

# Development Consent

## ***Section 4.16 of the Environmental Planning and Assessment Act 1979***

As delegate of the Minister for Planning and Public Spaces 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



Keiran Thomas

Director Regional Assessments

Sydney

25 March 2024

File: EF23/17598

### **SCHEDULE 1**

<b>Application Number:</b>	DA23/17598
<b>Applicant:</b>	Great River NSW Pty Ltd
<b>Consent Authority:</b>	Minister for Planning and Public Spaces
<b>Site:</b>	Lot 2 and 3 DP1263486, 14-29 and 30- 68 Old Castlereagh Road, Castlereagh
<b>Development:</b>	Boundary Adjustment between Lot 2 and Lot 3 DP1263486

## DEFINITIONS

<b>Applicant</b>	Great River NSW Pty Ltd, or any person carrying out any development to which this consent applies
<b>BCA</b>	Building Code of Australia
<b>Certifying Authority</b>	A person who is authorised by or under section 6.17 of the EP&A Act to issue Part 6 certificates
<b>Conditions of this consent</b>	Conditions contained in Schedule 2 of this document
<b>Council</b>	Penrith City Council
<b>Day</b>	The period from 7 am to 6 pm on Monday to Saturday, and 8 am to 6 pm on Sundays and Public Holidays
<b>Demolition</b>	The deconstruction and removal of buildings, sheds and other structures on the site
<b>Department</b>	NSW Department of Planning, Housing and Infrastructure
<b>Development</b>	The development described in the Statement of Environmental Effects, including the works and activities comprising the boundary adjustment between Lot 2 and Lot 3 DP 1263486
<b>Environment</b>	Includes all aspects of the surroundings of humans, whether affecting any human as an individual or in his or her social groupings
<b>EPA</b>	NSW Environment Protection Authority
<b>EP&amp;A Act</b>	<i>Environmental Planning and Assessment Act 1979</i>
<b>EP&amp;A Regulation</b>	<i>Environmental Planning and Assessment Regulation 2021</i>
<b>EPL</b>	Environment Protection Licence under the POEO Act
<b>Feasible</b>	Means what is possible and practical in the circumstances
<b>Incident</b>	An occurrence or set of circumstances that causes, or threatens to cause material harm and which may or may not be or cause a non-compliance Note: "material harm" is defined in this consent
<b>Land</b>	Has the same meaning as the definition of the term in section 1.4 of the EP&A Act
<b>Material harm</b>	Is harm that: <ul style="list-style-type: none"> <li>a) involves actual or potential harm to the health or safety of human beings or to the environment that is not trivial, or</li> </ul> results in actual or potential loss or property damage of an amount, or amounts in aggregate, exceeding \$10,000, (such loss includes the reasonable costs and expenses that would be incurred in taking all reasonable and practicable measures to prevent, mitigate or make good harm to the environment)
<b>Minister</b>	NSW Minister for Planning and Public Spaces (or delegate)
<b>Non-compliance</b>	An occurrence, set of circumstances or development that is a breach of this consent
<b>Planning Secretary</b>	Planning Secretary under the EP&A Act, or nominee
<b>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>Rehabilitation</b>	The restoration of land disturbed by the development to a good condition, to ensure it is safe, stable and non-polluting.
<b>SEE</b>	Statement of Environmental Effects prepared by Planning Ingenuity dated 13 December 2023

## 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) in accordance with the approved plans in the table below:

Subdivision Plan prepared by Enspire Solutions Pty Ltd			
Dwg No.	Rev	Name of Plan	Date
SK0066-200044-00	A	LOT 2 AND LOT 3 BDY ADJUSTMENT	27/11/2023

- (d) generally in accordance with the following documents:
    - (i) Statement of Environmental Effects Development Application for a Subdivision at 14-29 And 30-68 Old Castlereagh Road, Penrith prepared by Planning Ingenuity dated 13 December 2023
    - (ii) Additional Information Response DA 23/17598 Nepean Business Park – Boundary Adjustment at 14-28 and 30-68 Old Castlereagh Road, PENRITH (PAN 399 381) prepared by Planning Ingenuity dated 7 February 2024
- A3. Consistent with the requirements in this consent, the Planning Secretary may make written directions to the Applicant in relation to:
- (a) the content of any strategy, study, system, plan, program, review, audit, notification, report or correspondence submitted under or otherwise made in relation to this consent, including those that are required to be, and have been, approved by the Planning Secretary; and
  - (b) the implementation of any actions or measures contained in any such document referred to in condition 0(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)** or **A2(d)**. In the event of an inconsistency, ambiguity or conflict between any of the documents listed in condition **A2(c)** or **A2(d)**, the most recent document prevails to the extent of the inconsistency, ambiguity or conflict.

#### APPLICABILITY OF GUIDELINES

- A5. 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.
- A6. However, consistent with the conditions of this consent and without altering any limits or criteria in this consent, the Planning Secretary may, when issuing directions under this consent in respect of ongoing monitoring and management obligations, require compliance with an updated or revised version of such a guideline, protocol, Standard or policy, or a replacement of them.

#### INCIDENT NOTIFICATION, REPORTING AND RESPONSE

- A7. The Department must be notified 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.
- A8. Subsequent notification must be given and reports submitted in accordance with the requirements set out in 0.

#### NON-COMPLIANCE NOTIFICATION

- A9. The Department must be notified via the Major Projects website within seven days after the Applicant becomes aware of any non-compliance. The PCA must also notify the Department in writing to [compliance@planning.nsw.gov.au](mailto:compliance@planning.nsw.gov.au) within seven days after they identify any non-compliance.
- A10. 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.
- A11. A non-compliance which has been notified as an incident does not need to also be notified as a non-compliance.

## **PART B PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE**

### **ALL CONDITIONS UNDER THIS SECTION MUST BE MET**

- B1. All relevant conditions under this section must be met prior to the issue of any relevant Construction Certificate or Subdivision Certificate.

### **SUBDIVISION CERTIFICATE**

- B2. A Subdivision Certificate must be obtained from the PCA prior to commencement of occupation or use of the whole or any part of the approved development. A copy of the Subdivision Certificate shall be submitted to the Planning Secretary no later than 7 business days from the date of issue.
- B3. Prior to the issuing of a Subdivision Certificates, the Applicant must provide to the Certifier evidence that all matters required to be registered on title, including easements, have been lodged for registration or registered at the Land Registry Services.

### **PROTECTION OF PUBLIC INFRASTRUCTURE**

- B4. 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 (with the exception of any damage to roads caused as a result of general road usage); and
  - (b) relocate, or pay the full costs associated with relocating any infrastructure that needs to be relocated as a result of the development.

### **PROTECTION OF PROPERTY**

- B5. 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.

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

A written incident notification addressing the requirements set out below must be notified to the Department via email within seven days after the Applicant becomes aware of an incident. Notification is required to be given under this condition even if the Applicant fails to give the notification required under condition A9 or, having given such notification, subsequently forms the view that an incident has not occurred.

### **WRITTEN INCIDENT NOTIFICATION REQUIREMENTS**

Written notification of an incident must:

- a. identify the development and application number;
- b. provide details of the incident (date, time, location, a brief description of what occurred and why it is classified as an incident);
- c. identify how the incident was detected;
- d. identify when the Applicant became aware of the incident;
- e. identify any actual or potential non-compliance with conditions of consent;
- f. describe what immediate steps were taken in relation to the incident;
- g. identify further action(s) that will be taken in relation to the incident; and
- h. identify a project contact for further communication regarding the incident.

### **INCIDENT REPORT REQUIREMENTS**

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.

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.