONMENT OPERATIONS ACT**

- F13. Any activity carried out in accordance with this approval shall not give rise to air pollution (including odour), offensive noise or pollution of land and/or water as defined by the *Protection of the Environment Operations Act 1997*.

## **SUPERMARKET**

- F14. The supermarket shall be maintained in accordance with the requirements of and the *Food Act 2003* and Regulations and *Australian Standard 4674-2004 Design, construction and fit-out of food premises*. The proprietor is to ensure that all food handling complies with the requirements of the Food Act 2003 and Regulations shall notify NSW Food Authority.

## **ILLUMINATED ADVERTISING SIGNAGE**

- F15. A midnight to dawn curfew shall apply to the illuminated external signage with the exception of signage related to the gymnasium.

Signs N and O, located on the external building wall adjacent to the loading dock entry off Rooty Hill Road South, are not to be illuminated at any time.

## **ON-GOING MAINTENANCE**

- F16. The retail centre shall be maintained in a high standard to ensure a high level of amenity and safety. In particular the operator of the retail centre shall
- a) keep building and walls clean and repaired
  - b) ensure secure closure of parking areas and new loading dock areas outside of centre trading hours;
  - c) maintain parking areas to a high standard with no potholes and free of litter
  - d) install attractive displays in windows of vacant stores to avoid creating an abandoned image
  - e) keep lines of sight open by maintaining landscaping to allow visual access to all parts of the site
  - f) ensure the treatment of all surfaces on the exterior of the building include graffiti resistant paints and/or other surfaces that discourage graffiti up to a height of 6 metres
  - g) implement a graffiti removal policy which allows for rapid removal of graffiti along the exterior of the centre and street frontages within a 24 hour period
  - h) implement a maintenance and cleaning regime is established which ensures that any damage to the area is rectified promptly and cleaning of the entry area occurs within a 24 hour period
  - i) maintain pedestrian pathways free of obstacles
  - j) display Information at entrances to the centre advising where to go for help and how to report maintenance or vandalism problems and
  - k) provide regular security patrols of the building and the car park area as part of the centre management plan for the development.

## **ODOUR COMPLAINTS**

- F17. Any potential odour emissions from the site shall comply with relevant requirements under the *Protection of the Environment Operations Act 1997* to protect the amenity of the surrounding area. If a substantiated complaint is

received by Council in relation to odour emanating from the premises, an odour assessment is to be carried out and recommendations provided to mitigate the emission of odour from the premises. The report shall be prepared by an appropriately qualified consultant and shall be submitted to the Department's Compliance team for consideration.

## NOISE COMPLAINTS

- F18. If a substantiated complaint is received by Council in relation to noise pollution emanating from the premises, an acoustical assessment is to be carried out in accordance with the requirements of the *Department of Environment and Conservation's Environmental Noise Management - NSW Industrial Noise Policy* and recommendations provided to mitigate the emission of offensive noise from the premises. The report shall be prepared by an appropriately qualified acoustic consultant that is a member of the Association of Australian Acoustic Consultants and shall be submitted to the Department's Compliance team for consideration.

## LOADING DOCK MANAGEMENT

- F19. The Loading Dock Management Plan referred to in Condition E7, must be updated within one (1) month after the approval of MOD 5 to include:

- a. That the use of forklifts for loading and unloading of goods within the supermarket loading dock is not being permitted between 5 am and 7 am, and 6 pm and 10 pm, Mondays to Sundays
- b. recommendations in the Noise Impact Assessment dated 5 February 2021 prepared by Acoustic Logic:
  - i) Any garbage removal is to occur within the currently approved hours of the site – 9am – 5pm Monday to Sunday
  - ii) Use of supermarket loading dock within the extended hours is to be limited as follows:
    - Morning Shoulder Period (5am – 7am): Up to one large truck/heavy vehicle delivery OR three small delivery trucks (home delivery trucks)/car/vans in a given 1 hour period
    - Evening Period (6pm -10pm): Up to one large truck/heavy vehicle delivery AND three small delivery trucks (home delivery)/car/vans in a given 1 hour period
  - iii) Bail and/or garbage compactors are to be used only within the supermarket loading dock area, and are not to be used between the hours of 5am – 7am
  - iv) Vehicles associated with the supermarket loading dock should not arrive/depart to the supermarket loading dock outside of hours of 5am to 10pm
  - v) Vehicle engines are to be switched off during loading and unloading within the supermarket loading dock

- F20. Within one month of the commencement of extended loading dock hours of operation approved by Modification 5, verification from a qualified acoustic consultant shall be provided to the Certifier and Planning Secretary that:

- a. the use of the loading dock complies with the noise emission criteria identified in the *Noise Impact Assessment prepared by Acoustic Logic (Project ID 20200716.1 Revision 3) dated 5/02/2021*
- b. all recommendations of the Noise Impact Assessment and other guidelines applicable to the development have been complied with.



## **ADVISORY NOTES**

### **APPEALS**

- AN1 The Applicant has the right to appeal to the Land and Environment Court in the manner set out in the *Environmental Planning and Assessment Act, 1979* and the *Environmental Planning and Assessment Regulation, 2000* (as amended).

### **OTHER APPROVALS AND PERMITS**

- AN2 Other permits and approvals may be required including crane permits, road opening permits, hoarding or scaffolding permits, footpath occupation permits, barricade permits and/or any other approvals under Section 68 (Approvals) of the *Local Government Act, 1993* or *Section 138 of the Roads Act, 1993*.

### **RESPONSIBILITY FOR OTHER CONSENTS / AGREEMENTS**

- AN3 The Applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

### **TEMPORARY STRUCTURES**

- AN4 If required, an approval under *State Environmental Planning Policy (Temporary Structures) 2007* must be obtained from the relevant authority for the erection of the temporary structures. The application must be supported by a report detailing compliance with the provisions of the NCC.
- AN5 If required, structural certification from an appropriately qualified practicing structural engineer must be submitted to the Certifying Authority with the application under *State Environmental Planning Policy (Temporary Structures) 2007* to certify the structural adequacy of the design of the temporary structures.

### **DISABILITY DISCRIMINATION ACT**

- AN6 This application has been assessed in accordance with the EP&A Act. The Applicant is responsible for complying with all applicable anti-discrimination legislation. The Disability Discrimination Act 1992 covers disabilities not catered for in the minimum standards called up in the NCC which references AS 1428.1 - Design for Access and Mobility. AS1428 Parts 2, 3 & 4 provides the most comprehensive technical guidance under the Disability Discrimination Act 1992 currently available in Australia

### **COMMONWEALTH ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION ACT 1999**

- AN7 The Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* provides that a person must not take an action which has, will have, or is likely to have a significant impact on a matter of national environmental significance (NES) matter, or Commonwealth land, without an approval from the Commonwealth Environment Minister.
- AN8 This application has been assessed in accordance with the New South Wales EP&A Act. It is the Applicant's responsibility to consult the Department of Sustainability, Environment, Water, Population and Communities to determine the need or otherwise for Commonwealth approval and you should not construe this grant of approval as notification to you that the Commonwealth Act does not have application. The Commonwealth Act may have application and you should obtain advice about this matter. There are severe penalties for non-compliance with the Commonwealth legislation.

### **ASBESTOS REMOVAL**

- AN9 All excavation works involving the removal and disposal of asbestos must only be undertaken by contractors who hold a current WorkCover Asbestos or 'Demolition Licence' and a current WorkCover Class 2 (Restricted) Asbestos Licence and removal must be carried out in accordance with NOHSC: '*Code of Practice for the Safe Removal of Asbestos*'.

### **SITE CONTAMINATION ISSUES DURING CONSTRUCTION**

- AN10 Should any new information come to light during demolition or construction works which has the potential to alter previous conclusions about site contamination then the Applicant must be immediately notified and works must cease. Works must not recommence on site until the consultation is made with the Planning Secretary.

## **APPENDIX 1. INCIDENT NOTIFICATION AND REPORTING REQUIREMENTS**

### **WRITTEN INCIDENT NOTIFICATION REQUIREMENTS**

1. A written incident notification addressing the requirements set out below must be emailed to the Department at the following address: [compliance@planning.nsw.gov.au](mailto:compliance@planning.nsw.gov.au) within seven days after the Applicant becomes aware of an incident. Notification is required to be given under this condition even if the Applicant fails to give the notification required under condition A9 or, having given such notification, subsequently forms the view that an incident has not occurred.
2. Written notification of an incident must:
  - (c) identify the development and application number;
  - (d) provide details of the incident (date, time, location, a brief description of what occurred and why it is classified as an incident);
  - (e) identify how the incident was detected;
  - (f) identify when the applicant became aware of the incident;
  - (g) identify any actual or potential non-compliance with conditions of consent;
  - (h) describe what immediate steps were taken in relation to the incident;
  - (i) identify further action that will be taken in relation to the incident; and
  - (j) identify a project contact for further communication regarding the incident.
3. Within 30 days of the date on which the incident occurred or as otherwise agreed to by the Planning Secretary, the Applicant must provide the Planning Secretary and any relevant public authorities (as determined by the Planning Secretary) with a detailed report on the incident addressing all requirements below, and such further reports as may be requested.
4. The Incident Report must include:
  - (k) a summary of the incident;
  - (l) outcomes of an incident investigation, including identification of the cause of the incident;
  - (m) details of the corrective and preventative actions that have been, or will be, implemented to address the incident and prevent recurrence; and
  - (n) details of any communication with other stakeholders regarding the incident.