

# Development Consent

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

As delegate of the Minister for Planning under delegation executed on 9 March 2022, I approve the Development Application referred to in Schedule 1, subject to the conditions specified in Schedule 2.

These conditions are required to:

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

Gabriel Wardenburg  
**Team Leader**  
**State Significant Acceleration**

Sydney

15 December 2022

***The Department has prepared a consolidated version of the consent which is intended to include all modifications to the original determination instrument.***

***The consolidated version of the consent has been prepared by the Department with all due care. This consolidated version is intended to aid the consent holder by combining all consents relating to the original determination instrument but it does not relieve a consent holder of its obligation to be aware of and fully comply with all consent obligations as they are set out in the legal instruments, including the original determination instrument and all subsequent modification instruments.***

SCHEDULE 1

**Development consent:** **SSD-8845345** granted by the Minister for Planning on 30 September 2021

**For the following:** Construction and operation of Budawang School for Specific Purposes, comprising: demolition, tree removal, site clearing and earthworks; construction of three single-storey school buildings providing learning spaces, library, administration facilities and multi-purpose space; construction of a separate hydrotherapy building; construction of access roads, parking, pick up and drop off facilities; and associated works including landscaping and school signage.

**Applicant:** Department of Education

**Consent Authority:** Minister for Planning

**The Land:** 17 Croobyar Road, Milton (Lot 200 DP1192140)

SUMMARY OF MODIFICATIONS

| Application Number | Determination Date | Modification Description   |
|--------------------|--------------------|--|
| SSD-8845345 -Mod-1 | 15 December 2022   | Extend the boundary of the Budawang school site to the south to allow for future classrooms, demolition of existing buildings, tree removal, modify the carpark area and central courtyard area and the deletion of compliance reporting conditions A31(a) and A34 to A37. |

FOR INFORMATION

**DEFINITIONS**

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| <b>Aboriginal object</b>                               | Has the same meaning as the definition of the term in section 5 of the <i>National Parks and Wildlife Act 1974</i>   |
| <b>Aboriginal place</b>                                | Has the same meaning as the definition of the term in section 5 of the <i>National Parks and Wildlife Act 1974</i>   |
| <b>Advisory Notes</b>                                  | Advisory information relating to the consent but do not form a part of this consent  |
| <b>Applicant</b>                                       | The Department of Education or any other person carrying out any development to which this consent applies   |
| <b>BCA</b>   | Building Code of Australia   |
| <b>BC Act</b>  | <i>Biodiversity Conservation Act 2016</i>  |
| <b>CEMP</b>  | Construction Environmental Management Plan   |
| <b>Certifier</b>                                       | Means a council or accredited certifier or in the case of Crown development, a person qualified to conduct a Certification of Crown Building work  |
| <b>Compliance Reporting Post Approval Requirements</b> | Compliance Reporting Post Approval Requirements as available on the Department’s website   |
| <b>Conditions of this consent</b>                      | Conditions contained in Schedule 2 of this document  |
| <b>Construction</b>                                    | <p>All physical work to enable operation (unless specifically excluded by a condition) including but not limited to the carrying out of works for the purposes of the development, including earthworks, and erection of buildings and other infrastructure permitted by this consent, but excluding the following:</p> <ul style="list-style-type: none"> <li>• demolition and removal of buildings;</li> <li>• building and road dilapidation surveys;</li> <li>• investigative drilling or investigative excavation;</li> <li>• Archaeological Salvage;</li> <li>• establishing temporary site offices (in locations identified by the conditions of this consent);</li> <li>• installation of environmental impact mitigation measures, fencing, enabling works; and</li> <li>• minor adjustments to services or utilities.</li> </ul> <p>However, where heritage items, or threatened species or threatened ecological communities (within the meaning of the</p> |

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|----------------------------|--|
|                            | <i>Biodiversity Conservation Act 2016 or Environment Protection and Biodiversity Conservation Act 1999</i> ) are affected or potentially affected by any physical work, that work is construction, unless otherwise determined by the Planning Secretary in consultation with EES Group or DPIE Fisheries (in the case of impact upon fish, aquatic invertebrates or marine vegetation). |
| <b>Council</b>             | Shoalhaven 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, driveways, paths, 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, as modified by the conditions of this consent.   |
| <b>Earthworks</b>          | Bulk earthworks, site levelling, import and compaction of fill material, excavation for installation of drainage and services  |
| <b>ESS Group</b>           | Environment, Energy and Science Group of the Department of Planning, Industry and Environment (Former Office of Environment and Heritage)  |
| <b>EIS</b>                 | The Environmental Impact Statement titled <i>Budawang School</i> , prepared by Mecone, submitted with the application for consent for the development, including any additional information provided by the Applicant in support of the application.   |
| <b>ENM</b>                 | Excavated Natural Material   |
| <b>Environment</b>         | Includes all aspects of the surroundings of humans, whether affecting any human as an individual or in his or her social groupings   |
| <b>EPA</b>                 | NSW Environment Protection Authority   |
| <b>EP&amp;A Act</b>        | <i>Environmental Planning and Assessment Act 1979</i>  |
| <b>EP&amp;A Regulation</b> | <i>Environmental Planning and Assessment Regulation 2000</i>   |
| <b>Evening</b>             | The period from 6pm to 10pm  |
| <b>Feasible</b>            | Means what is possible and practical in the circumstances  |
| <b>GTP</b>                 | Green Travel Plan  |
| <b>Heritage</b>            | Encompasses both Aboriginal and historic heritage including sites that predate European settlement, and a shared history since European settlement   |
| <b>Heritage NSW</b>        | Heritage, Community Engagement of the Department of Premier and Cabinet  |

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|---|--|
| <b>Heritage Item</b>                                | An item as defined under the <i>Heritage Act 1977</i> , and assessed as being of local, State and/ or National heritage significance, and/or an Aboriginal Object or Aboriginal Place as defined under the <i>National Parks and Wildlife Act 1974</i> , the World Heritage List, or the National Heritage List or Commonwealth Heritage List under the <i>Environment Protection and Biodiversity Conservation Act 1999</i> (Cth), or anything identified as a heritage item under the conditions of this consent |
| <b>Incident</b>                                     | An occurrence or set of circumstances that causes, or threatens to cause material harm and which may or may not be or cause a non-compliance<br><br><i>Note: “material harm” is defined in this consent</i>  |
| <b>Independent Audit Post Approval Requirements</b> | Independent Audit Post Approval Requirements as available on the Department’s website  |
| <b>Land</b>   | Has the same meaning as the definition of the term in section 1.4 of the EP&A Act  |
| <b>Management and mitigation measures</b>           | The management and mitigation measures set out in the EIS  |
| <b>Material harm</b>                                | Is harm that: <ul style="list-style-type: none"> <li>a) involves actual or potential harm to the health or safety of human beings or to the environment that is not trivial, or</li> <li>b) results in actual or potential loss or property damage of an amount, or amounts in aggregate, exceeding \$10,000, (such loss includes the reasonable costs and expenses that would be incurred in taking all reasonable and practicable measures to prevent, mitigate or make good harm to the environment)</li> </ul> |
| <b>Minister</b>                                     | NSW Minister for Planning (or delegate)  |
| <b>Mitigation</b>                                   | Activities associated with reducing the impacts of the development prior to or during those impacts occurring  |
| <b>Night</b>  | The period from 10pm to 7am on Monday to Saturday, and 10pm to 8am on Sundays and Public Holidays  |
| <b>Non-compliance</b>                               | An occurrence, set of circumstances or development that is a breach of this consent  |
| <b>OEH</b>  | NSW Office of Environment and Heritage   |
| <b>Operation</b>                                    | The carrying out of the approved purpose of the development upon completion of construction.   |
| <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>   |

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| <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 "Aboriginal cultural heritage consultation requirements for proponents 2010" (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>RtS</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>Sensitive receivers</b>           | A location where people are likely to work, occupy or reside, including a dwelling, school, hospital, office or public recreational area  |
| <b>Site</b>                          | The land defined in Schedule 1  |
| <b>Site Auditor</b>                  | As defined in section 4 of the <i>Contaminated Land Management Act 1997</i>   |
| <b>Site Audit Report</b>             | As defined in section 4 of the <i>Contaminated Land Management Act 1997</i>   |
| <b>Site Audit Statement</b>          | As defined in section 4 of the <i>Contaminated Land Management Act 1997</i>   |
| <b>TfNSW</b>                         | Transport for New South Wales   |
| <b>TfNSW (RMS)</b>                   | Transport for New South Wales (Roads and Maritime Services)   |
| <b>VENM</b>                          | Virgin Excavated Natural Material   |
| <b>Waste</b>                         | Has the same meaning as the definition of the term in the Dictionary to the POEO Act  |
| <b>Year</b>                          | A period of 12 consecutive months   |

**SCHEDULE 2**

**PART A ADMINISTRATIVE CONDITIONS**

**Obligation to Minimise Harm to the Environment**

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

**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 approved plans in the table below:

| <b>Architectural Drawings prepared by Group GSA</b> |            |                             |             |
|---|------------|-----------------------------|-------------|
| <b>Dwg No.</b>                                      | <b>Rev</b> | <b>Name of Plan</b>         | <b>Date</b> |
| SSDA-0000   | F          | Cover Sheet / Drawing Index | 22/06/2022  |
| SSDA-1110   | F          | Site Location Plan          | 22/06/2022  |
| SSDA-1111   | D          | Site Plan - Existing        | 08/09/2021  |
| SSDA-1120   | F          | Demolition Plan             | 22/06/2022  |
| SSDA-2000   | J          | Site Plan                   | 22/06/2022  |
| SSDA-2001   | G          | Block A Plan                | 22/06/2022  |
| SSDA-2002   | F          | Block B Plan                | 08/09/2021  |
| SSDA-2003   | F          | Block C Plan                | 08/09/2021  |
| SSDA-2004   | G          | Hydrotherapy Plan           | 08/09/2021  |
| SSDA-2010   | F          | Site Roof Plan              | 08/09/2021  |
| SSDA-2011   | E          | Block A Roof Plan           | 08/09/2021  |
| SSDA-2012   | D          | Block B Roof Plan           | 28/07/2021  |
| SSDA-2013   | E          | Block C Roof Plan           | 08/09/2021  |
| SSDA-2014   | E          | Hydrotherapy Roof Plan      | 08/09/2021  |
| SSDA-2800   | C          | Signage Plan                | 08/04/2021  |
| SSDA-2801   | A          | Signage Plan                | 08/04/2021  |
| SSDA-3005   | C          | Street Elevation            | 08/04/2021  |
| SSDA-3010   | G          | Block A Elevations Sheet 01 | 22/06/2022  |
| SSDA-3011   | E          | Block A Elevations Sheet 02 | 08/04/2021  |
| SSDA-3012   | E          | Block B Elevations          | 08/04/2021  |
| SSDA-3013   | E          | Block C Elevations          | 08/04/2021  |
| SSDA-3014   | A          | Block D Elevations          | 08/04/2021  |
| SSDA-3020   | B          | Materials Board             | 08/04/2021  |
| SSDA-3100   | D          | Site Sections               | 08/04/2021  |
| SSDA-3110   | F          | Block A Sections            | 14/04/2021  |

|   |              |  |                       |
|---|--------------|--|-----------------------|
| SSDA-3111                                   | D            | Block B Sections   | 08/04/2021            |
| SSDA-3112                                   | E            | Block C Sections   | 08/04/2021            |
| SSDA-3113                                   | D            | Block D Sections   | 08/04/2021            |
| SSDA-3201                                   | C            | Cladding, Window and Floor Details                               | 08/04/2021            |
| SSDA-3202                                   | C            | Cladding, Window and Floor Details                               | 08/04/2021            |
| <b>Landscape Plans prepared by GroupGSA</b> |              |  |                       |
| <b>Dwg No.</b>                              | <b>Rev</b>   | <b>Name of Plan</b>  | <b>Date</b>           |
| L0002                                       | E            | Tree Management Plan   | 07/10/2022            |
| L2001                                       | F            | General Arrangement 01   | 30/11/2022            |
| L2002                                       | F            | General Arrangement 02   | 30/11/2022            |
| L2100                                       | E            | Fence and Gate Plan  | 06/06/2022            |
| <del>L-2101</del>                           | <del>D</del> | <del>Detailed Plans – Bush Garden &amp; Sensory Playground</del> | <del>29/07/2021</del> |
| <del>L-2102</del>                           | <del>D</del> | <del>Detailed Plans – Bike Track &amp; Productive Garden</del>   | <del>29/07/2021</del> |
| <del>L-2103</del>                           | <del>D</del> | <del>Detailed Plans – Outdoor Learning Space</del>               | <del>29/07/2021</del> |
| L3001                                       | C            | Levels and Grading 01  | 23/06/2022            |
| L3002                                       | C            | Levels and Grading 02  | 23/06/2022            |
| <del>L-6000</del>                           | <del>E</del> | <del>Boundary Treatments 1</del>                                 | <del>08/09/2021</del> |
| <del>L-6001</del>                           | <del>E</del> | <del>Boundary Treatments 2</del>                                 | <del>08/09/2021</del> |

- 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;
  - any reports, reviews or audits commissioned by the Planning Secretary regarding compliance with this approval; 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.

### Limits of Consent

- A5. This consent lapses five years after the date of consent unless work is physically commenced.

### Prescribed Conditions

- A6. The Applicant must comply with all relevant prescribed conditions of development consent under Part 6, Division 8A of the EP&A Regulation.

### Planning Secretary as Moderator

- A7. In the event of a dispute between the Applicant and a public authority, in relation to an applicable requirement in this approval or relevant matter relating to the Development, either party may refer the matter to the Planning Secretary for resolution. The Planning Secretary's resolution of the matter must be binding on the parties.

### Evidence of Consultation

- A8. 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 for information or approval; and
  - (b) provide details of the consultation undertaken including:
    - (i) the outcome of that consultation, matters resolved and unresolved; and
    - (ii) details of any disagreement remaining between the party consulted and the Applicant and how the Applicant has addressed the matters not resolved.

### Staging

- A9. The project may be constructed and operated in stages. Where compliance with conditions is required to be staged due to staged construction or operation, a Staging Report (for either or both construction and operation as the case may be) must be prepared and submitted to the satisfaction of the Planning Secretary. The Staging Report must be submitted to the Planning Secretary no later than one month before the commencement of construction of the first of the proposed stages of construction (or if only staged operation is proposed, one month before the commencement of operation of the first of the proposed stages of operation).
- A10. A Staging Report prepared in accordance with condition A9 must:
- (a) if staged construction is proposed, set out how the construction of the whole of the project will be staged, including details of work and other activities to be carried out in each stage and the general timing of when construction of each stage will commence and finish;
  - (b) if staged operation is proposed, set out how the operation of the whole of the project will be staged, including details of work and other activities to be carried out in each stage and the general timing of when operation of each stage will commence and finish (if relevant);
  - (c) specify how compliance with conditions will be achieved across and between each of the stages of the project; and
  - (d) set out mechanisms for managing any cumulative impacts arising from the proposed staging.
- A11. Where a Staging Report is required, the project must be staged in accordance with the Staging Report, as approved by the Planning Secretary.
- A12. Where construction or operation is being staged in accordance with a Staging Report, the terms of this consent that apply or are relevant to the works or activities to be carried out in a specific stage must be complied with at the relevant time for that stage as identified in the Staging Report.

### Staging, Combining and Updating Strategies, Plans or Programs

- A13. The Applicant may:
- (a) prepare and submit any strategy, plan (including management plan, architectural or design 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 (including management plan, architectural or design plan) or program applies, the relationship of the stage to any future stages and the trigger for updating the strategy, plan (including management plan, architectural or design plan) or program);

- (b) combine any strategy, plan (including management plan, architectural or design plan), or program required by this consent (if a clear relationship is demonstrated between the strategies, plans (including management plan, architectural or design plan) or programs that are proposed to be combined); and
  - (c) update any strategy, plan (including management plan, architectural or design plan), or program required by this consent (to ensure the strategies, plans (including management plan, architectural or design plan), or 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).
- A14. Any strategy, plan or program prepared in accordance with condition A133, where previously approved by the Planning Secretary under this consent, must be submitted to the satisfaction of the Planning Secretary.
- A15. If the Planning Secretary agrees, a strategy, plan (including management plan, architectural or design 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.
- A16. Updated strategies, plans (including management plan, architectural or design plan), or programs supersede the previous versions of them and must be implemented in accordance with the condition that requires the strategy, plan, program or drawing.

### **Structural Adequacy**

- A17. 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: Part 8 of the EP&A Regulation sets out the requirements for the certification of the development.*

### **External Walls and Cladding**

- A18. The external walls of all buildings including additions to existing buildings must comply with the relevant requirements of the BCA.

### **External Materials**

- A19. The external colours, materials and finishes of the buildings must be consistent with the approved plans referenced in Condition A2. Any minor changes to the colour and finish of approved external materials may be approved by the Certifier provided:
- (a) the alternative colour/material is of a similar tone/shade and finish to the approved external colours/building materials;
  - (b) the quality and durability of any alternative material is the same standard as the approved external building materials; and
  - (c) a copy of any approved changes to the external colours and/or building materials is provided to the Planning Secretary for information.

### **Design and Construction for Bush Fire**

- A20. New construction must comply with Sections 3 and 5 (BAL 12.5) Australian Standard AS3959-2009 Construction of buildings in bushfire-prone areas or NASH National Standard Steel Framed Construction in Bushfire Areas (as updated) as appropriate and section 7.5 of Planning for Bush Fire Protection 2019.
- A21. The provision of water, electricity and gas must comply with Table 6.8c of Planning for Bush Fire Protection 2019.

### Applicability of Guidelines

- A22. 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.
- A23. 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

- A24. 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, Site audit report 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

- A25. 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 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 and publicly available for 12 months after the commencement of operations.

### Compliance

A26. 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.

### Incident Notification, Reporting and Response

A27. The Planning Secretary must be notified through the major projects portal 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.

A28. Subsequent notification must be given and reports submitted in accordance with the requirements set out in **Appendix 2**.

### Non-Compliance Notification

A29. The Planning Secretary must be notified through the major projects portal within seven days after the Applicant becomes aware of any non-compliance. The Certifier must also notify the Planning Secretary through the major projects portal within seven days after they identify any non-compliance.

A30. 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.

A31. 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

A32. Within three months of:

- ~~(a) the submission of a compliance report under condition A35;~~
- (a) the submission of an incident report under condition A28;
- (b) the submission of an Independent Audit under condition C38 or C39;
- (c) the approval of any modification of the conditions of this consent; or
- (d) 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 Planning Secretary and the Certifier must be notified in writing that a review is being carried out.

A33. If necessary to either improve the environmental performance of the development, cater for a modification or comply with a direction, the strategies, plans, programs or drawings required under this consent must be revised, to the satisfaction of the Planning Secretary or Certifier (where previously approved by the Certifier). Where revisions are required, the revised document must be submitted to the Planning Secretary and / or Certifier for approval and / or information (where relevant) within six weeks of the review.

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

### **Compliance Reporting**

- ~~A34. Compliance Reports of the project must be carried out in accordance with the Compliance Reporting Post Approval Requirements.~~
- ~~A35. Compliance Reports must be submitted to the Department in accordance with the timeframes set out in the Compliance Reporting Post Approval Requirements, unless otherwise agreed by the Planning Secretary.~~
- ~~A36. The Applicant must make each Compliance Report publicly available 60 days after submitting it to the Planning Secretary.~~
- ~~A37. Notwithstanding the requirements of the Compliance Reporting Post Approval Requirements, the Planning Secretary may approve a request for ongoing annual operational compliance reports to be ceased, where it has been demonstrated to the Planning Secretary's satisfaction that an operational compliance report has demonstrated operational compliance.~~

### **Shoalhaven Water Certificate of Compliance**

- A38. A Certificate of Compliance must be obtained to verify that all necessary requirements for matters relating to water supply and sewerage (where applicable) for the development have been made with Shoalhaven Water. An application for a Certificate of Compliance is to be made once the Development Consent has been granted.

## PART B PRIOR TO COMMENCEMENT OF CONSTRUCTION OR DEMOLITION

### Notification of Commencement

- B1. The Applicant must notify the Planning Secretary in writing of the dates of the intended commencement of construction and operation at least 48 hours before those dates.
- B2. If the construction or operation of the development is to be staged, the Planning Secretary 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.

### Certified Drawings

- B3. Prior to the commencement of construction, the Applicant must submit to the satisfaction of the Certifier structural drawings prepared and signed by a suitably qualified practising Structural Engineer that demonstrates compliance with this development consent.

### External Walls and Cladding

- B4. Prior to the commencement of construction, the Applicant must provide the Certifier with documented evidence that the products and systems proposed for use or used in the construction of external walls, including finishes and claddings such as synthetic or aluminium composite panels, comply with the requirements of the BCA. The Applicant must provide a copy of the documentation given to the Certifier to the Planning Secretary within seven days after the Certifier accepts it.

### Protection of Public Infrastructure

- B5. Prior to the commencement of demolition, removal of buildings or construction (whichever occurs first), the Applicant must:
  - (a) consult with the relevant owner and provider of services that are likely to be affected by the development to make suitable arrangements for access to, diversion, protection and support of the affected infrastructure;
  - (b) prepare a dilapidation report identifying the condition of all public infrastructure in the vicinity of the site (including roads, gutters and footpaths); and
  - (c) submit a copy of the dilapidation report to the Planning Secretary, Certifier and Council.

### Pre-Construction Dilapidation Report

- B6. Prior to the commencement of demolition, removal of buildings or construction (whichever occurs first), the Applicant must submit a pre-commencement dilapidation report to Council and the Certifier. The report must provide an accurate record of the existing condition of adjoining private properties, heritage items, and Council assets that are likely to be impacted by the proposed works.

### Community Communication Strategy

- B7. No later than 48 hours before the commencement of construction, a Community Communication Strategy must be submitted to the Planning Secretary for information. The Community Communication Strategy must provide mechanisms to facilitate communication between the Applicant, the relevant Council and the community (including adjoining affected landowners and businesses, and others directly impacted by the development), during the design and construction of the development and for a minimum of 12 months following the completion of construction.

The Community Communication Strategy must:

- (a) identify people to be consulted during the design and construction phases;

- (b) set out procedures and mechanisms for the regular distribution of accessible information about or relevant to the development;
- (c) provide for the formation of community-based forums, if required, that focus on key environmental management issues for the development;
- (d) set out procedures and mechanisms:
  - (i) through which the community can discuss or provide feedback to the Applicant;
  - (ii) through which the Applicant will respond to enquiries or feedback from the community; and
  - (iii) to resolve any issues and mediate any disputes that may arise in relation to construction and operation of the development, including disputes regarding rectification or compensation.
- (e) include any specific requirements around traffic, noise and vibration, visual impacts, amenity, flora and fauna, soil and water, contamination, heritage.

### Ecologically Sustainable Development

- B8. Prior to the commencement of construction, unless otherwise agreed by the Planning Secretary, the Applicant must demonstrate that ESD is being achieved by either:
- (a) registering for a minimum 4 star Green Star rating with the Green Building Council Australia and submit evidence of registration to the Certifier; or
  - (b) seeking approval from the Planning Secretary for an alternative certification process.

### Outdoor Lighting

- B9. Prior to commencement of lighting installation, evidence must be submitted to the satisfaction of the Certifier that all outdoor lighting within the site has been designed to comply with AS 1158.3.1:2005 Lighting for roads and public spaces – Pedestrian area (Category P) lighting – Performance and design requirements and AS 4282-2019 Control of the obtrusive effects of outdoor lighting.

### Demolition

- B10. Prior to the commencement of demolition and removal of buildings, demolition work plans required by AS 2601-2001 *The demolition of structures* (Standards Australia, 2001) must be accompanied by a written statement from a suitably qualified person that the proposals contained in the work plan comply with the safety requirements of the Standard. The work plans and the statement of compliance must be submitted to the Certifier and Planning Secretary.

### Environmental Management Plan Requirements

- B11. Management plans required under this consent must be prepared having regard to the relevant guidelines, including but not limited to the *Environmental Management Plan Guideline: Guideline for Infrastructure Projects* (DPIE April 2020).

*Note:*

- *The Environmental Management Plan Guideline is available on the Planning Portal at: <https://www.planningportal.nsw.gov.au/major-projects/assessment/post-approval>*
- *The Planning Secretary may waive some of these requirements if they are unnecessary or unwarranted for particular management plans.*

### Construction Environmental Management Plan

- B12. Prior to the commencement of demolition, removal of buildings or construction (whichever occurs first), the Applicant must submit a Construction Environmental

Management Plan (CEMP) to the Certifier and provide a copy to the Planning Secretary for information. The CEMP must include, but not be limited to, the following:

- (a) Details of:
    - (i) hours of work;
    - (ii) 24-hour contact details of site manager;
    - (iii) external lighting in compliance with AS 4282-2019 Control of the obtrusive effects of outdoor lighting;
    - (iv) community consultation and complaints handling as set out in the Community Communication Strategy required by condition B7;
  - (b) an unexpected finds protocol for Aboriginal and non-Aboriginal heritage and associated communications procedure;
  - (c) Construction Traffic and Pedestrian Management Sub-Plan (see condition B13);
  - (d) Construction Noise and Vibration Management Sub-Plan (see condition B144);
  - (e) Construction Waste Management Sub-Plan (see condition B15);
  - (f) Construction Soil and Water Management Sub-Plan (see condition B166);
- B13. The Construction Traffic and Pedestrian Management Sub-Plan (CTPMSP) must be prepared to achieve the objective of ensuring safety and efficiency of the road network and address, but not be limited to, the following:
- (a) be prepared by a suitably qualified and experienced person(s);
  - (b) be prepared in consultation with Council and TfNSW;
  - (c) detail the measures that are to be implemented to ensure road safety and network efficiency during construction in consideration of potential impacts on general traffic, cyclists and pedestrians and bus services; and
  - (d) detail heavy vehicle routes, access and parking arrangements.
- B14. The Construction Noise and Vibration Management Sub-Plan (CNVMP) must address, but not be limited to, the following:
- (a) be prepared by a suitably qualified and experienced noise expert;
  - (b) a vibration assessment for the adjacent heritage listed bakery at 197-201 Princess Highway Milton.
  - (c) describe procedures for achieving the noise management levels in EPA's *Interim Construction Noise Guideline* (DECC, 2009);
  - (d) describe the measures to be implemented to manage high noise generating works such as piling, in close proximity to sensitive receivers;
  - (e) include strategies that have been developed with the community for managing high noise generating works;
  - (f) describe the community consultation undertaken to develop the strategies in condition B144(e); and
  - (g) include a complaints management system that would be implemented for the duration of the construction.
- B15. The Construction Waste Management Sub-Plan (CWMSMP) must address, but not be limited to, the procedures for the management of waste including the following:
- (a) the recording of quantities, classification (for materials to be removed) and validation (for materials to remain) of each type of waste generated during construction and proposed use;
  - (b) information regarding the recycling and disposal locations; and

- (c) confirmation of the contamination status of the development areas of the site based on the validation results.
- B16. The Applicant must prepare a Construction Soil and Water Management Sub-Plan (CSWMSP) and the plan must address, but not be limited to the following:
- (a) be prepared by a suitably qualified expert, in consultation with Council;
  - (b) measures to ensure that sediment and other materials are not tracked onto the roadway by vehicles leaving the site;
  - (c) detail where soil is to be reused on site. If soil is to be exported, details are to be provided of where exported soil is being disposed.
  - (d) describe all erosion and sediment controls to be implemented during construction, including as a minimum, measures in accordance with the publication *Managing Urban Stormwater: Soils & Construction* (4<sup>th</sup> edition, Landcom 2004) commonly referred to as the 'Blue Book';
  - (e) include an Acid Sulfate Soils Management Plan, if required, including measures for the management, handling, treatment and disposal of acid sulfate soils, including monitoring of water quality at acid sulfate soils treatment areas;
  - (f) provide a plan of how all construction works will be managed in a wet-weather events (i.e. storage of equipment, stabilisation of the Site);
  - (g) detail all off-site flows from the site; and
  - (h) describe the measures that must be implemented to manage stormwater and flood flows for small and large sized events, including, but not limited to 1 in 5-year ARI and 1 in 100-year ARI.
- B17. A Driver Code of Conduct must be prepared and communicated by the Applicant to heavy vehicle drivers and must address the following:
- (a) minimise the impacts of earthworks and construction on the local and regional road network;
  - (b) minimise conflicts with other road users;
  - (c) minimise road traffic noise; and
  - (d) ensure truck drivers use specified routes.

### **Construction Parking**

- B18. Prior to the commencement of construction, the Applicant must provide sufficient parking facilities on-site, including for heavy vehicles and for site personnel, to ensure that construction traffic associated with the development does not utilise public and residential streets or public parking facilities.

### **Operational Noise – Design of Mechanical Plant and Equipment**

- B19. Prior to the installation of mechanical plant and equipment, a detailed assessment of mechanical plant and equipment with compliance with the relevant project noise trigger levels as recommended in the Budawang School Acoustic Assessment for SEARS dated 15 April 2021 and prepared by Marshall Day Acoustics must be undertaken by a suitably qualified person. Noise from mechanical plant and equipment must achieve no greater than background noise +5db.
- B20. Evidence must be submitted to the Certifier that any noise mitigation recommendations identified in the assessment carried out under B19 have been incorporated into the design.

### **Construction and Demolition Waste Management**

- B21. Prior to the commencement of the removal of any waste material from the site, the Applicant must notify the TfNSW Traffic Management Centre of the truck route(s) to be followed by trucks transporting waste material from the site.

### Operational Waste Storage and Processing

- B22. Prior to the commencement of construction of waste storage and processing areas, the Applicant must obtain agreement from Council for the design of the operational waste storage area (where waste removal will be undertaken by Council). Where waste removal will be undertaken by a third party, evidence must be provided to the Certifier that the design of the operational waste storage area:
- (a) is constructed using solid non-combustible materials;
  - (b) is of a size suitable for the predicted waste generation;
  - (c) contains a bunded area for the storage of pool chemicals;
  - (d) is designed to ensure the door/gate to the waste storage area is vermin proof and can be openable from both inside and outside the storage area at all times;
  - (e) includes a hot and cold water supply with a hose through a centralised mixing valve;
  - (f) is naturally ventilated or an air handling exhaust system must be in place; and
  - (g) includes signage to clearly describe the types of materials that can be deposited into recycling bins and general garbage bins.
  - (h) The floor to be constructed of concrete at least 75mm thick and adequately graded to drain to a Shoalhaven Water approved drainage fitting.
  - (i) The floor to be finished so that it is non-slip and has a smooth and even surface covered at all intersections.

### Road Upgrade

- B23. Prior to the commencement of construction of the internal roads, the Applicant must submit design plans to the Certifier which demonstrate that the proposed internal roads comply with Table 6.8b of *Planning for Bush Fire Protection 2019*.

### Construction Access arrangements

- B24. Prior to the commencement of construction, evidence of compliance of construction parking and access arrangements with the following requirements must be submitted to the Certifier:
- (a) all vehicles must enter and leave the Site in a forward direction;
  - (b) the swept path of the longest construction vehicle entering and exiting the site in association with the new work, as well as manoeuvrability through the site, is in accordance with the latest version of AS 2890.2; and
  - (c) the safety of vehicles and pedestrians accessing adjoining properties, where shared vehicle and pedestrian access occurs, has been addressed.

### Operational Access, Car Parking and Service Vehicle Arrangements

- B25. Prior to the commencement of construction of operational parking and access facilities, evidence of compliance of the design of operational parking and access arrangements with the following requirements must be submitted to the Certifier:
- (a) a minimum of ~~29~~ **34** on-site car parking spaces for use during operation of the development and designed in accordance with the latest versions of AS 2890.1 and AS 2890.6; and

- (b) the swept path of the largest service vehicle entering and exiting the Site in association with the new work, as well as manoeuvrability through the site, must be in accordance with the latest version of AS 2890.2.

**Hazardous Materials and Asbestos Management Plan**

- B26. Prior to the commencement of demolition, removal of buildings or construction (whichever occurs first), a Hazardous Materials and Asbestos Management Plan prepared by a suitably qualified and experienced consultant must be submitted to the satisfaction of the Certifier for the proposed buildings to be demolished.

**Public Domain Works**

- B27. A public footpath is to be provided in front of the site along Croobyar Road.
- B28. Prior to the commencement of any footpath or public domain works, the Applicant must consult with Council and demonstrate to the Certifier that the streetscape design and treatment meets the requirements of Council, including addressing pedestrian management. The Applicant must submit documentation of approval for each stage from Council to the Certifier.

**Shoalhaven Water**

- B29. Prior to the commencement of demolition, removal of buildings or construction (whichever occurs first), all conditions listed on the Shoalhaven Water Notice of Requirements under the heading "Prior to the Commencement of Any Works" must be complied with. Written notification must be issued by Shoalhaven Water and provided to the Certifier.

**PART C DURING CONSTRUCTION**

**Site Notice**

- C1. A site notice(s) must be prominently displayed at the boundaries of the site during construction for the purpose of informing the public of project details and must satisfy the following requirements:
- (a) minimum dimensions of the site notice(s) must measure 841 mm x 594 mm (A1) with any text on the site notice(s) to be a minimum of 30-point type size;
  - (b) the site notice(s) must be durable and weatherproof and must be displayed throughout the works period;
  - (c) the approved hours of work, the name of the builder, Certifier, structural engineer, site/ project manager, the responsible managing company (if any), its address and 24-hour contact phone number for any inquiries, including construction/ noise complaint must be displayed on the site notice(s); and
  - (d) the site notice(s) must be mounted at eye level on the perimeter hoardings/fencing and must state that unauthorised entry to the site is not permitted.

**Operation of Plant and Equipment**

- C2. All construction plant and equipment used on site must be maintained in a proper and efficient condition and operated in a proper and efficient manner.

**Demolition**

- C3. Demolition work must comply with the demolition work plans required by *Australian Standard AS 2601-2001 The demolition of structures* (Standards Australia, 2001) and endorsed by a suitably qualified person as required by condition B100.

**Construction Hours**

- C4. Construction, including the delivery of materials to and from the site, may only be carried out between the following hours:
- (a) between 7am and 6pm, Mondays to Fridays inclusive; and
  - (b) between 8am and 1pm, Saturdays.
- No work may be carried out on Sundays or public holidays.
- C5. Notwithstanding condition C4, provided noise levels do not exceed the existing background noise level plus 5dB, works may also be undertaken during the following hours:
- (a) between 6pm and 7pm, Mondays to Fridays inclusive; and
  - (b) between 1pm and 4pm, Saturdays.
- C6. Construction activities may be undertaken outside of the hours in condition C4 and C5 if required:
- (a) by the Police or a public authority for the delivery of vehicles, plant or materials; or
  - (b) in an emergency to avoid the loss of life, damage to property or to prevent environmental harm; or
  - (c) where the works are inaudible at the nearest sensitive receivers; or
  - (d) where a variation is approved in advance in writing by the Planning Secretary or their nominee if appropriate justification is provided for the works.

- C7. Notification of such construction activities as referenced in condition C6 must be given to affected residents before undertaking the activities or as soon as is practical afterwards.
- C8. Rock breaking, rock hammering, sheet piling, pile driving and similar activities may only be carried out between the following hours:
- (a) 9am to 12pm, Monday to Friday;
  - (b) 2pm to 5pm Monday to Friday; and
  - (c) 9am to 12pm, Saturday.

### Implementation of Management Plans

- C9. The Applicant must carry out the construction of the development in accordance with the most recent version of the CEMP (including Sub-Plans).

### Construction Traffic

- C10. All construction vehicles are to be contained wholly within the site, except if located in an approved on-street work zone, and vehicles must enter the site or an approved on-street work zone before stopping.

### Hoarding Requirements

- C11. The following hoarding requirements must be complied with:
- (a) no third-party advertising is permitted to be displayed on the subject hoarding/fencing; and
  - (b) the construction site manager must be responsible for the removal of all graffiti from any construction hoardings or the like within the construction area within 48 hours of its application.

### No Obstruction of Public Way

- C12. The public way (outside of any approved construction works zone) must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances.

### Construction Noise Limits

- C13. The development must be constructed to achieve the construction noise management levels detailed in *the Interim Construction Noise Guideline* (DECC, 2009). All feasible and reasonable noise mitigation measures must be implemented and any activities that could exceed the construction noise management levels must be identified and managed in accordance with the management and mitigation measures identified in the approved Construction Noise and Vibration Management Plan.
- C14. The Applicant must ensure construction vehicles (including concrete agitator trucks) do not arrive at the site or surrounding residential properties outside of the construction hours of work outlined under condition C4.
- C15. The Applicant must implement, where practicable and without compromising the safety of construction staff or members of the public, the use of 'quackers' to ensure noise impacts on surrounding noise sensitive receivers are minimised.

### Vibration Criteria

- C16. Vibration caused by construction 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).
- C17. Vibratory compactors must not be used closer than 30 metres from residential or commercial buildings unless vibration monitoring confirms compliance with the vibration criteria specified in condition C16.
- C18. The limits in conditions C16 and C17 apply unless otherwise outlined in a Construction Noise and Vibration Management Plan, approved as part of the CEMP required by condition B144 of this consent.

### Trees approved for removal

- C19. This consent only permits the removal of trees numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 23, 30, 31, 32, 34, 35, 36, 37, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 73, 74, 75, 77, 78, 79, 80, and 81, **82, 83, 84, 85, 86, 87 and 88** in the Arboricultural Impact Assessment Report dated March 2021 and July 2022 and prepared by Allied Tree Consultancy. This consent does not authorise the removal of any other trees.

### Tree Protection

- C20. For the duration of the construction works:
- (a) street trees must not be trimmed or removed unless it forms a part of this development consent or prior written approval from Council is obtained or is required in an emergency to avoid the loss of life or damage to property;
  - (b) all street trees immediately adjacent to the approved disturbance area / property boundary/ies must be protected at all times during construction in accordance with Council's tree protection requirements. Any street tree, which is damaged or removed during construction due to an emergency, must be replaced, to the satisfaction of Council;
  - (c) all trees on the site and residual lot that are not approved for removal must be suitably protected during construction as per the recommendations of the Arboricultural Impact Assessment Report, prepared by Allied tree Consultancy, dated March 2021; and
  - (d) if access to the area within any protective barrier is required during the works, it must be carried out under the supervision of a qualified arborist. Alternative tree protection measures must be installed, as required. The removal of tree protection measures, following completion of the works, must be carried out under the supervision of a qualified arborist and must avoid both direct mechanical injury to the structure of the tree and soil compaction within the canopy or the limit of the former protective fencing, whichever is the greater.

### Landscaping

- C21. Prior to the installation of landscaping where appropriate, the Applicant must prepare a revised Landscape Plan to manage the revegetation and landscaping works on-site, to the satisfaction of the Planning Secretary. The plan must:
- (a) provide for the planting of trees;
  - (b) detail the location, species, maturity and height at maturity of plants to be planted on-site;
  - (c) include species (trees, shrubs and groundcovers) indigenous to the local area;
  - (d) include the planting of trees with a pot container of 100 litres or greater, with a minimum height at maturity of 3m;

- (e) comply with the landscaping requirements of 'Planning for Bush Fire Protection 2019' detailed in Schedule 4.

### **Air Quality**

- C22. The Applicant must take all reasonable steps to minimise dust generated during all works authorised by this consent.
- C23. During construction, the Applicant must ensure that:
- (a) activities are carried out in a manner that minimises dust including emission of windblown or traffic generated dust;
  - (b) all trucks entering or leaving the site with loads have their loads covered;
  - (c) trucks associated with the development do not track dirt onto the public road network;
  - (d) public roads used by these trucks are kept clean; and
  - (e) land stabilisation works are carried out progressively on site to minimise exposed surfaces.

### **Imported Soil**

- C24. The Applicant must:
- (a) ensure that only VENM, ENM, or other material approved in writing by EPA is brought onto the site;
  - (b) keep accurate records of the volume and type of fill to be used; and
  - (c) make these records available to the Certifier upon request.

### **Disposal of Seepage and Stormwater**

- C25. Adequate provisions must be made to collect and discharge stormwater drainage during construction to the Certifier. The prior written approval of Council must be obtained to connect or discharge site stormwater to Council's stormwater drainage system or street gutter.

### **Emergency Management**

- C26. The Applicant must prepare and implement awareness training for employees and contractors, including locations of the assembly points and evacuation routes, for the duration of construction.

### **Stormwater Management System**

- C27. Within three months of the commencement of construction, the Applicant must design an operational stormwater management system for the development and submit it to the satisfaction of the Certifier. 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 civil drawings, prepared by henry & hymas, dated 27/07/2021;
  - (c) be in accordance with applicable Australian Standards; and
  - (d) ensure that the system capacity has been designed in accordance with *Australian Rainfall and Runoff* (Engineers Australia, 2016) and *Managing Urban Stormwater: Council Handbook* (EPA, 1997) guidelines;

### **Aboriginal Cultural Heritage**

- C28. Construction must be undertaken in accordance with the recommendations of the Aboriginal Cultural Heritage Assessment Report prepared by Tocomwall dated February 2021 and the following requirements:

- (a) Further consultation with RAPs must be undertaken to determine where artifacts recovered during construction and test excavations (undertaken in preparation of the ACHAR) are to be stored or reburied.
- (b) Requirement 26 “Stone artefacts deposition and storage” in the Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW (24 September 2010), available online at: <https://www.heritage.nsw.gov.au/assets/Code-ofPractice-for-Archaeological-Investigation-in-NSW.pdf> must be complied with.
- (c) An Aboriginal Site Monitor must be present during works that impact subsurface within the location of the artefact scatter, and associated PAD. This will require the boundaries of the site, and associated PAD to be defined and mapped prior to works commencing.
- (d) If suspected human remains are located during any stage of the proposed works, work must stop immediately, and the NSW Police notified. An archaeologist or physical anthropologist must be contacted in the first instance where there is uncertainty whether the remains are human. If identified as Aboriginal, culturally appropriate management solutions should be co-developed in cooperation with Aboriginal community and RAPs.

#### **Unexpected Finds Protocol – Aboriginal Heritage**

- C29. 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 the registered Aboriginal representatives must be contacted to determine the significance of the objects. The site is to be registered in the Aboriginal Heritage Information Management System (AHIMS) which is managed by Heritage NSW under Department of Premier and Cabinet and the management outcome for the site included in the information provided to AHIMS. The Applicant must consult with the Aboriginal community representatives, the archaeologists and Heritage NSW to develop and implement management strategies for all objects/sites. Works shall only recommence with the written approval of EES Group.

#### **Unexpected Finds Protocol – Historic Heritage**

- C30. If any unexpected archaeological relics are uncovered during the work, then all works must cease immediately in that area and the Heritage NSW contacted. Depending on the possible significance of the relics, an archaeological assessment and management strategy may be required before further works can continue in that area. Works may only recommence following consultation with the Heritage Council (or delegate) and with the written approval of the Planning Secretary.

#### **Waste Storage and Processing**

- C31. All waste generated during construction 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.
- C32. All waste generated during construction must be assess, classified and managed in accordance with the Waste Classification Guidelines Part 1: Classifying Waste (EPA, 2014).
- C33. The Applicant must ensure that concrete waste and rinse water are not disposed of on the site and are prevented from entering any natural or artificial watercourse.
- C34. The Applicant must record the quantities of each waste type generated during construction and the proposed reuse, recycling and disposal locations for the duration of construction.

- C35. The Applicant must ensure that the removal of hazardous materials, particularly the method of containment and control of emission of fibres to the air, and disposal at an approved waste disposal facility is in accordance with the requirements of the relevant legislation, codes, standards and guidelines.

### **Outdoor Lighting**

- C36. The Applicant must ensure that all external lighting is constructed and maintained in accordance with AS 4282-2019 Control of the obtrusive effects of outdoor lighting.

### **Independent Environmental Audit**

- C37. Proposed independent auditors must be agreed to in writing by the Planning Secretary prior to the commencement of an Independent Audit.
- C38. Independent Audits of the development must be conducted and carried out in accordance with the Independent Audit Post Approval Requirements.
- C39. The Planning Secretary may require the initial and subsequent Independent Audits to be undertaken at different times to those agreed to above, upon giving at least 4 weeks' notice to the Applicant of the date or timing upon which the audit must be commenced.
- C40. In accordance with the specific requirements in the Independent Audit Post Approval Requirements, the Applicant must:
- (a) review and respond to each Independent Audit Report prepared under condition C38 of this consent, or condition C39 where notice is given;
  - (b) submit the response to the Planning Secretary; and
  - (c) make each Independent Audit Report and response to it publicly available within 60 days after submission to the Planning Secretary.
- C41. Independent Audit Reports and the applicant/proponent's response to audit findings must be submitted to the Planning Secretary within 2 months of undertaking the independent audit site inspection as outlined in the Independent Audit Post Approval Requirements unless otherwise agreed by the Planning Secretary.
- C42. Notwithstanding the requirements of the Independent Audit Post Approval Requirements, the Planning Secretary may approve a request for ongoing independent operational audits to be ceased, where it has been demonstrated to the Planning Secretary's satisfaction that an audit has demonstrated operational compliance.

**PART D PRIOR TO COMMENCEMENT OF OPERATION**

**Notification of Occupation**

- D1. At least one month before commencement of operation, the date of commencement of the operation of the development must be notified to the Planning Secretary in writing. If the operation of the development is to be staged, the Planning Secretary must be notified in writing at least one month before the commencement of each stage, of the date of commencement and the development to be carried out in that stage.

**External Walls and Cladding**

- D2. Prior to commencement of operation, the Applicant must provide the Certifier with documented evidence that the products and systems used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the requirements of the BCA.
- D3. The Applicant must provide a copy of the documentation given to the Certifier to the Planning Secretary within seven days after the Certifier accepts it.

**Works as Executed Plans**

- D4. Prior to the commencement of operation, 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 Certifier.

**Warm Water Systems and Cooling Systems**

- D5. The installation of warm water systems and water cooling systems (as defined under the *Public Health Act 2010*) must comply with the *Public Health Act 2010*, Public Health Regulation 2012 and Part 1 (or Part 3 if a Performance-based water cooling system) of *AS/NZS 3666.2:2011 Air handling and water systems of buildings – Microbial control – Operation and maintenance* and the NSW Health Code of Practice for the Control of Legionnaires' Disease.

**Outdoor Lighting**

- D6. Prior to the commencement of operation, the Applicant must submit evidence from a suitably qualified practitioner to the Certifier that demonstrates that installed lighting associated with the development achieves the objective of minimising light spillage to any adjoining or adjacent sensitive receivers and:
- (a) complies with the latest version of AS 4282-2019 - *Control of the obtrusive effects of outdoor lighting* (Standards Australia, 1997); and
  - (b) has been mounted, screened and directed in such a manner that it does not create a nuisance to surrounding properties or the public road network.

**Mechanical Ventilation**

- D7. Prior to commencement of operation, the Applicant must provide evidence to the satisfaction of the Certifier that the installation and performance of the mechanical ventilation systems complies with:
- (a) *AS 1668.2-2012 The use of air-conditioning in buildings – Mechanical ventilation in buildings* and other relevant codes; and
  - (b) any dispensation granted by Fire and Rescue NSW.

**Operational Noise – Design of Mechanical Plant and Equipment**

- D8. Prior to the commencement of operation, the Applicant must submit evidence to the Certifier that the noise mitigation recommendations in the assessment undertaken under condition 19 have been incorporated into the design of mechanical plant and equipment.

### Fire Safety Certification

- D9. Prior to commencement of occupation, a Fire Safety Certificate must be obtained for all the 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 Council. The Fire Safety Certificate must be prominently displayed in the building.

### Structural Inspection Certificate

- D10. Prior to the commencement of occupation of the relevant parts of any new or refurbished buildings, a Structural Inspection Certificate or a Compliance Certificate must be submitted to the Certifier. A copy of the Certificate with an electronic set of final drawings (contact approval authority for specific electronic format) must 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; and
  - (b) the drawings listed on the Inspection Certificate have been checked with those listed on the final Design Certificate/s.

### Post-construction Dilapidation Report

- D11. Prior to commencement of operation, the Applicant must engage a suitably qualified person to prepare a post-construction dilapidation report at the completion of construction. This report is:
- (a) to ascertain whether the construction created any structural damage to adjoining buildings or infrastructure;
  - (b) to be submitted to the Certifier. In ascertaining whether adverse structural damage has occurred to adjoining buildings or infrastructure, the Certifier must:
    - (i) compare the post-construction dilapidation report with the pre-construction dilapidation report required by these conditions; and
    - (ii) have written confirmation from the relevant authority that there is no adverse structural damage to their infrastructure and roads.
  - (c) to be forwarded to Council for information.

### Protection of Public Infrastructure

- D12. 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.

*Note: This condition does not apply to any damage to roads caused as a result of general road usage or otherwise addressed by contributions required by **Error! Reference source not found.** of this consent.*

### Road Damage

- D13. Prior to the commencement of operation, 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 must be met in full by the Applicant.

### Protection of Property

- D14. Unless the Applicant and the applicable owner agree otherwise, the Applicant must repair, or pay the full costs associated with repairing any property that is damaged by carrying out the development.

### Bicycle Parking and End-of-Trip Facilities

- D15. Prior to occupation, compliance with the following requirements for secure bicycle parking and end-of-trip facilities must be submitted to the Certifier:
- (a) the provision of a minimum 2 staff and 2 visitor bicycle parking spaces;
  - (b) the layout, design and security of bicycle facilities must comply with the minimum requirements of the latest version of AS 2890.3:2015 *Parking facilities - Bicycle parking*, and be located in easy to access, well-lit areas that incorporate passive surveillance;
  - (c) the provision of end-of-trip facilities for staff; and
  - (d) appropriate pedestrian and cyclist advisory signs are to be provided.

*Note: All works/regulatory signposting associated with the proposed development shall be at no cost to the relevant roads authority.*

### School Zones

- D16. Prior to the commencement of operation, all required School Zone signage, speed management signage and associated pavement markings along Croobyar Road must be installed, inspected by TfNSW and handed over to TfNSW.

*Note: Any required approvals for altering public road speed limits, design and signage are required to be obtained from the relevant consent authority.*

- D17. The Applicant must maintain records of all dates in relation to installing, altering and removing traffic control devices related to speed.

### School Transport Plan

- D18. Prior to the commencement of operation, a School Transport Plan (STP), must be submitted to the satisfaction of the Planning Secretary. The plan must:
- (a) be prepared by a suitably qualified consultant in consultation with Council and TfNSW;
  - (b) include arrangements to promote the use of active and sustainable transport modes, including:
    - (i) objectives and modes share targets (i.e. Site and land use specific, measurable and achievable and timeframes for implementation);
    - (ii) specific tools and actions to help achieve the objectives and mode share targets;
    - (iii) details regarding the methodology and monitoring/review program to measure the effectiveness of the objectives and mode share targets, including the frequency of monitoring and the requirement for travel surveys to identify travel behaviours of users of the development.
  - (c) include operational transport access management arrangements, including:
    - (i) detailed pedestrian analysis including the identification of safe route options to identify the need for management measures such as staggered school start and finish times to ensure students and staff are able to access and leave the Site in a safe and efficient manner during school start and finish;
    - (ii) the location of all car parking spaces on the school campus and their allocation (i.e. staff, visitor, accessible, emergency, etc.);
    - (iii) the location and operational management procedures of the drop-off and pick-up parking, including staff management/traffic controller arrangements;
    - (iv) the location and operational management procedures for the drop-off and pick-up of students by buses and coaches including staff management/traffic controller arrangements;

- (v) delivery and services vehicle and bus access and management arrangements;
- (vi) management of approved access arrangements;
- (vii) potential traffic impacts on surrounding road networks and mitigation measures to minimise impacts, including measures to mitigate queuing impacts associated with vehicles accessing drop-off and pick-up zones;
- (viii) car parking arrangements and management associated with the proposed use of school facilities by community members;
- (ix) the location of gate hinges to be installed clear of the travel lanes and gates to be provided with a reflective material to be visible at night to minimise potential for accidental collision; and
- (d) measures to promote and support the implementation of the plan, including financial and human resource requirements, roles and responsibilities for relevant employees involved in the implementation of the plan; and
- (e) a monitoring and review program.

### Utilities and Services

D19. Prior to commencement of operation, a certificate of compliance under section 307 of the *Water Management Act 2000* must be obtained from Council and submitted to the Certifier. If the development is to be completed in approved stages, or application is subsequently made for staging of the development, separate Compliance Certificates must be obtained for each stage of the development.

### Stormwater Operation and Maintenance Plan

D20. Prior to the commencement of operation, an Stormwater Operation and Maintenance Plan (SOMP) is to be submitted to the Certifier. The SOMP must ensure the proposed stormwater quality measures remain effective and contain the following:

- (a) maintenance schedule of all stormwater quality treatment devices;
- (b) record and reporting details;
- (c) relevant contact information; and
- (d) Work Health and Safety requirements.

### Signage

D21. Prior to the commencement of operation, way-finding signage and signage identifying the location of staff car parking must be installed.

D22. Prior to the commencement of operation, bicycle way-finding signage must be installed within the site to direct cyclists from footpaths to designated bicycle parking areas.

### Operational Waste Management Plan

D23. Prior to the commencement of operation, the Applicant must prepare a Waste Management Plan for the development and submit it to the Certifier. The Waste Management Plan must:

- (a) detail the type and quantity of waste to be generated during operation of the development;
- (b) describe the handling, storage and disposal of all waste streams generated on site, consistent with the *Protection of the Environment Operations Act 1997*, *Protection of the Environment Operations (Waste) Regulation 2014* and the *Waste Classification Guideline* (Department of Environment, Climate Change and Water, 2009);

- (c) detail the materials to be reused or recycled, either on or off site; and
- (d) include the Management and Mitigation Measures included in EIS.

### Site Contamination

D24. Prior to the commencement of operation, the Applicant must submit a Section A1 Site Audit Statement or a Section A2 Site Audit Statement accompanied by an Environmental Management Plan prepared by a NSW EPA accredited Site Auditor. The Section A1 or A2 Site Audit Statement must verify the relevant part of the site is suitable for the intended land use and be provided, along with any Environmental Management Plan to the Planning Secretary and the Certifier.

### Landscaping

- D25. Prior to the commencement of operation, landscaping of the site must be completed in accordance with landscape plan approved under condition C21.
- D26. Prior to the commencement of operation, the Applicant must prepare an operational landscape management plan to manage the revegetation and landscaping on-site and submit it to the Certifier. The plan must describe the ongoing monitoring and maintenance measures to manage revegetation and landscaping.

### Asset Protection Zones

- D27. Prior to the commencement of operation, the entire site must be managed as an inner protection area (IPA) in accordance with the requirements of Appendix 4 of Planning for Bush Fire Protection 2019. When establishing and maintaining an IPA the following requirements apply:
  - (a) tree canopy cover should be less than 15% at maturity;
  - (b) trees at maturity should not touch or overhang the building;
  - (c) lower limbs should be removed up to a height of 2m above the ground;
  - (d) tree canopies should be separated by 2 to 5m;
  - (e) preference should be given to smooth barked and evergreen trees;
  - (f) large discontinuities or gaps in vegetation should be provided to slow down or break the progress of fire towards buildings;
  - (g) shrubs should not be located under trees;
  - (h) shrubs should not form more than 10% ground cover;
  - (i) clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation.
  - (j) grass should be kept mown (as a guide grass should be kept to no more than 100mm in height); and
  - (k) leaves and vegetation debris should be removed.

### Evacuation and Emergency Planning

D28. Prior to the commencement of operation, a Bush Fire Emergency Management and Evacuation Plan must be prepared consistent with *Development Planning – A Guide to Developing a Bush Fire Emergency Management and Evacuation Plan*.

*Note: A copy of the Bush Fire Emergency Management and Evacuation Plan should be provided to the Local Emergency Management Committee for its information prior to occupation of the development.*

**PART E POST OCCUPATION**

**Hours of Operation (Hydrotherapy Pool)**

- E1. Community use of the Hydrotherapy pool is limited to the following hours:
- (a) 3pm to 8pm weekdays
  - (b) 9am to 6pm weekends and public holidays

**Out of Hours Event Management Plan**

- E2. Prior to the commencement of the first out of hours events (School Use) run by the school that involve 100 or more people, the Applicant is to prepare an Out of Hours Event Management Plan (School Use) in consultation with Council and submit it to the Council and Planning Secretary for information. The plan must include the following:
- (a) the number of attendees, time and duration;
  - (b) arrival and departure times and modes of transport;
  - (c) where relevant, a schedule of all annual events;
  - (d) measures to encourage non-vehicular travel to the school and promote and support the use of alternate travel modes (i.e. public transport);
  - (e) details of the use of the school hall/hydrotherapy pool, where applicable, restricting use before 8am and after 10pm;
  - (f) measures to minimise localised traffic and parking impacts; and
  - (g) include measures to minimise noise impacts on any sensitive residential receivers, including the preparation of acoustic management plan.
- E3. The Out of Hours Event Management Plan (School Use) must be implemented by the Applicant for the duration of the identified events or use.
- E4. Prior to the commencement of out of hours events (Community Use) run by the external parties that involve 100 or more people, the Applicant is to prepare an Out of Hours Event Management Plan (Community Use) in consultation with Council and submit it to the Council and Planning Secretary for information. The plan must include the following:
- (a) the number of attendees, time and duration;
  - (b) arrival and departure times and modes of transport;
  - (c) where relevant, a schedule of all annual events;
  - (d) measures to encourage non-vehicular travel to the school and promote and support the use of alternate travel modes (i.e. public transport);
  - (e) details of the use of the school hall/hydrotherapy pool, where applicable, restricting use before 8am and after 10pm;
  - (f) measures to minimise localised traffic and parking impacts; and
  - (g) include measures to minimise noise impacts on any sensitive residential receivers, including the preparation of acoustic management plan.

**Operation of Plant and Equipment**

- E5. All plant and equipment used on site must be maintained in a proper and efficient condition operated in a proper and efficient manner.

**Warm Water Systems and Cooling Systems**

- E6. The operation and maintenance of warm water systems and water cooling systems (as defined under the Public Health Act 2010) must comply with the Public Health Act 2010, Public Health Regulation 2012 and Part 2 (or Part 3 if a Performance-based

water cooling system) of AS/NZS 3666.2:2011 Air handling and water systems of buildings – Microbial control – Operation and maintenance and the NSW Health Code of Practice for the Control of Legionnaires' Disease.

### **Community Communication Strategy**

- E7. The Community Communication Strategy, as submitted to the Certifier, must be implemented for a minimum of 12 months following the completion of construction.

### **Operational Noise Limits**

- E8. The Applicant must ensure that noise generated by operation of the development does not exceed the noise limits in the Budawang School Acoustic Assessment for SEARS dated 15 April 2021 and prepared by Marshall Day Acoustics.

### **Unobstructed Driveways and Parking Areas**

- E9. All driveways, footways and parking areas must be unobstructed at all times. Driveways, footways and car spaces must not be used for the manufacture, storage or display of goods, materials, refuse, skips or any other equipment and must be used solely for vehicular and/or pedestrian access and for the parking of vehicles associated with the use of the premises.

### **School Transport Plan**

- E10. The School Transport Plan required by condition 18 of this consent must be updated annually and implemented unless otherwise agreed by the Planning Secretary.

### **Ecologically Sustainable Development**

- E11. Unless otherwise agreed by the Planning Secretary, within six months of commencement of operation, Green Star certification must be obtained demonstrating the development achieves a minimum 4 star Green Star Design & As Built rating. If required to be obtained, evidence of the certification must be provided to the Certifier and the Planning Secretary. If an alternative certification process has been agreed to by the Planning Secretary under condition B88, evidence of compliance of implementation must be provided to the Planning Secretary and Certifier.

### **Outdoor Lighting and Signage**

- E12. Notwithstanding condition D6, should outdoor lighting result in any residual impacts on the amenity of surrounding sensitive receivers, the Applicant must provide mitigation measures in consultation with affected landowners to reduce the impacts to an acceptable level.
- E13. The Applicant must ensure that any digital signage board is illuminated only between the hours of 7am and 5pm. Should the illumination of the signage board result in amenity impacts, the illumination must be adjusted to reduce the impacts to an acceptable level.

### **Landscaping**

- E14. The Applicant must maintain the landscaping and vegetation on the site in accordance with the approved Operational Landscape Management Plan required by condition D25 26 for the duration of occupation of the development.

### **Asset Protection Zones**

- E15. The asset protection zones required by condition D27~~28~~ must be maintained for the duration of occupation of the development.

## APPENDIX 1 ADVISORY NOTES

### General

AN1. All licences, permits, approvals and consents as required by law must be obtained and maintained as required for the development. No condition of this consent removes any obligation to obtain, renew or comply with such licences, permits, approvals and consents.

### Long Service Levy

AN2. For work costing \$25,000 or more, a Long Service Levy must be paid. For further information please contact the Long Service Payments Corporation Helpline on 131 441.

### Legal Notices

AN3. Any advice or notice to the consent authority must be served on the Planning Secretary.

### Access for People with Disabilities

AN4. The works that are the subject of this application must be designed and constructed to provide access and facilities for people with a disability in accordance with the BCA. Prior to the commencement of construction, the Certifier must ensure that evidence of compliance with this condition from an appropriately qualified person is provided and that the requirements are referenced on any certified plans.

### Utilities and Services

AN5. Prior to the construction of any utility works associated with the development, the Applicant must obtain relevant approvals from service providers.

AN6. Prior to the commencement of above ground works written advice must be obtained from the electricity supply authority, an approved telecommunications carrier and an approved gas carrier (where relevant) stating that satisfactory arrangements have been made to ensure provisions of adequate services.

### Road Design and Traffic Facilities

AN7. All roads and traffic facilities must be designed to meet the requirements of Council or TfNSW (whichever is applicable). The necessary permits and approvals from the relevant road authority must be obtained prior to the commencement of road or pavement construction works.

### Road Occupancy Licence

AN8. A Road Occupancy Licence must be obtained from the relevant road authority for any works that impact on traffic flows during construction activities.

### SafeWork Requirements

AN9. To protect the safety of work personnel and the public, the work site must be adequately secured to prevent access by unauthorised personnel, and work must be conducted at all times in accordance with relevant SafeWork requirements.

### Hoarding Requirements

AN10. The Applicant must submit a hoarding application to Council for the installation of any hoardings over Council footways or road reserve.

### Handling of Asbestos

AN11. The Applicant must consult with SafeWork NSW concerning the handling of any asbestos waste that may be encountered during construction. The requirements of the

Protection of the Environment Operations (Waste) Regulation 2014 with particular reference to Part 7 – ‘Transportation and management of asbestos waste’ must also be complied with.

### **Speed limit authorisation**

AN12. At least eight weeks prior to the commencement of operation, the Applicant must submit the following details to TfNSW and obtain authorisation to install School Zone signs and associated pavement markings, and / or removal / relocation of any existing Speed Limit signs:

- (a) a copy of the conditions of consent;
- (b) the proposed school commencement/opening date;
- (c) two sets of detailed design plans showing the following:
  - (i) accurate Site boundaries;
  - (ii) details of all road reserves, adjacent to the Site boundaries;
  - (iii) all proposed access points from the Site to the public road network and any additional conditions imposed/proposed on their use;
  - (iv) all existing and proposed pedestrian crossing facilities on the adjacent road network;
  - (v) all existing and proposed traffic control devices and pavement markings on the adjacent road network (including School Zone signs and pavement markings); and
  - (vi) all existing and proposed street furniture and street trees.

### **Fire Safety Certificate**

AN13. The owner must submit to Council an Annual Fire Safety Statement, each 12 months after the final Safety Certificate is issued. The certificate must be on, or to the effect of, Council’s Fire Safety Statement.

## APPENDIX 2 WRITTEN 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 Planning Secretary through the major projects portal 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 A27 or, having given such notification, subsequently forms the view that an incident has not occurred.
2. Written notification of an incident must:
  - (a) identify the development and application number;
  - (b) provide details of the incident (date, time, location, a brief description of what occurred and why it is classified as an incident);
  - (c) identify how the incident was detected;
  - (d) identify when the applicant became aware of the incident;
  - (e) identify any actual or potential non-compliance with conditions of consent;
  - (f) describe what immediate steps were taken in relation to the incident;
  - (g) identify further action(s) that will be taken in relation to the incident; and
  - (h) identify a project contact for further communication regarding the incident.
3. Within 30 days of the date on which the incident occurred or as otherwise agreed to by the Planning Secretary, the Applicant must provide the Planning Secretary and any relevant public authorities (as determined by the Planning Secretary) with a detailed report on the incident addressing all requirements below, and such further reports as may be requested.
4. The Incident Report must include:
  - (a) a summary of the incident;
  - (b) outcomes of an incident investigation, including identification of the cause of the incident;
  - (c) details of the corrective and preventative actions that have been, or will be, implemented to address the incident and prevent recurrence; and
  - (d) details of any communication with other stakeholders regarding the incident.