

Ref: DA23/0650

8 May 2024

Wagga Wagga City Council  
PO Box 20  
Wagga Wagga NSW 2650

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Re: Condition endorsement – DA23/0650 – 48-56 South Parade, Wagga Wagga

Dear Sir/Madam,

I, Peta Baker, Acting Director Portfolio Services at Homes NSW, formally endorse the draft conditions of consent related to DA23/0650, as provided in *Attachment A*, subject to the amendment discussed below.

Condition C.19

To ensure there is clarity on who will be responsible for the rectification works described in condition C.19, and to remove the requirement to seek further endorsement from council which has the potential to delay construction works, it is requested that condition C.19 be amended to read as follows (additions made in bold text):

*Any damage to Council infrastructure within the public domain must be rectified at full cost to the **Builder applicant** and **undertaken in accordance with Council standards** to the satisfaction of Council.*

Sincerely,



**Peta Baker**  
Acting Director, Portfolio Services  
Portfolio Strategy and Origination, Housing Portfolio  
Homes NSW

## DA23/0650 - Conditions of Consent

### RECOMMENDATION

It is recommended that application number DA23/0650 for 3-storey residential flat building to be used as affordable housing; 11 x 1-bedroom apartments and 8 x 2-bedroom apartments, new access arrangements, parking and associated landscape works and consolidation of lots. be approved, subject to the following conditions:-

### CONDITIONS OF CONSENT FOR APPLICATION NO. DA23/0650

#### A. SCHEDULE A – Reasons for Conditions

The conditions of this consent have been imposed for the following reasons:

- A.1 To ensure compliance with the terms of the Environmental Planning and Assessment Act 1979 and Regulation 2000.
- A.2 Having regard to Council's duties of consideration under Section 4.15 and 4.17 of the Act.
- A.3 To ensure an appropriate level of provision of amenities and services occurs within the City and to occupants of sites.
- A.4 To improve the amenity, safety and environmental quality of the locality.
- A.5 Having regard to environmental quality, the circumstances of the case and the public interest.
- A.6 Having regard to the Wagga Wagga Development Control Plan 2010.
- A.7 To help retain and enhance streetscape quality.
- A.8 Ensure compatibility with adjoining and neighbouring land uses and built form.
- A.9 To protect public interest, the environment and existing amenity of the locality.
- A.10 To minimise health risk to neighbouring residents and workers.

#### B. SCHEDULE B – Deferred Commencement Conditions

N/A

#### C. SCHEDULE C – Conditions

##### Approved Plans and Documentation

- C.1 The development must be carried out in accordance with the approved plans and specifications as follows.

Plan/DocNo.	Plan/Doc Title	Prepared by	Issue	Date
DA001	Site Analysis	CK Architecture	D	1.11.2023
DA002	Diagramming	CK Architecture	D	1.11.2023
DA003	Storage Plan	CK Architecture	D	1.11.2023
DA004	Overall ground floor and Site Plan	CK Architecture	F	1.5.2024
DA005	Overall first floor and Site Plan	CK Architecture	E	2.5.2023
DA006	Overall second floor and Site Plan	CK Architecture	E	2.5.2023
DA007	Roof Plan	CK Architecture	E	2.5.2023
DA008	Elevations	CK Architecture	E	2.5.2023

DA009	Elevations	CK Architecture	E	2.5.2023
DA010	Sections	CK Architecture	E	2.5.2023
DA011	Sections	CK Architecture	E	2.5.2023
DA013	Shadow Diagram	CK Architecture	D	1.11.2023
DA014	Sun Studies	CK Architecture	D	1.11.2023
DA015	Window Schedule	CK Architecture	D	1.11.2023
DA016	Door Schedule	CK Architecture	D	1.11.2023
LS2010	Landscape Finishes and Grading Plan	Stantec	3	24.11.2023
LS2020	Landscape Planting Plan	Stantec	3	24.11.2023
LS2040	Landscape Planting and Construction Details	Stantec	3	24.11.2023
30018022	Statement of Environmental Effects	SMEC	03	20.12.2023
	Architectural Verification Statement	CK Architecture		No date
304100940	Traffic Impact Assessment	Stantec	06	21.12.2023
304100940	Parking Assessment	Stantec		21.12.2023
304100940 (S6)	Flood Impact Assessment	Stantec	2	30.11.2023
	Arboricultural Assessment	Wade Ryan Consulting		7.3.2022
304100940	Civil Design Report	Stantec	4.0	3.11.2023
9006	Preliminary Site Investigation	McMahon Earth Science	0	20.12.2022
1385046M_03	BASIX Certificate	Eco Engineering Group		13.12.2023

The Development Application has been determined by the granting of consent subject to and as amended by the conditions of development consent specified below.

NOTE: Any modifications to the proposal shall be the subject of an application under Section 4.55 of the Environmental Planning and Assessment Act, 1979.

### Requirements before the commencement of any works

C.2 If the work involved in the erection or demolition of a building or structure:

a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or

b) building involves the enclosure of a public place,

a hoarding or fence must be erected between the development site/works and the public place prior to works commencing on site.

All construction materials, waste, waste skips, machinery and contractors vehicles must be located and stored or parked within the site. No storage of materials, parking of construction machinery or contractor's vehicles will be permitted within the public space.

If necessary, an awning must be erected, sufficient to prevent any substance, from or in connection with the work, falling into the public place. Further the work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

NOTE 1: Any such hoarding, fence or awning must be removed when the work has been completed.

NOTE 2: Any external lighting required by this condition must be designed and positioned so that, at no time, will any light be cast upon any adjoining property.

NOTE 3: Prior to any hoarding being erected, the applicant must ensure that an application for a Hoarding Permit is submitted to and approved by Council.

C.3 Prior to works commencing on site, toilet facilities must be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be:

- a) a standard flushing toilet connected to a public sewer, or
- b) if that is not practicable, an accredited sewage management facility approved by Council, or
- c) if that is not practicable, any other sewage management facility approved by Council.

NOTE 1: The provision of toilet facilities in accordance with this condition must be completed before any other work is commenced and the toilet facility must not be removed without the prior written approval of Council.

NOTE 2: "Vicinity" in this condition is defined to mean within 50 metres of the subject building site.

NOTE 3: The toilet facilities are to comply with all WORK COVER NSW requirements.

C.4 Prior to works commencing a container must be erected on site for the enclosure of all building rubbish and debris, including that which can be wind blown. The enclosure shall be retained on site at all times prior to the disposal of rubbish at a licenced Waste Management Centre.

Materials and sheds or machinery to be used in association with the construction of the building must not be stored or stacked on Council's footpath, nature strip, reserve or roadway.

NOTE 1: No building rubbish or debris must be placed, or be permitted to be placed on any adjoining public reserve, footway, road or private land.

NOTE 2: Weighbridge certificates, receipts or dockets that clearly identify where waste has been deposited must be retained. Documentation must include quantities and nature of the waste. This documentation must be provided to Council prior to occupation of the development.

NOTE 3: The suitable container for the storage of rubbish must be retained on site until occupation of the development.

C.5 Prior to the commencement of works erosion and sediment control measures are to be established and maintained to prevent silt and sediment escaping the site or producing erosion. This work must be carried out and maintained in accordance with Council's:-

- a) Development Control Plan 2010 (Section 2.6 and Appendix 2)
- b) Erosion and Sediment Control Guidelines for Building Sites; and
- c) Soils and Construction Volume 1, Managing Urban Stormwater

Prior to commencement of works, a plan illustrating these measures shall be submitted to Council.

NOTE: All erosion and sediment control measures must be in place prior to earthworks commencing.

- C.6 Prior to any works commencing in the public domain, written confirmation, on letter head, from the Council approved concreter undertaking public domain and crossover works is to be provided to Council. A list of Council approved concreters who hold a 138 permit can be found on Council's website.

- C.7 Prior to works commencing a compliance certificate under s306 of the Water Management Act 2000 must be obtained in respect of the development relating to water management works that may be required in connection with the development.

NOTE1: 'Water management work' is defined in s283 of the Water Management Act to mean a 'water supply work', 'drainage work', 'sewage work' or 'flood work'. These terms are defined in that Act.

NOTE 2: Riverina Water is responsible for issuing compliance certificates and imposing requirements relating to water supply works for development in the Council's area. An application for a compliance certificate must be made with Riverina Water. Additional fees and charges may be incurred by the proposed development - please contact Riverina Water to ascertain compliance certificate water supply related requirements. A copy of such a compliance certificate is required prior to works commencing.

NOTE 3: The Council is responsible for issuing compliance certificates and imposing requirements relating to sewerage, drainage and flood works for development in its area.

NOTE 4: Under s306 of the Water Management Act 2000, Riverina Water or the Council, as the case requires, may, as a precondition to the issuing of a compliance certificate, impose a requirement that a payment is made or works are carried out, or both, towards the provision of water supply, sewerage, drainage or flood works.

NOTE 5: The Section 64 Sewer base figure is \$22997.

The Section 64 Sewer contribution (updated by the CPI 130.9/100.5) required to be paid is \$29953.

NOTE 6: The Section 64 Stormwater base figure is \$1069.

The Section 64 Stormwater contribution (updated by the CPI 130.9/87.9) required to be paid is \$1592.

NOTE 7: Section 64 contributions shall be indexed in accordance with CPI annually at the commencement of the financial year.

NOTE 8: The figures outlined in this consent are based on the current rate of CPI. Please be advised that CPI changes on a regular basis and you are advised to contact Council prior to payments being made, to ensure no further CPI increases/decreases have occurred since the date of this consent.

- C.8 Prior to the commencement of works stormwater drainage shall be designed to limit post development flows from the site to pre-developed flows for all storms up to and including the 100 Year ARI event. Full plan details of any proposed On-Site Detention (OSD) system and supporting calculations shall be provided to the satisfaction of the General Manager or delegate.
- C.9 Prior to the commencement of works a Construction Management Plan shall be submitted to Council.
- C.10 Three replacement street trees shall be planted by Council following the payment of the fee under this condition. Alternatively, street trees, shall be elected to be planted by a Council approved contractor.

Prior to works commencing:

- (1) Payment of the relevant fee per tree, as per item number 0895 or 0896 (as relevant) as set out in Council's Fees and Charges, shall be paid to Council, for street tree planting works to be carried out by Council; or
- (2) Payment of a bond, to be held by Council for two years, equivalent to the fee that would be payable under part (1), shall be paid to Council, for street tree works carried out by a Council approved contractor.

If trees are to be planted by a Council approved contractor, the following information is to be submitted to Council prior to works commencing:

- (a) Company trading name
- (b) Contractor's license number
- (c) Relevant experience of company
- (d) Relevant qualifications of key staff undertaking the works

Planting by a contractor can only occur during the next available planting season (May-August).

The condition requires the three existing prunus trees on the nature strip referenced as trees numbers 2, 5 and 6 in the Arboricultural Assessment report to be replaced with crepe myrtles to match the existing streetscape.

- C.11 Prior to works commencing on site:
- i) Council must be notified of any damage to kerb and gutter and footpath fronting the site. The absence of such notification shall indicate that no damage exists and the applicant shall be responsible for the repair of any damage to kerb and gutter or footpath fronting the site.
  - ii) Satisfactory protection for existing public infrastructure must be provided and maintained throughout the construction period.
- C.12 One of the existing street trees fronting the property shall be retained and protected from the proposed development. This tree is identified as a crepe myrtle and tree no.1 in the Arboricultural Assessment report. The tree shall not be impacted upon in any way without the consent of Council's Supervisor of Tree Planning and Management.

A Tree Protection Zone (TPZ) shall be constructed around the tree in accordance with Australian Standards - AS 4970-2009 Protection of Trees on Development Sites.

Construction of Tree Protection Zone's, shall be completed and inspected by Council's Supervisor of Tree Planning and Management, prior to the commencement of any site works. Contact can be made by phoning 1300 292442 during normal business hours.

Removal, relocation or disruption of the Tree Protection Zone fencing will be considered as a breach of this consent. TPZ fences shall remain in place until the end of construction.

- C.13 A Section 68 Approval must be obtained from Council prior to any sewer or stormwater work being carried out on the site.  
The licensed plumber must submit to Council, at least two (2) days prior to the commencement of any plumbing and drainage works on site a "Notice of Works".  
NOTE: A copy of the Notice of Works form can be found on Council's website.

### **Requirements during construction or site works**

- C.14 The Builder must at all times maintain, on the job, a legible copy of the plans and specifications approved with the Development Application.
- C.15 All excavation and backfilling associated with the erection/demolition of the building must be properly guarded and protected to prevent them from being dangerous to life or property.
- C.16 The permitted construction hours are Monday to Friday 7.00am to 6.00pm and Saturday 7.00am to 5.00pm, excepting public holidays. All reasonable steps must be taken to minimise dust generation during the demolition and/or construction process. Demolition and construction noise is to be managed in accordance with the NSW Environment and Heritage Guidelines.
- C.17 All earthworks, filling, building, driveways or other works, must be designed and constructed (including stormwater drainage if necessary) so that at no time, will any ponding of stormwater occur on adjoining land as a result of this development.
- C.18 No construction materials, plant or equipment relating to work authorised by this consent are to be placed or stored within the road reserve (South Parade or South Parade Lane) during the period in which work authorised by this consent will be carried out, without the prior written approval of the Council.
- C.19 Any damage to Council infrastructure within the public domain must be rectified at full cost to the applicant and to the satisfaction of Council.
- C.20 Given that there is electricity infrastructure within proximity to the property,  
(i) any activities within this location must be undertaken in accordance with the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure. Approval may be required from Essential Energy should activities within the property encroach on the electricity infrastructure. A copy of this guideline can be located at [https://energy.nsw.gov.au/sites/default/files/2018-09/ISSC-20-Electricity-Easements\\_0.pdf](https://energy.nsw.gov.au/sites/default/files/2018-09/ISSC-20-Electricity-Easements_0.pdf) ;  
(ii) it is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities. SafeWork NSW ([www.safework.nsw.gov.au](http://www.safework.nsw.gov.au)) has publications that provide guidance when working close to electricity infrastructure. These include the Code of Practice - Work near Overhead Power Lines and Code of Practice - Work near Underground Assets.
- C.21 Prior to carrying out any works, a "Dial Before You Dig" enquiry should be undertaken in accordance with the requirements of Part 5E (Protection of Underground Electricity Power Lines) of the Electricity Supply Act 1995 (NSW).

- C.22 If any unconsolidated, odorous, stained, or deleterious soils are encountered during any further excavation, hazardous building materials or suspected historical contaminating activities are encountered, or conditions that are not alike the above descriptions, the site supervisor should be informed immediately, and work must be stopped. The unexpected findings must be reported to and evaluated by an appropriately qualified and certified environmental practitioner prior to works recommencing.
- C.23 Any fill placed on the site shall be either:
- ‘Virgin Excavated Natural Material’ as defined by the Protection of the Environment Operations Act 1997, or
  - Material that complies with the ‘excavated natural material order 2014’ made under the Protection of the Environment Operations (Waste) Regulation 2014.
- C.24 Any upgrades or alterations to existing Council infrastructure required as a result of the development shall be at the full cost of the applicant. Contact Council’s Development Engineer to confirm what approval is required prior to commencing work on any Council infrastructure. Such work includes (but is not limited to) upgrade or connection to sewer or stormwater mains, and alteration of stormwater pits and sewer manhole levels.
- C.25 The developer is to maintain all adjoining public roads to the site in a clean and tidy state, free of excavated “spoil” material.
- C.26 Trees indicated on the submitted plans for removal and the three street trees that are recommended for removal (see condition C10), shall be removed from the site in accordance with the proposed development. Further consent is not required for removal of the subject trees in conjunction with this development.

The approved works shall be executed so as to comply with ‘Safework NSW Tree work (arboriculture)’. Any works associated with tree removal shall be carried out in Accordance with Australian Standards - AS 4373-2007, Pruning of Amenity Trees.

All tree stumps shall be removed below ground level and the surface area reinstated to prevent potential injury. All waste material from the subject tree/s shall be removed from site in conjunction with clearing.

### **Requirements prior Occupation**

- C.27 Prior to occupation the redundant kerb laybacks in South Parade shall be replaced with conventional barrier kerbing, and Council’s footway rehabilitated, in accordance with Council’s Engineering Guidelines for Subdivisions and Developments.
- C.28 Prior to occupation, the paving of all vehicular movement areas must be either a minimum of 150mm thick flexible pavement and sealed or 150mm thick reinforced concrete.
- C.29 Prior to occupation, vehicular access within the road reserve must be constructed to Council standards, at full cost to the developer, by a Council approved concreter. A list of Council approved concreters who hold a 138 permit can be found on Council’s website. Driveway design and grades shall comply with AS2890.1: 2004 (or as amended) and Council’s Engineering Guidelines for Subdivisions and Developments.



- C.30 Prior to occupation the building number must be displayed in a position clearly visible from the street in letters having a height of not less than 75 mm. The number must be visible against the background on which it is placed.
- C.31 Prior to occupation, Works-As-Executed (WAE) plans of the constructed On-Site Detention system shall be submitted to Council. The WAE plans shall confirm the volume of constructed storage areas, installation of orifice plates, pipe and pit levels and surface levels of overland flow paths. Certification shall be provided by a practising Civil Engineer that the constructed On-Site Detention system will function as intended in accordance with the approved plans.
- C.32 Prior to occupation all lots shall be consolidated into one lot. Evidence of registration of the consolidation shall be provided to Council.
- C.33 A final inspection must be carried out upon completion of plumbing and drainage work and prior to occupation of the development, prior to the issuing of a final plumbing certificate Council must be in possession of Notice of Works, Certificate of Compliance and Works as Executed Diagrams for the works. The works as Executed Diagram must be submitted in electronic format in either AutoCAD or PDF file in accordance with Council requirements.

All plumbing and drainage work must be carried out by a licensed plumber and drainer and to the requirements of the Plumbing and Drainage Act 2011.

NOTE: Additional fees for inspections at the Plumbing Interim Occupancy / Plumbing Occupation stage may apply. This will depend on the number of inspections completed at this stage of the work/s.

- C.34 Prior to occupation a Water Plumbing Certificate from Riverina Water County Council shall be submitted to Council.

NOTE 1: The applicant is to obtain a Plumbing Permit from Riverina Water County Council before any water supply/plumbing works commence and a Compliance Certificate upon completion of the works. Contact Riverina Water County Council's Plumbing Inspector on 6922 0618. Please be prepared to quote your Development Application number.

### **General requirements**

- C.35 The car park and all associated facilities must be laid out in accordance with Australian Standards AS2890.1.2004 AS2890.2 2002 and AS/NZS2890.6.2009.

## **D. SCHEDULE D – Activity Approval Conditions (Section 68)**

N/A

## **E. SCHEDULE E – Prescribed Conditions**

Conditions under this schedule are prescribed conditions for the purposes of section 4.17 (11) of the Environmental Planning and assessment Act 1979.

- E1 Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989 (clause 69 EP&A Reg 2021)

- (1) It is a condition of a development consent for development that involves building work that the work must be carried out in accordance with the requirements of the Building Code of Australia.

- (2) It is a condition of a development consent for development that involves residential building work for which a contract of insurance is required under the Home Building Act 1989, Part 6 that a contract of insurance is in force before building work authorised to be carried out by the consent commences.
- (3) It is a condition of a development consent for a temporary structure used as an entertainment venue that the temporary structure must comply with the Building Code of Australia, Volume 1, Part B1 and NSW Part I5.
- (4) In subsection (1), a reference to the Building Code of Australia is a reference to the Building Code of Australia as in force on the relevant date.
- (5) In subsection (3), a reference to the Building Code of Australia is a reference to the Building Code of Australia as in force on the day on which the application for development consent was made.
- (6) This section does not apply-
  - (a) to the extent to which an exemption from a provision of the Building Code of Australia or a fire safety standard is in force under the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, or
  - (b) to the erection of a temporary building, other than a temporary structure to which subsection (3) applies.
- (7) In this section -  
relevant date has the same meaning as in the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, section 19.

E2 Erection of signs (clause 70 EP&A Reg 2021)

- (1) This section applies to a development consent for development involving building work, subdivision work or demolition work.
- (2) It is a condition of the development consent that a sign must be erected in a prominent position on a site on which building work, subdivision work or demolition work is being carried out-
  - (a) showing the name, address and telephone number of the principal certifier for the work, and
  - (b) showing the name of the principal contractor, if any, for the building work and a telephone number on which the principal contractor may be contacted outside working hours, and
  - (c) stating that unauthorised entry to the work site is prohibited.
- (3) The sign must be-
  - (a) maintained while the building work, subdivision work or demolition work is being carried out, and
  - (b) removed when the work has been completed.
- (4) This section does not apply in relation to-
  - (a) building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or
  - (b) Crown building work certified to comply with the Building Code of

Australia under the Act, Part 6.

E3 Notification of Home Building Act 1989 requirements (clause 71 EP&A Reg 2021)

- (1) This section applies to a development consent for development involving residential building work if the principal certifier is not the council.
- (2) It is a condition of the development consent that residential building work must not be carried out unless the principal certifier for the development to which the work relates has given the council written notice of the following-
  - (a) for work that requires a principal contractor to be appointed-
    - i. the name and licence number of the principal contractor, and
    - ii. the name of the insurer of the work under the Home Building Act 1989, Part 6,
  - (b) for work to be carried out by an owner-builder-
    - i. the name of the owner-builder, and
    - ii. if the owner-builder is required to hold an owner-builder permit under the Home Building Act 1989-the number of the owner-builder permit.
- (3) If the information notified under subsection (2) is no longer correct, it is a condition of the development consent that further work must not be carried out unless the principal certifier has given the council written notice of the updated information.
- (4) This section does not apply in relation to Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.

E4 Entertainment venues (clause 72 EP&A Reg 2021)

- (1) The requirements specified in this section are conditions of development consent for the use of a building as an entertainment venue.
- (2) During a stage performance at an entertainment venue, there must be at least 1 suitably trained person in attendance in the stage area at all times for the purpose of operating, if necessary, a proscenium safety curtain, drencher system and smoke exhaust system.
- (3) If a proscenium safety curtain is installed at an entertainment venue, there must be no obstruction to the opening or closing of the curtain and the curtain must be operable at all times.
- (4) When a film is being screened at an entertainment venue, there must be at least 1 person in attendance at the entertainment venue who is trained in-
  - (a) the operation of the projectors being used, and
  - (b) the use of the fire fighting equipment in the room in which the projectors are installed (the projection room).
- (5) If the projection room is not fitted with automatic fire suppression equipment and a smoke detection system, in accordance with the Building Code of Australia, the person required by subsection (4) to be in attendance must be in the projection suite in which the projection room is located during the screening of a film.
- (6) A member of the public must not be present in the projection suite during the screening of a film.
- (7) An entertainment venue must not screen a nitrate film.
- (8) An emergency evacuation plan must be prepared, maintained and

implemented for a building, other than a temporary structure, used as an entertainment venue.

- (9) The emergency evacuation plan must specify the following-
  - (a) the location of all exits, and fire protection and safety equipment, for the part of the building used as an entertainment venue,
  - (b) the number of fire safety officers that must be present during performances,
  - (c) how the audience will be evacuated from the building if there is a fire or other emergency.
- (10) A fire safety officer appointed to be present during a performance must have appropriate training in evacuating persons from the building if there is a fire or other emergency.
- (11) In this section-  
exit has the same meaning as in the Building Code of Australia.

E5 Maximum capacity signage (clause 73 EP&A Reg 2021)

- (1) This section applies to a development consent, including an existing development consent, for the following uses of a building, if the development consent contains a condition specifying the maximum number of persons permitted in the building-
  - (a) an entertainment venue,
  - (b) a function centre,
  - (c) a pub,
  - (d) a registered club,
  - (e) a restaurant or cafe.
- (2) It is a condition of the development consent that a sign must be displayed in a prominent position in the building stating the maximum number of persons, as specified in the development consent, that are permitted in the building.

E6 Shoring and adequacy of adjoining property (clause 74 EP&A Reg 2021)

- (1) This section applies to a development consent for development that involves excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land, including a structure or work in a road or rail corridor.
- (2) It is a condition of the development consent that the person having the benefit of the development consent must, at the person's own expense-
  - (a) protect and support the building, structure or work on adjoining land from possible damage from the excavation, and
  - (b) if necessary, underpin the building, structure or work on adjoining land to prevent damage from the excavation.
- (3) This section does not apply if-
  - (a) the person having the benefit of the development consent owns the adjoining land, or
  - (b) the owner of the adjoining land gives written consent to the condition not applying.

E7 Fulfilment of BASIX commitments (clause 75 EP&A Reg 2021)

It is a condition of a development consent for the following that each commitment

listed in a relevant BASIX certificate is fulfilled-

- (a) BASIX development,
- (b) BASIX optional development, if the development application was accompanied by a BASIX certificate.

E8 Deferred commencement consent (clause 76 EP&A Reg 2021)

- (1) A development consent with a deferred commencement, as referred to in the Act, section 4.16(3), must be clearly identified as a “deferred commencement” consent, whether by using the expression, referring to that section or otherwise.
- (2) A deferred commencement consent must clearly distinguish between-
  - (a) conditions that relate to matters about which the consent authority must be satisfied before the consent can operate (the relevant matters), and
  - (b) other conditions.
- (3) A consent authority may specify the period within which the applicant must produce sufficient evidence to the consent authority to enable it to be satisfied about the relevant matters.
- (4) If the applicant produces evidence in accordance with this section, the consent authority must notify the applicant whether it is satisfied about the relevant matters.
- (5) If the consent authority does not notify the applicant within 28 days after the applicant produces the evidence, the consent authority is taken to have notified the applicant, on the day on which the period expires, that it is not satisfied about the relevant matters.
- (6) Subsection (5) applies for the purposes of the Act, section 8.7 only.

E9 Conditions for ancillary aspects of development (clause 77 EP&A Reg 2021)

- (1) If a consent authority grants development consent subject to a condition referred to in the Act, section 4.17(2) in relation to an ancillary aspect of the development, the consent authority may specify the period within which the ancillary aspect must be carried out to the satisfaction of the consent authority or a person specified by the consent authority.
- (2) The applicant may produce evidence to the consent authority, or to the person specified by the consent authority, sufficient to enable the consent authority or the person to be satisfied in relation to the ancillary aspect of the development.
- (3) For the purposes of the Act, section 4.17(3), the relevant period is the period of 28 days after the applicant’s evidence is produced to the consent authority or a person specified by the consent authority.

E10 Conditions for State significant development (clause 78 EP&A Reg 2021)

A development consent may be granted subject to a condition referred to in the Act, section 4.17(4A) or (4B) only if the development is State significant development.

E11 Review conditions-the Act, s 4.17(10C) (clause 79 EP&A Reg 2021)

- (1) A development consent that is granted subject to a reviewable condition may, as referred to in the Act, section 4.17(10B), be granted subject to a further condition (a review condition) if the development consent relates to the following kinds of development-

- (a) an entertainment venue,
  - (b) a function centre,
  - (c) a pub,
  - (d) a registered club,
  - (e) a restaurant or cafe.
- (2) A development consent that is subject to a review condition must contain the following-
  - (a) a statement that the development consent is subject to the review condition and the purpose of the review condition,
  - (b) a statement that the consent authority will carry out the reviews,
  - (c) when, or at what intervals, the reviews must be carried out.
- (3) The consent authority must give written notice to the operator of a development that is subject to a review condition at least 14 days before carrying out a review.
- (4) The consent authority may notify other persons of the review as it considers appropriate.
- (5) The consent authority must take into account submissions that are received from any person within 14 days after notice of a review is given to the person.

## **F. SCHEDULE F – General Terms of Approval (Integrated Development)**

N/A

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