

ATTACHMENT C – CONDITIONS OF CONSENT

CONDITIONS OF CONSENT

- 1) The proposal shall comply with the conditions of Development Consent. A Construction Certificate shall not be issued until the plans and specifications meet the required technical standards and the conditions of this Development Consent are satisfied.
- 2) Development shall take place in accordance with Development Application No. DA-840/2010, submitted by GAT & Associates, accompanied by Plans:

Job No.: 17-07, Sheet 1 of 4, Issue B, dated August 2011;
Job No.: 17-07, Sheet 1 of 4 (2nd instance), Issue C, dated 8th August 2012;
Job No.: 17-07, Sheet 2 of 4, Issue B, dated August 2011;
Job No.: 17-07, Sheet 3 of 4, Issue B, dated August 2011; and
Job No.: 17-07, Sheet 4 of 4, Issue B, dated August 2011;

prepared by Ross Oliveri, and affixed with Council's approval stamp, except where amended by the conditions contained in this approval.

- 3) No approval is granted or implied for the fitout or operation of the floor space marked as "Café". Separate Development Consent for the fitout and operation of the floor space marked as "Café" is required prior to occupation.
- 4) A separate application shall be submitted to Council prior to the erection of any signage unless the proposed signage is "exempt development" in accordance with Bankstown DCP 2005 – Part D1 or other relevant legislation.
- 5) If any new information comes to light during construction works which has the potential to alter previous conclusions made regarding site contamination, as noted in the contaminated land documentation, works are to cease and Council notified immediately.

Works are to be suspended until the new information and the contaminated land situation is evaluated and an appropriate response determined by the applicant's environmental consultant, which is agreed to by the Accredited Site Auditor and Bankstown City Council.

CONDITIONS FROM ROADS AND MARITIME SERVICES

PROPOSED SIGNALISED ACCESS

- 6) The provision of new traffic control signals and civil works on Henry Lawson Drive shall be designed to meet RMS's requirements and endorsed by a suitably qualified and chartered engineer (i.e. who is registered with Institute of Engineers, Australia). The design requirements shall be in accordance with the RMS's Road Design Guide, the RMS's Traffic Signal Design Manual and other Australian Codes of Practice. Particular reference shall be made to Section 15.11 of RMS's Traffic Signal Design Manual which specifies special

requirements for traffic signal designs on entries to private developments. The certified copies of the traffic signal design plans shall be submitted to the RMS for consideration and approval prior to the release of the construction certificate for all works other than remediation works by the Principal Certifying Authority and commencement of road works. The RMS fees for administration, plan checking, signal works, inspections and project management shall be paid by the developer prior to the commencement of works other than remediation works.

The developer will be required to enter into a Major "Works Authorisation Deed" (WAD) for the abovementioned works. The construction certificate for all works other than remediation works shall not be released until such time that the Major WAD is executed.

It is advised that these conditions of consent do not guarantee the RMS's final consent to the specific road work and other structure works on the classified road network. The RMS must provide a final consent for each specific change to the State road network prior to the commencement of any work other than remediation works.

- 7) The developer will be required to provide an upfront 10 year operational fee for the proposed traffic control signals. The amount of this fee will be advised following the submission of the detailed signal and civil design plans to the RMS for construction approval. The approved plans will not be released until the fee is fully paid.
- 8) The proposed right turn bay into the subject site at the intersection of Henry Lawson Drive and the entrance driveway shall be a minimum of 70m in length. The developer is required to dedicate the first 10 metres of the access driveway off Henry Lawson Drive as public road. This land dedication shall be at full cost to the developer and be executed prior to the release of any construction certificate for all works other than remediation works by the Principal Certifying Authority for the proposed structures on the site. The extent of the land dedication shall be to the RMS's requirements.
- 9) The left turn deceleration lane into the subject site from Henry Lawson Drive shall be a minimum distance of 55 metres in length (including taper). The design of the proposed deceleration lane on Henry Lawson Drive shall be endorsed by a suitably qualified and chartered engineer (i.e. who is registered with Institute of Engineers, Australia). The design requirements (where applicable) shall be in accordance with the RMS's Road Design Guide and other Australian Codes of Practice. The certified copies of the civil design plans shall be submitted to the RMS for consideration and approval prior to the release of the construction certificate for all works other than remediation works by the Principal Certifying Authority and commencement of road works. The existing lane widths along Henry Lawson Drive should not be compromised.
- 10) The abovementioned signal and civil works will need to comply with the RMS's Technical Direction, "*Signalised Entries to Private Developments*" (Reference No.: TDT 2011/03).

- 11) The abovementioned signal access and civil works shall be fully constructed and operational prior to the release of any Occupation Certificate by the Principal Certifying Authority.
- 12) Detailed design plans and hydraulic calculations of any changes to the stormwater drainage system are to be submitted to the RMS for approval, prior to the commencement of any works other than remediation works.

Details should be forwarded to:

**The Sydney Asset Management
Roads and Maritime Services
PO Box 973 Parramatta CBD 2124**

A plan checking fee will be payable and a performance bond may be required before RMS's approval is issued. With regard to the Civil Works requirement, please contact the RMS's Project Engineer, External Works Ph: 8849 2114 or fax: 8849 2766

- 13) The developer shall be responsible for all public utility adjustments/relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents.

PARKING

- 14) The layout of the proposed car parking areas associated with the subject development (including driveways, grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1 – 2004 and AS 2890 – 2002 for service areas.
- 15) Disabled parking spaces should be clearly marked.
- 16) The proposed turning areas within the car park are to be kept clear of any obstacles, including parked cars, at all times.
- 17) The internal aisle ways are to be marked with pavement arrows to direct traffic movements in/out of the site and guide traffic circulation through the car park.

SERVICE AND LOADING AREAS

- 18) A Loading Dock Management Plan (LDMP) shall be undertaken to Council's satisfaction and shall implement appropriate measures to prevent a truck entering the site when all loading docks are full. The LDMP shall be submitted to Council for approval prior to the release of the Occupation Certificate.
- 19) Trucks larger than a medium rigid vehicle (8.8 metre MRVs) are prohibited from entering the site from the south (i.e. by undertaking a right turn) during weekday peaks (4pm to 7pm) and on weekends.

Appropriate signage advising drivers of this requirement shall be incorporated, with the agreement of the RMS and Council's Traffic Committee, as relevant, prior to the issue of any Occupation Certificate.

- 20) Swept path analysis shall be provided demonstrating that the largest vehicle (i.e. 19.0 metre semi-trailer) can undertake the following manoeuvres legally, to the satisfaction of Council and the RMS, prior to the issue of any Construction Certificate:

- a) Enter from the proposed left turn deceleration lane;
- b) Turn around inside the loading areas;
- c) Exit left southbound without encroaching onto the other side of the road.

In this regard, the swept path of the longest vehicle (including garbage trucks) entering and existing the subject site, shall be in accordance with AUSTROADS

- 21) All vehicles are to enter and leave the site in forward directions.
- 22) All vehicles should be wholly contained on site before being required to stop.
- 23) All loading and unloading shall occur on site.

CONSTRUCTION

- 24) All demolition and construction vehicles are to be contained wholly within the site, as no parking will be permitted on Henry Lawson Drive.
- 25) A Road Occupancy Licence should be obtained from the Roads and Maritime Services Transport Management Centre for any works that may impact on traffic flows on Henry Lawson Drive during construction activities.

SAFETY

- 26) The required sight lines to pedestrians or other vehicles in or around the car park or entrances should not be compromised by landscaping, signage, fencing or display materials. In addition, measures should be implemented to improve visibility to pedestrians and other vehicles where sight distance is restricted.
- 27) Clear sight lines shall be provided at the property boundary line to ensure adequate visibility between vehicles leaving the car park and pedestrians along the frontage road footpath in accordance with Figure 3.3 of AS 2890.1 – 2004 for light vehicles and AS 2890.2 – 2002 for heavy vehicles.
- 28) All works/regulatory signposting associated with the proposed development are to be at no cost to the RMS.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

- 29) A Remedial Works Plan (RWP), which includes a Groundwater Management Plan, shall be prepared in accordance with the conditions of Site Audit Statement MP15, prepared by NSW EPA Accredited Site Auditor, Melissa Porter, dated 23 October 2013.

This RWP must be prepared by a suitably qualified and experienced environmental consultant and must comply with applicable guidelines, such as relevant NSW EPA guidelines.

The RWP must be reviewed by a NSW EPA Accredited Site Auditor. The accredited site auditor shall provide written Site Audit Advice to Council indicating that the RWP is appropriate and that the auditor is satisfied. The applicant must adhere to any additional recommendations or requirements which may be imposed by the accredited site auditor.

This written Site Audit Advice must be submitted to the satisfaction of Bankstown City Council prior to commencement of any site works and/or remediation on the site, and prior to the issue of a construction certificate.

- 30) The Certifying Authority must ensure that any certified plans forming part of the Construction Certificate are not inconsistent with this Development Consent and accompanying plans.
- 31) The developer shall negotiate and register a perpetual Right of Access over Lot 1 DP 563421 benefitting the subject land, or provide evidence the right exists in perpetuity, prior to the issue of any Construction Certificate.

To ensure that right of way over Lot 1 DP 563421 remains in perpetuity as an emergency evacuation route, the Certificate of Title shall be updated to include Bankstown City Council as a registered interest / consent party to the extinguishment of the Right of Way. This shall be affected prior to the issue of any Construction Certificate.

- 32) A detailed landscape plan prepared by a qualified landscape architect or designer is to be approved prior to the issue of a Construction Certificate. The landscape plan is to be prepared in accordance with the relevant DCP and is to show all features, built structures including retaining walls, irrigation, mulch and natural features such as significant gardens, landscaping, trees, natural drainage lines and rock outcrops that occur within 3 metres of the site boundary. The landscape plan shall consider any stormwater, hydraulic or overland flow design issues where relevant.
- 33) Approval in accordance with Council's Tree Preservation Order (TPO) is granted to lop or remove only the trees identified to be lopped or removed on the approved plans. Separate approval shall be obtained to prune or remove trees on adjoining properties or other trees located on the site. Failure to comply with Council's TPO may result in a fine of up to \$100,000. The following specific conditions shall be complied with:

Management of areas including threatened communities in Lots 2 and 3

- a) A Vegetation Management Plan (VMP) is to be developed and implemented for the remnant stands of swamp oak floodplain, river flat eucalypt forest on coastal floodplain and Sydney freshwater wetlands.
 - i. The VMP for each lot 2 and 3 is to focus on the biodiversity management and restoration of the identified Communities and habitat values.
 - ii. The VMP is to be produced by a qualified and experienced ecological / restoration ecologist with experience in the identified communities and threatened species management.
 - iii. The VMP must be consistent with any best practice guidelines, recovery plans, threat abatement plans and priority action plans issued by the NSW Office of Environment and Heritage (OEH) for relevant species and ecological communities present on the site. Additionally, the plan should incorporate recommendations in relation to the management of fire for biodiversity and hazard reduction purposes and the management of noxious weed species in compliance with the NSW Noxious Weeds Act, including the riparian zone.
 - iv. The VMP is to be prepared in consultation with Council and OEH to address the specific recommendations for sites containing threatened communities.
 - v. The VMP for lot 2 and 3 is to specifically consider the management and reduction of scheduled key threatening processes in this area (or those which may be introduced or their actions increased as a result of ongoing management) e.g. invasion of native plant communities by exotic perennial grasses.
- b) The existing trees in the front of lot 2 and considered part of an Endangered Ecological Community (EEC) as identified in the flora & fauna assessment report REF:A12086F dated July 2012 are to be replaced in the landscape strip by EEC vegetation species managed under the VMP as indicated.
- c) The requirements of Condition b) above shall also apply for the vegetation to the northern Lot 3. As per the flora & fauna assessment report REF:A12086F dated July 2012, a barrier must be placed in the area to the north to minimise any impact on the residual vegetation. Protective fencing is to be placed on or close to the lot boundary and continue for the length of the area affected.
- d) The landscape area in the car park is to only include locally occurring native species that are sourced locally, and are species consistent with the identified communities on site and on the adjacent lot.
- e) Approved tree removal in accordance with the plan is subject to prior investigation into hollows or cavities which may contain any fauna native

or other or any bird species. An attending arborist or ecologist must note and report all species for possible relocation prior to any removal. WIRES (Ph: 8977 3333) representatives must attend site for advice prior to any tree felling should fauna or bird species be found.

- f) Only those individual trees identified on the plan and within the flora & fauna assessment report REF:A12086F dated July 2012 are to be removed for site works. All existing retained trees are to be protected and fenced during all works prior and during construction.
 - g) No vegetation within lot 3 identified as threatened community and reported on in the flora & fauna assessment report REF:A12086F dated July 2012 is to be removed. This area is to be preserved as a bushland corridor and bushland remnant in perpetuity, in order to offset the removal of vegetation on Lot 2.
- 34) A Soil Erosion and Sedimentation Control Plan shall be prepared in accordance with Council's relevant DCP. The plan shall be prepared by a suitably qualified professional and approved by the Principal Certifying Authority, prior to the issue of the Construction Certificate.
- 35) The approved plans must be submitted to a Sydney Water Quick Check agent or Customer Centre to determine whether the development will affect any Sydney Water asset's sewer and water mains, stormwater drains and/or easement, and if further requirements need to be met. Plans will be appropriately stamped.

Please telephone 13 20 92 or refer to www.sydneywater.com.au for:

- Quick Check agents details – see Building Developing and Plumbing then Quick Check; and
 - Guidelines for Building Over/Adjacent to Sydney Water Assets – see Building Developing and Plumbing then Building and Renovating
- 36) A Construction Certificate shall not be issued until written proof that all bonds, fees and/or contributions as required by this consent have been paid to the applicable authority.
- 37) Prior to issue of a Construction Certificate, a Long Service Levy payment, being 0.35% of the value of the work, is required to be paid to Council on behalf of the Long Service Corporation.
- 38) Pursuant to section 80A(1) of the Environmental Planning and Assessment Act 1979, and the Bankstown City Council Section 94A Development Contributions Plan 2009 (Section 94A Plan), a contribution of \$108,000.00 shall be paid to Council.

The amount to be paid is to be adjusted at the time of actual payment, in accordance with the provisions of the Section 94A plan. The contribution is to be paid before the issue of the construction certificate.

Note: The Section 94A Contributions Plans may be inspected at Council's Customer Service Centre, located at Upper Ground Floor, Civic Tower, 66-72 Rickard Road, Bankstown, between the hours of 8.30am-5.00pm Monday to Friday.

- 39) Finished surface levels of all internal works and at the street boundary, including driveways, landscaping and drainage structures, must be as shown on the approved plans. The levels at the street boundary must be consistent with the Street Boundary Alignment Levels issued by Council or Roads and Maritime Services (RMS) as determined by RMS.
- 40) Stormwater drainage from the development shall be designed so as to comply with Council's Development Engineering Standards. A final detailed stormwater drainage design shall be prepared by a qualified Professional Civil Engineer in accordance with the above requirements and shall generally be in accordance with the concept stormwater plan No. 21980 Revision E, dated 12 September 2012, prepared by STRUCterre Consulting Engineers. The final plan shall ensure to route all of the private drainage to be completely within the site and discharged at one point along the north boundary of the lot and certified by the design engineer that it complies with Council's Development Engineering Standards and the relevant Australian Standards.
- 41) Where Council approved cut or fill exceeds 200mm and stable batter of 1 vertical to 3 horizontal maximum grade cannot be achieved, then a masonry or other proprietary material retaining wall, intended and suitable for that purpose, shall be constructed within the development site. Note, filling of the site needs specific approval from Council.

The retaining wall shall be located so that it will not impede or obstruct the natural flow of stormwater. Retaining walls exceeding 600mm in height shall be designed by a qualified professional Civil/Structural Engineer. Plans and details prepared and signed by the Engineer are to be submitted to the Principal Certifying Authority (PCA) prior to the issue of the Construction Certificate.

All works associated with the construction of the wall, including backfilling and drainage, is to be located wholly within the allotment boundaries.

- 42) An all weather pavement shall be designed to withstand the anticipated wheel loads for all areas subjected to vehicular movements. Internal pavements specification prepared and certified by all qualified professional Civil Engineer to comply with the relevant Australian Standards, shall be submitted to the Principal Certifying Authority (PCA) for approval prior to the issue of a construction certificate.
- 43) The Construction Certificate plans shall include details of the garbage receptacle area. The garbage receptacle area shall not be visible from the street. The garbage receptacle area shall be located within the building or screened from the street by dense landscaping.
- 44) Prior to the issue of any Construction Certificate for this development, the applicant must obtain approval from Council for a Site, Pedestrian and Traffic

Management Plan. This Plan must address the measures that will be implemented for the protection of adjoining properties, pedestrian safety and traffic management and other requirements as specified below.

A PRIVATE CERTIFIER CANNOT APPROVE YOUR SITE, PEDESTRIAN & TRAFFIC MANAGEMENT PLAN

This plan shall include details of the following:

- a) Proposed ingress and egress points for vehicles to and from the construction site;
- b) Proposed protection of pedestrians, adjacent to the construction site;
- c) Proposed hoardings, scaffolding and/or fencing to secure the construction site;
- d) Proposed pedestrian management whilst vehicles are entering/exiting the construction site;
- e) Proposed measures to be implemented for the protection of all public roads and footway areas surrounding the construction site from building activities, crossings by heavy equipment, plant and materials delivery and static load from cranes, concrete pumps and the like;
- f) Proposed method of loading and unloading excavation machines, building material, construction materials and waste containers during the construction period;
- g) Proposed traffic control measures such as advanced warning signs, barricades, warning lights, after hours contact numbers etc are required to be displayed and shall be in accordance with Council's and the NSW Roads and Maritime Services requirements and AS1742.3.
- h) Proposed method of support of any excavation, adjacent to adjoining buildings or the public road. The proposed method of support is to be certified by a Civil Engineer with National Professional Engineering Registration (NPER) in the construction of civil works.
- i) Proposed measures to be implemented in order to ensure that no soil/excavated material is transported on wheels or tracks of vehicles or plant and deposited on the public road.
- j) Proposed measures for protection of the environment including procedures to control environmental impacts of work e.g. sediment control, proper removal, disposal or recycling of waste materials, protection of vegetation and control/prevention of pollution i.e. water, air noise, land pollution.

The approved Site, Pedestrian and Traffic Management Plan is to be implemented prior to the commencement of any works on the construction site. The applicant will be required to pay for inspections by Council Officers in accordance with Council's adopted fees and charges.

In addition a RMS Approval / Road Occupancy Licence will be required for works on Regional or State Roads or within 100m of a traffic facility including roundabouts and traffic signals. Refer to Council's Development Engineering Standards for a list of Regional and State Roads.

- 45) A Work Permit shall be applied for and obtained from Council and/or the RMS for the following engineering works in front of the site, at the applicant's expense:
- a) Driveway entrance and traffic signals to the satisfaction of the RMS.
 - b) Drainage connection to Council's system.
 - c) 1.2 metre wide concrete footway paving along the sites entire frontage to Henry Lawson Drive, to the satisfaction of the RMS.
 - d) Full depth road shoulder to Henry Lawson Drive, to the satisfaction of the RMS.
 - e) Concrete kerb and gutter to Henry Lawson Drive, to the satisfaction of the RMS.
 - f) Removal of all driveway surfaces, reinstatement of laybacks to kerb and gutter and reshaping of the footway, all associated with redundant VFCs.
 - g) Repair of any damage to the public road including the footway occurring during development works.
 - h) Reinstatement of the footway reserve and adjustment or relocation of existing public utility services to match the footway design levels as proposed on the approved Work Permit. Adjustment or relocation to any public utility services shall be carried out to the requirements of the public utility authority.

Note: Any necessary road widening and subsequent land dedication as a result of the above mentioned works shall be provided by the developer at no cost to the RMS or Council, prior to the issue of any occupation certificate.

- 46) As any works within, or use of, the footway or public road for construction purposes requires separate Council approval under Section 138 of the Roads Act 1993 and/or Section 68 of the Local Government Act 1993, Council requires that prior to any Construction Certificate for this development being issued, a Works Permit and or a Roadway/Footpath Building Occupation Permit shall be obtained where one or more of the following will occur, within, on or over the public footway or public road:

A PRIVATE CERTIFIER CANNOT ISSUE THESE PERMITS

WORKS REQUIRING A 'WORKS PERMIT'

- a) Dig up, disturb, or clear the surface of a public footway or public road,
- b) Remove or interfere with a structure or tree (or any other vegetation) on a public footway or public road,
- c) Connect a road (whether public or private) to a classified road,
- d) Undertake footway, paving, vehicular crossing (driveway), landscaping or stormwater drainage works within a public footway or public road,
- e) Install utilities in, under or over a public road,
- f) Pump water into a public footway or public road from any land adjoining the public road,
- g) Erect a structure or carry out a work in, on or over a public road
- h) Require a work zone on the public road for the unloading and or loading of vehicles
- i) Pump concrete from within a public road,

- j) Stand a mobile crane within a public road
- k) Store waste and recycling containers, skips, bins and/or building materials on any part of the public road.
- l) The work is greater than \$50,000.
- m) Demolition is proposed.
- n) Subdivision is proposed.
- o) A Swimming pool is proposed.

Assessment of Works Permits (a to e) includes the preparation of footway design levels, vehicular crossing plans, dilapidation reports and issue of a Road Opening Permit.

All proposed works within the public road and footway shall be constructed under the supervision and to the satisfaction of Council. The applicant/developer shall arrange for necessary inspections by Council whilst the work is in progress.

For commercial or multi-unit residential developments within the designated CBD or an urban village area, footway design and construction and street tree supply, installation and tree hole detailing shall be as per the Council master plan for that area. Full width footways are to be supplied and installed at full cost to the developer to specification as supplied by Council. Layout plan of pavement to be submitted to Council for approval prior to the issue of the Works Permit.

All Council fees applicable, minimum restoration charges and inspection fees shall be paid prior to the assessment of the Work Permit in accordance with Council's adopted fees and charges. Note: Additional fees after approval will be charged where the Work Permit requires occupation of the Road or Footpath i.e. Hoardings, Work Zones etc.

In determining a Works Permit, Council can impose conditions and require inspections by Council Officers.

Forms can be obtained from Council's Customer Service counter located on the ground floor of Council's administration building at 66 - 72 Rickard Road, Bankstown or Council's website www.bankstown.nsw.gov.au

Part of any approval will require the person or company carrying out the work to carry public liability insurance to a minimum value of ten million dollars. Proof of the policy is to be provided to Council prior to commencing any work approved by the Work Permit including the Road Opening Permit and must remain valid for the duration of the works.

The commencement of any works on public land, including the footway or public road, may incur an on the spot fine of not less than \$1100 per day that work continues without a Works Permit and/or a Roadway/Footpath Building Occupation Permit.

All conditions attached to the permit shall be strictly complied with prior to occupation of the development. Works non-conforming to Council's

specification (includes quality of workmanship to Council's satisfaction) shall be rectified by the Council at the applicant's expense.

- 47) A Trade Waste Agreement shall be obtained from Sydney Water prior to the discharge of trade wastewater to the sewer system. Wastewater treatment equipment is to be bunded and where systems are placed outside, they are to be roofed to ensure that no rainwater can enter the bund. All wastewater treatment devices shall be regularly maintained in order to remain effective. All solid and liquid wastes collected from the device must be disposed of in accordance with the Protection of the Environment Operations Act 1997.
- 48) The route for transportation to and from the development site of bulk and excavation materials shall generally be by the shortest possible route to the nearest "regional road", with every effort to avoid school zones on public roads. The applicant shall nominate the route for approval by Council prior to commencement of any work on the site. An Agreement to Council's satisfaction, signed by the applicant/owner specifying the approved route and acknowledging responsibility to pay Council for damages to public property adjacent to the site shall be lodged with Council prior to release of any Construction Certificate. All damage must be rectified upon completion of work.
- 49) A report prepared by a suitably qualified acoustic consultant shall be submitted with the Construction Certificate application. The report shall demonstrate that noise levels associated with the operation of the facility, including music/vibration/plant shall not exceed 45dBA during the evening period of 6pm - 10pm at the residential boundary, and the noise level shall not be greater than 5dBA above the background at any time during the entire day. The report shall detail any works required in order to comply with these requirements with regard to the following specific matters:
 - a) Acoustic Treatment of any proposed Plant and Machinery
 - b) Operational Matters including the use of loading docks, the reversing of vehicles and the use of the car park
 - c) Operation of the Fitness Centre, including the fixing of any windows on the southern elevation (except for those associated with toilets), and the use of air-conditioning when the fitness centre is in use, in order to retain noise levels within the building.

The Construction Certificate plans shall include all of the attenuation measures recommended in the Acoustics Report. The development shall be constructed to include all of the recommended attenuation measures and the acoustic consultant shall certify that all recommendations have been incorporated into the development prior to the issue of the Occupation Certificate.

- 50) The developer shall provide Certification by a Suitably Qualified Structural Engineer to state that all structures have been designed to have flood compatible building components below the 100-year flood level plus freeboard.
- 51) The developer shall provide Certification by a Suitably Qualified Structural Engineer to state that all structures (including the emergency evacuation route)

are designed to withstand the forces of floodwater, debris and buoyancy up to and including a 100-year flood plus freeboard.

- 52) The proposed boundary fencing shall be an open collapsible hinged fence structure or pool type fence or louvre fencing; it may not be a brick or masonry type fence. An engineers report is to certify that the proposed fencing is adequately constructed so as to withstand the forces of floodwaters, or collapse in a controlled manner to prevent the undesirable impediment of floodwaters.
- 53) The Interim Flood Emergency Plan is to be finalised at the Construction Certificate stage, to the satisfaction of Council. A report from a suitably qualified and experienced person will be required if circumstances are possible where the evacuation of persons might not be achieved within the effective warning time.

CONDITIONS TO BE SATISFIED PRIOR TO CONSTRUCTION

- 54) Permission is granted for the demolition of the shed currently existing on the property, subject to strict compliance with the following: -
 - a) The developer is to notify adjoining residents seven (7) working days prior to demolition. Such notification is to be clearly written on A4 size paper giving the date demolition will commence and be placed in the letterbox of every premises (including every residential flat or unit, if any) either side, immediately at the rear of, and directly opposite the demolition site.
 - b) Written notice is to be given to Bankstown City Council for inspection prior to demolition. Such written notice is to include the date when demolition will commence and details of the name, address, business hours and contact telephone number and licence number of the demolisher. The following building inspections shall be undertaken by Bankstown City Council:
 - (i) A *precommencement* inspection shall be carried out by Council when all the site works required as part of this consent are installed on the site and prior to demolition commencing.
 - (ii) A *final* inspection shall be carried out by Council when the demolition works have been completed to ensure that the site is left in a satisfactory manner, in accordance with the conditions of this consent.
- NOTE:** Payment of an inspection fee at Council's current rate will be required prior to each inspection. Council requires 24 hours notice to carry out inspections. Arrangements for inspections can be made by phoning **9707 9410, 9707 9412 or 9707 9635.**
- c) Prior to demolition, the applicant must erect a sign at the front of the property with the demolisher's name, license number, contact phone number and site address.

- d) Prior to demolition, the applicant must erect a 2.4m high temporary fence or hoarding between the work site and any public place. Access to the site shall be restricted to Authorised Persons Only and the site shall be secured against unauthorised entry when the building work is not in progress or the site is otherwise unoccupied. Where demolition is to occur within 3m of a public place a Work Permit application for the construction of a Class A or Class B hoarding shall be submitted to Council for approval.
- e) The demolition plans must be submitted to the appropriate Sydney Water Office to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements. If the development complies with Sydney Water's requirements, the demolition plans will be stamped indicating that no further requirements are necessary.
- f) Demolition is to be carried out in accordance with the appropriate provisions of Australian Standard AS2601-2001.
- g) The hours of demolition work shall be limited to between 7.00am and 6.00pm on weekdays, 7.00am and 1.00pm on Saturdays and no work shall be carried out on Sundays and public holidays, and weekends (Saturdays and Sundays) adjacent to public holidays.
- h) Where materials containing asbestos cement are to be removed, demolition is to be carried out by licensed contractors who have current WorkCover Accreditation in asbestos removal.
- i) Hazardous or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of WorkCover NSW and the Department of Environment and Heritage.
- j) Demolition procedures shall maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal.
- k) During demolition, the public footway and public road shall be clear at all times and shall not be obstructed by any demolished material or vehicles. The public road and footway shall be swept (NOT hosed) clean of any material, including clay, soil and sand. (NOTE: If required, Council will clean the public road/footway at the applicant's expense). On the spot fines may be levied by Council against the demolisher and or owner for failure to comply with this condition.
- l) All vehicles leaving the site with demolition materials shall have their loads covered and vehicles shall not track soil and other material onto the public roads and footways and the footway shall be suitably protected against damage when plant and vehicles access the site. All loading of vehicles with demolished materials shall occur on site.

- m) The burning of any demolished material on site is not permitted and offenders will be prosecuted.
 - n) Care shall be taken during demolition to ensure that existing services on the site (i.e. sewer, electricity, gas, phone) are not damaged. Any damage caused to existing services shall be repaired by the relevant authority at the applicant's expense.
 - o) Suitable erosion and sediment control measures shall be erected prior to the commencement of demolition works and shall be maintained at all times.
 - p) Prior to the demolition of any building constructed before 1970, a Work Plan shall be prepared and submitted to Council in accordance with Australian Standard AS2601-2001 by a person with suitable expertise and experience. The Work Plan shall outline the identification of any hazardous materials, including surfaces coated with lead paint, method of demolition, the precautions to be employed to minimise any dust nuisance and the disposal methods for hazardous materials.
- 55) The erection of any building / subdivision works in accordance with this development consent must not be commenced until:
- a) Detailed plans and specifications have been endorsed with a Construction Certificate (by the consent authority or an accredited certifier), and
 - b) The person having benefit of the Development Consent has appointed a 'principal certifying authority' (PCA), and has notified the consent authority and the Council (if Council is not the consent authority) of the appointment, and
 - c) The person having benefit of the development consent has given at least 2 days notice to the Council of their intention to commence the development works the subject of this consent.
- 56) Existing trees within the vicinity of the construction works or paths of travel for construction vehicles accessing the development that are to be retained shall be protected with temporary fencing of a style non injurious to tree roots, placed 2m from the trunk base of the existing tree to prevent damage during construction, and retained in accordance with Council's Tree Preservation Order. There is to be no stockpiling of materials within the 2m fenced zone. The following must be adhered to:
- No fill, excavated material, building material or other items are to be placed around retained trees.
 - No excavation is to take place around the root zone or canopy of retained trees.
 - All preservation zones are to be mulched to a depth of no less than 70 – 100mm using a suitable organic mulch or sand around the trees to be retained, i.e. around the root zone or canopy of trees.
 - Fencing around retained trees is to be in place prior to commencement of site works and is to be kept in place during all construction, until final inspection is undertaken.

- Fences should be signposted to warn contractors of their purpose.
 - Treatment and pruning of trees may only be undertaken by qualified arborists after approval of Council.
 - Any tree removal carried out on Saturdays is permitted only between the hours of 7am and 1pm inclusive, Sunday removals **not** permitted.
 - Construction to begin only when the above procedures are in place.
 - Failure to comply with these conditions will result in an on the spot fine.
- 57) The site shall be remediated in accordance with the “Remedial Action Plan, 479 Henry Lawson Drive, Milperra, NSW”, by Environmental Earth Sciences, dated 17 October 2013 (Version 3) and the Remedial Works Plan which has been reviewed to the satisfaction of a NSW EPA Accredited Site Auditor.
- 58) Suitable erosion and sediment control measures shall be erected in accordance with the plans accompanying the Construction Certificate prior to the commencement of construction works and shall be maintained at all times.
- 59) Council warning sign for Soil and Water Management must be displayed on the most prominent point of the site, visible to both the street and site works. The sign must be displayed throughout the construction period.
- 60) Prior to commencement, the applicant must provide a temporary on-site toilet if access to existing toilets on site is not adequate.
- 61) A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au then refer to “Water Servicing Coordinator” under “Developing Your Land” or telephone 13 20 92 for assistance.

Following application a “Notice of Requirements” will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, as it can take some time to build water/sewer pipes and this may impact on other services and building, driveway or landscape design.

- 62) Prior to the commencement of any building work a fence shall be erected along the property boundaries of the development site, except where an existing 1.8m high boundary fence is in good condition and is capable of securing the site. Any new fencing shall be temporary (such as cyclone wire) and at least 1.8m high.

All fencing is to be maintained for the duration of the construction to ensure that the site is secured and privacy of the adjoining properties is not compromised.

Where the building work is located within 3.6m of a public place then a Class A or Class B hoarding shall be constructed appropriate to the works proposed. A

Works Permit for such hoardings shall be submitted to Council for approval prior to the issue of any Construction Certificate.

- 63) A sign shall be displayed on the site indicating the name of the person responsible for the site and a telephone number of which that person can be contacted during and outside normal working hours or when the site is unattended.
- 64) For development that involves any building work, subdivision work or demolition work, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition is being carried out:
- a) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted during and outside working hours, and
 - c) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

Note: This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building, or in relation to Crown building work that is certified, in accordance with Section 116G of the Act, to comply with the technical provisions of the State's building laws.

CONDITIONS TO BE SATISFIED DURING CONSTRUCTION

- 65) The hours of site works shall be limited to between 7.00am and 6.00pm on weekdays and 7.00am and 1.00pm on Saturdays. No work shall be carried out on Sundays and public holidays, and weekends (Saturdays and Sundays) adjacent to public holidays.
- 66) The building work must be carried out in accordance with the requirements of the Building Code of Australia, the provisions of the relevant Australian Standards and the approved plans.
- 67) Prior to the ground floor slab being poured, an identification report prepared by a registered surveyor shall be submitted verifying that the proposed slab's finished ground floor level and siting to the property boundary conforms with the approved plans.
- 68) All Civil and Hydraulic engineering works on site must be carried out in accordance with Council's Development Engineering Standards. All Civil and Hydraulic engineering works associated with Council's assets and infrastructure must be carried out in accordance with Council's Work Permit requirements and to Council's satisfaction.

- 69) All excavations and backfilling must be executed safely and in accordance with the relevant Australian Standards.
- 70) If the soil conditions require it, retaining walls or other approved methods of preventing movement of the soil must be provided, and adequate provisions must be made for drainage. Separate approval may be required for retaining walls should they be required.
- 71) If an excavation extends below the level of the base of the footings of an adjoining building or a building on an adjoining allotment of land, the person causing the excavation to be made:
- a) if necessary, must underpin and support the building in an approved manner, and
 - b) must, at least 7 days before excavating below the level of the base of the footings of a building give notice of intention to do so to the owner of that building and furnish particulars of the excavation to the owner of the building being erected or demolished.
 - c) must take all precautions to protect all of the structures from damage.

The owner of any affected buildings is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on an adjoining allotment of land.

- 72) The stormwater drainage system shall be constructed in accordance with Council's Development Engineering Standards and the engineering plans and details approved by the Principal Certifying Authority (PCA).
- 73) A suitably qualified Professional Civil or Structural Engineer shall be engaged by the developer to carry out inspections relating to construction of internal driveways and parking areas. The work shall be carried out in accordance with the approved plans and specifications and certification from the Civil or Structural Engineer is to be provided upon completion.
- 74) Access to the site across the adjoining Council Reserve/Property is not permitted. There shall be no stock piling of materials, storage of equipment or work carried out on the adjoining Council Reserve/Property.
- 75) Prior to the commencement of work, the builder shall prepare a photographic record of the road reserve which clearly shows its condition prior to works occurring on site. For the entirety of demolition, subdivision or construction works, there shall be no stockpiling of building spoil, materials, or storage of equipment on the public road, including the footway and the road reserve shall be maintained in a safe condition at all times. No work shall be carried out on the public road, including the footway, unless a Work Permit authorised by Council has been obtained.
- 76) If removal of asbestos impacted soils is required, this must be undertaken in accordance with the relevant WorkCover NSW regulations, including the Work Health & Safety Regulation 2011 and relevant NSW EPA regulations, including the EPA Waste Classification Guidelines 2009.

- 77) Any fill imported on to the site shall be validated to ensure that it is suitable for the proposed land use. This validation information must be submitted to the satisfaction of Council. Fill imported on to the site shall also be compatible with the existing soil characteristic for site drainage purposes.

CONDITIONS TO BE SATISFIED PRIOR TO OCCUPATION

- 78) The use of a building in accordance with this Development Consent must not be commenced until Council or the PCA has issued an Occupation Certificate for the building and site works.
- 79) A final Occupation Certificate shall not be issued until all conditions relating to demolition, construction and site works of this development consent are satisfied and Council has issued a Work Permit Compliance Certificate.
- 80) A Copy of the Work Permit Compliance Certificate and any Compliance Certificate issued by the RMS, for works within Henry Lawson Drive, shall be submitted to the PCA prior to the issue of the Occupation Certificate.
- 81) Any necessary road widening and subsequent land dedication as a result of the works required under Condition 45 of this Determination Notice shall be provided by the developer at no cost to the RMS or Council, prior to the issue of any Occupation Certificate.
- 82) One hundred and ninety-nine (199) off street car spaces being provided in accordance with the submitted plans.

An appropriate number of the above car parking spaces are to be provided for people with mobility impairment in accordance with AS 2890.1. All car parking spaces shall be allocated and marked according to these requirements.

- 83) An Emergency Response Management Plan shall be prepared and submitted to Council's satisfaction. The Plan shall include the following:
- a) List of chemicals and maximum quantities to be stored at the site;
 - b) Identification of potentially hazardous situations;
 - c) Procedure for incident reporting;
 - d) Details of spill stations and signage;
 - e) Containment and clean-up facilities and procedures; and
 - f) The roles of all staff in the plan and details of staff training.
 - g) There shall be no storage of materials below the design flood level which may cause pollution or be potentially hazardous during any flood.
- 84) Landscaping is to be installed in accordance with the approved landscape plan. All works and methods nominated and materials and plants specified on the approved landscape plan are to be completed prior to the issue of an occupation certificate. The landscaping shall be maintained for the life of the development.
- 85) A suitably qualified Professional Civil Engineer shall certify that the driveways, parking bays, and service areas have been constructed in accordance with the

approved plans and specifications. Such Certification shall be submitted prior to the issue of the Occupation Certificate or occupation of the site.

- 86) The Section 73 Certificate must be submitted to the Principal Certifying Authority before occupation of the development.
- 87) Upon completion of remediation works, a Validation Report must be prepared by an appropriately qualified and experienced environmental consultant. This report must comply with relevant guidelines, including but not limited to, the NSW EPA 'Guidelines for Consultants Reporting on Contaminated Sites 2011.' This report must outline that the required remediation work has been completed and that the site is suitable for the proposed land use.

The Validation Report must be reviewed by a NSW EPA accredited site auditor and written Site Audit Advice or a Site Audit Statement provided to Council which indicates that the site has been remediated to the level required for the proposed land use. The applicant must also adhere to any additional conditions or requirements which may be imposed by the accredited site auditor.

The written Site Audit Advice or Site Audit Statement shall be submitted to the satisfaction of Bankstown City Council prior to the issue of an occupation certificate.

- 88) A Long-term Site Management Plan (SMP) (also known as an Environmental Management Plan) shall be prepared, as a condition of Site Audit Statement No. MP 15, dated 23 October 2013, by NSW EPA Accredited Site Auditor, Melissa Porter.

The Long-term Site Management Plan must be prepared by an appropriately qualified and experienced environmental consultant. The SMP must comply with relevant guidelines including, but not limited to, the NSW EPA 'Guidelines for Consultants Reporting on Contaminated Sites 2011.'

The SMP must address the recommendations presented by the accredited site auditor in 'Section 15. Ongoing Site Management' of the "Site Audit Report, Remedial Action Plan, 479 Henry Lawson Drive, Milperra" by Environ Australia P/L, October 2013.

The SMP shall also be reviewed to the satisfaction of a NSW EPA accredited site auditor and be accepted by Bankstown City Council (in the form of written advice to the applicant), prior to its finalisation.

The Accredited Site Auditor shall prepare and provide a copy of the Site Audit Statement to Council. The applicant/developer must also adhere to any recommendations, conditions or requirements imposed by the site auditor with respect to the SMP.

This SMP shall be submitted to the satisfaction of, and accepted by Bankstown City Council prior to the issue of an occupation certificate.

- 89) With respect to condition no. 88, a positive covenant must be registered on the title of the property under the relevant section of the Conveyancing Act 1919, which refers to the Long-term Site Management Plan.

The terms of the positive covenant must read as follows; "The registered proprietor or occupier of the land shall ensure that land is managed in accordance with the requirements of the Long-term Site Management Plan (title of Plan to be advised)."

This positive covenant shall be registered with NSW Land and Property Information to the satisfaction of Bankstown City Council prior to the issue of an occupation certificate.

- 90) A Site Audit Statement shall be prepared by a NSW EPA Accredited Site Auditor that certifies that the site is suitable for the proposed use, subject to the implementation of the Long-Term Site Management Plan or any additional conditions or requirements as stipulated by the Site Auditor. A copy of the Site Audit Statement must be submitted to the satisfaction of Bankstown City Council prior to the issue of an occupation certificate.
- 91) The development shall be constructed to include all of the recommended noise attenuation measures and the acoustic consultant shall certify that all recommendations have been incorporated into the development prior to the issue of the Occupation Certificate.
- 92) The developer shall create a suitable Easement for Drainage of Water over Lot 3 DP 576251 to benefit the subject land prior to the issue of any Final Occupation Certificate for the development.
- 93) Gates shall be provided at either end of the emergency evacuation route prior to issue of any Occupation Certificate. The gates shall be designed so as to be activated from the egress route to the road only and shall lock into place when they are in operation.
- 94) A registered surveyor shall prepare a Work As Executed Plan, and a suitably qualified Hydraulic Engineer shall provide certification of the constructed on-site stormwater detention system.

The Work As Executed information shall be shown in red on a copy of the approved stormwater plan and shall include all information specified in Council's Development Engineering Standards. The Work As Executed plan shall be submitted to the Hydraulic Engineer prior to certification of the on-site stormwater detention system.

The engineer's certification of the on-site stormwater detention system should be carried out similar to Council's standard form "On-Site Stormwater Detention System - Certificate of Compliance", contained in Council's Development Engineering Standards.

A copy of the Work As Executed Plan and Hydraulic Engineer's Certification shall be submitted to Council for information prior to issue of the final occupation certificate.

USE OF THE SITE

95) The hours of operation of the use shall be limited to the following:

- a) Retail Plant Nursery, Landscape Shop and office premises: Monday – Friday 7am – 9pm, Saturday and Sunday 8am – 6pm.
- b) Trade Shop: Monday – Friday 7am – 6pm, Saturday 8am – 1pm.
- c) Fitness Centre: 5.30am – 10pm, 7 days per week

No operation is permitted outside the hours nominated in this condition.

96) Deliveries are only permitted to the site between the hours of 7am – 6pm Monday to Friday, and 8am – 1pm Saturday. No deliveries are to occur outside of these hours.

97) Appropriate dust control methods are to be implemented to ensure no dust-related issues affect surrounding properties, and to ensure compliance with Conditions 100 and 105 of this Determination Notice. Failure to comply with these conditions may result in the issuing of Penalty Infringement Notices.

98) Car parking spaces for one hundred and ninety-nine (199) vehicles shall be provided in marked spaces in the manner generally shown on the approved site plan. The car parking spaces, driveways and manoeuvring areas are to be used for employees and visitors vehicles only and not for the storage of new or used materials, finished goods or commercial vehicles.

99) All loading and unloading of goods shall take place within the site or from the adjoining service lane in a manner that does not interfere with parking areas, driveways or landscaping.

100) There shall be no emissions of noise, smoke, smell, vibration, gases, vapours, odours, dust, particulate matter, or other impurities which are injurious or dangerous to health, or the exposure to view of any unsightly matter or otherwise.

101) All waste materials associated with the use shall be stored in containers located either within the building or behind screen walls in accordance with the approved plans.

102) The applicant shall enter into a commercial contract for the collection of wastes and recycling. A copy of the commercial waste and recycling contract shall be lodged with Council and invoices should be available for inspection at any time.

103) All chemicals shall be stored, handled and disposed of in accordance with:

- a) AS1940-2004 "The Storage and Handling of Flammable and Combustible Liquids."
- b) NSW EPA's "Environment Protection Manual for Authorised Officers: Technical Section (Bunding and Spill Management)."
- c) NSW EPA's "Assessment, Classification and Management of Liquid and Non Liquid Wastes 1999" and the Protection of the Environment Operations Act 1997.
- d) Work health and safety requirements of the NSW WorkCover Authority.

There shall be no storage of materials below the design flood level which may cause pollution or be potentially hazardous during any flood.

- 104) All filtration devices for odour control shall be regularly maintained to prevent odour problems.
- 105) The use of the premises shall not contravene the Protection of the Environment Operations Act, 1997. The operation of the premises shall be carried out in accordance with the requirements of the NSW Office of Environment and Heritage, if applicable.
- 106) No signs or goods are to be displayed or trading of any description is to be carried out on the public road, public footway, utility service land, customer and/or employee parking area or the driveways or pedestrian walkways outside or in the immediate vicinity of the premises.
- 107) Instructions concerning procedures to be adopted in the event of an emergency are to be clearly displayed on the premises for both public and staff information at all times.
- 108) No external signage is approved under this development consent. External signage details must be submitted to Council for approval prior to installation.
- 109) Any lighting on the site shall be designed so as not to cause nuisance to other residences in the area or to motorists on nearby public roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with the Interim Australian Standard AS 4282-1997 The Control of the Obtrusive Effects of Outdoor Lighting.
- 110) Noise levels associated with the operation of the facility, including music/vibration/plant shall not exceed 45dBA during the evening period of 6pm - 10pm at the residential boundary, and the noise level shall not be greater than 5dBA above the background at any time during the entire day. All of the recommended attenuation measures contained in the acoustic report relating to the operation of the premises shall be implemented at all times during the operation of the development, and particularly in regards to the following specific matters:
 - a) Acoustic Treatment of any Plant and Machinery;
 - b) Operational Matters including the use of loading docks, the reversing of vehicles and the use of the car park;

- c) Operation of the Fitness Centre, including the fixing of any windows on the southern elevation (except for those associated with toilets), and the use of air-conditioning when the fitness centre is in use, in order to retain noise levels within the building.
- 111) At no time shall the emergency evacuation route within the property known as 507 Henry Lawson Drive be used for any purpose other than the evacuation of the site during a flood. The gates on the evacuation route are to be activated from the egress route to the road only and shall lock into place when they are in operation.
- 112) Restraints or vehicle barriers to be provided to prevent floating vehicles leaving the site during a 100-year flood, to Council's satisfaction. Certification by a Suitably Qualified Structural Engineer shall be provided to state that the vehicle restraints can withstand the combined forces of floodwater, debris, vehicles and buoyancy up to and including a 100-year flood plus freeboard.
- 113) The operation of the site is to be consistent with the relevant flood evacuation plan for the site.
- 114) The operation of the site must be undertaken in accordance with the Long-Term Site Management Plan which has been reviewed to the satisfaction of a NSW EPA Accredited Site Auditor.

END OF CONDITIONS