

A. General Conditions

A.1 Conditions

Consent is granted subject to the following conditions imposed pursuant to section 80 of the Environmental Planning & Assessment Act 1979 ("the *Act*") and the provisions of the Environmental Planning and Assessment Regulation 2000 ("the *Regulation*") such conditions being reasonable and relevant to the development as assessed pursuant to section 79C of the Act.

Standard Condition: A1

A.2 Definitions

Unless specified otherwise words have the same meaning as defined by the *Act*, the *Regulation* and the *interpretation Act* 1987 as in force at the date of consent.

Applicant means the applicant for this Consent.

Approved Plans mean the plans endorsed by Council referenced by this consent as amended by conditions of this consent.

AS or AS/NZS means Australian Standard® or Australian/New Zealand Standard®, respectively, published by Standards Australia International Limited.

BCA means the Building Code of Australia as published by the Australian Building Codes Board as in force at the date of issue of any *Construction Certificate*.

Council means North Sydney Municipal Council

Court means the Land and Environment Court

Local native plants means species of native plant endemic to Sydney's eastern suburbs (see the brochure titled "Local Native Plants for Sydney's Northern Suburbs published by the Northern Sydney Regional Organisation of Councils).

Storm water Drainage System means all works, facilities and documentation relating to:

- The collection of stormwater,
- The retention of stormwater,
- The reuse of stormwater,
- The detention of stormwater,
- The controlled release of stormwater; and
- Connections to easements and public stormwater systems.

Owner means the owner of the *site* and successors in title to the *site*.

Owner Builder has the same meaning as in the *Home Building Act 1989*.

PCA means the *Principal Certifying Authority* under the *Act*.

Principal Contractor has the same meaning as in the *Act* or where a *principal contractor* has not been appointed by the *owner* of the land being developed *Principal Contractor* means the *owner* of the land being developed.

Professional Engineer has the same meaning as in the *BCA*.

Public Place has the same meaning as in the *Local Government Act 1993*.

Road has the same mean as in the *Roads Act 1993*.

SEE means the final version of the Statement of Environmental Effects lodged by the *Applicant*.

Site means the land being developed subject to this consent.

NSLEP 2013 means *North Sydney Local Environmental Plan 2013*

Work for the purposes of this consent means:

- the use of land in connection with development,
 - the subdivision of land,
 - the erection of a building,
 - the carrying out of any work,
 - the use of any site crane, machine, article, material, or thing,
 - the storage of waste, materials, site crane, machine, article, material, or thing,
 - the demolition of a building,
 - the piling, piercing, cutting, boring, drilling, rock breaking, rock sawing or excavation of land,
 - the delivery to or removal from the *site* of any machine, article, material, or thing,
- or
- the occupation of the *site* by any person unless authorised by an *occupation certificate*.

Note: Interpretation of Conditions - Where there is any need to obtain an interpretation of the intent of any condition this must be done in writing to Council and confirmed in writing by Council.

Standard Condition: A2

A.3 Approved Plans and supporting documents

Those with the benefit of this consent must carry out all work and maintain the use and works in accordance with the plans and supporting documents listed below as submitted by the Applicant and to which is affixed a Council stamp "Approved DA Plans" unless modified by any following condition. Where the plans relate to alterations or additions only those works shown in colour or highlighted are approved.

Reference	Description	Author/Drawn	Date
4058_DA000(B)	Cover Sheet	Nettleton Tribe	05.08.13
4058_DA003(B)	Site Plan	Nettleton Tribe	05.08.13
4058_DA011(B)	Basement Level B1 Floor Plan	Nettleton Tribe	05.08.13
4058_DA012(B)	Ground Level Floor Plan	Nettleton Tribe	05.08.13
4058_DA013(B)	Carpark Level P1 Floor Plan	Nettleton Tribe	05.08.13
4058_DA014(B)	Carpark Level P2 Floor Plan	Nettleton Tribe	05.08.13
4058_DA015(B)	Carpark Level P3 Floor Plan	Nettleton Tribe	05.08.13
4058_DA016(B)	Carpark Level P4 Floor Plan	Nettleton Tribe	05.08.13
4058_DA017(B)	Roof Plan	Nettleton Tribe	05.08.13

Reference	Description	Author/Drawn	Date
4058_DA020(B)	Elevations	Nettleton Tribe	05.08.13
4058_DA021(B)	Signage Elevations	Nettleton Tribe	05.08.13
4058_DA031(B)	Sections	Nettleton Tribe	05.08.13
4058_DA032(B)	Sections	Nettleton Tribe	05.08.13
4058_DA090(B)	Shadow Diagrams	Nettleton Tribe	05.08.13
4058_DA091(B)	Development Areas - GFA	Nettleton Tribe	05.08.13
4058_DA092(B)	Artist Impressions	Nettleton Tribe	05.08.13
4058_DA093(B)	Artist Impressions	Nettleton Tribe	05.08.13
4058_SK183	Corner Analysis 3: Plans and Sections	Nettleton Tribe	-
4058_SK188	Corner Analysis: Perspective	Nettleton Tribe	-
4058_SK189	Corner Analysis: Perspective	Nettleton Tribe	-
Appendix B	Urban Design Report	GMU	29.07.2013
Appendix C	Response to Traffic Matters	CBHK Pty Ltd	21.06.2013
Appendix C	Vehicle Swept Paths	CBHK Pty Ltd	20.06.2013
Appendix D	Summary Timeline	TPG NSW Pty Ltd	-
Appendix E	Design Excellence Panel Information	TPG NSW Pty Ltd	22.04.2013
Appendix E	Council Report	North Sydney Council	31.10.2011
Appendix E	Extract from Council Meeting Minutes	North Sydney Council	31.10.2011
Appendix F	Location IQ Response	Location IQ	06.06.2013
Appendix G	Heritage Response	GB&A Pty Ltd	18.06.2013
Appendix H	Response to Matters raised by Council Review	SLR Pty Ltd	26.07.2013
Appendix H	Noise Impact Assessment	SLR Pty Ltd	26.07.2013

A.4 Ancillary Aspect of the Development (s80A(2) of the Act)

The owner must procure the repair, replacement or rebuilding of all road pavement, kerb, gutter, footway, footpaths adjoining the site or damaged as a result of work under this consent or as a consequence of work under this consent. Such work must be undertaken to

Council's satisfaction unless expressly provided otherwise by these conditions at the *owner's* expense.

Note: This condition does not affect the *principal contractor's* or any sub-contractors obligations to protect and preserve public infrastructure from damage or affect their liability for any damage that occurs.

A.5 Conditions of consultation - Traffic Generating Development (Infrastructure SEPP)

The following conditions have been sought the NSW Roads and Maritimes Services' (RMS) Sydney Regional Development Advisory Committee and Council concurs with the imposition of these condition(s):

- a) Heavy vehicles servicing the proposed development are not to exit onto Falcon Street during the morning peak 6am-10am and evening peak 3pm-7pm.
- b) A Construction Traffic Management Plan detailing construction vehicles routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council prior to the issue of a construction certificate.
- c) The swept path of the longest vehicle (to the service site) entering and exiting the subject site, as well as manoeuvrability through the site, shall be in accordance with AUSTROADS. In this regard, a plan shall be submitted to Council for approval, which shows that the proposed development complies with this requirement.
- d) 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.
- e) No construction zones will be permitted on Falcon Street in the vicinity of the site.
- f) Any proposed temporary road closures will require the applicant to apply for a Roads Occupancy License by contacting the Transport Management Centre's Planned Incidents Unit on (02) 8396 1513 during office hours (8am-4pm) or 131 700 after hours.
- g) Council should ensure that the post development storm water discharge from the subject site into the RMS drainage system does not exceed the predevelopment discharge. Details should be forwarded to:

Sydney Asset Management
Roads and Maritime Services

PO BOX 973 Parramatta CBD 2124

- h) The proposed development should be designed such that traffic noise from adjacent public roads is mitigated by durable materials and comply with requirements of Clause 102 – (Impact of road noise or vibration on non-road development) of State Environmental Planning Policy (Infrastructure) 2007.
- i) The developer is to submit detailed design drawings and geotechnical reports relating to the excavation of the site and support structures to RMS for assessment. The developer is to meet the full cost of the assessment by RMS.

This report will need to address the following key issues:

- i. The impact of excavation/rock anchors on the stability of Falcon Street and detailing how the carriageway would be monitored for settlement.
- ii. The impact of the excavation on the structural stability of Falcon Street.

The report and any enquiries should be forwarded to:

Project Engineer, External Works
Sydney Asset Management
Roads and Maritime Services
PO Box 973 Parramatta CBD 2124

Telephone 8848 2114

Fax 8849 2766

- j) All works/regulatory signposting associated with the proposed development are to be at no cost to the RMS.

A.6 Acoustic Condition – Window glazing to approved development at 11 Willoughby Road

The window to bedroom 1 of apartment 1 in the approved development at 11 Willoughby Road (DA 49/11) is to include glazing to a thickness of 15mm monolithic with air tight seals and is to be installed at the expense of the applicant. Details of the same are to be certified as installed prior to the issue of the relevant occupation certificate for the proposed development or prior to the issue of an occupation certificate for the completed development associated with 11 Willoughby Road.

A.7 Acoustic Condition – Loading dock noise mitigation measure – install absorbing material

The walls above 2 metres and the ceiling of the loading dock be lined with 75mm thick acoustic absorbing material having an NRC not less than 0.9 faced with HD perforated foil covering (equivalent to Bradford Ultratel 48 kg/m³). The material is to be installed prior to the issue of the relevant occupation certificate.

A.8 Acoustic Condition – Operation noise mitigation measure for the loading dock – roller door to remain closed between 10pm and 6am

Other than when trucks are being unloaded, during the period 10pm to 6am, the roller door to the loading dock is to be closed so that internal operations that occur in the loading dock by night staff can occur without creating an acoustic impact.

4.9 Acoustic Condition – Acoustic testing in relation to 11 Willoughby Road

With the new loading dock in operation and the assumption that 11 Willoughby Road first floor level is operational as a residential dwelling, then the loading dock should be subject to acoustic testing in that residential dwelling within 1 month of the new loading dock becoming operational to confirm the loading dock operations comply with the relevant criteria.

A.10 Crime Prevention Through Environmental Design (CEPTED) - Safer by design

The following general conditions have been sought the NSW Police Service and Council concurs with the imposition of these conditions:

1. Surveillance mirrors are to be positioned so that they cannot be vandalised
2. An appropriately qualified lighting designer is to certify that pedestrian lighting exceeds the requirements of Australian Standards 1158.3.1, prior to an occupation certificate being issued
3. CCTV footage is to be of sufficient quality to provide Police with footage that could be used to identify, arrest and charge an offender
4. The ceiling of the car parking areas is to be painted white.

5. Additional signage is to be provided in the car park to alert drivers to the possibility of Steal from Motor Vehicle offences if drivers leave valuables in a vehicle
6. A higher level of territorial reinforcement is required at the ground floor level to each street frontage within the mall area as referred to in the Statement of Environmental Effects

Note: This condition reflects the requirements of the NSW Police Service sought following the referral of the proposal to the local NSW Police Service's Community Safety Officer under a memorandum of understanding between the NSW Police Service and Council. These requirements are imposed to improve natural surveillance and community safety.

B. Conditions which must be satisfied prior to the demolition of any building or construction

B.1 Recording of buildings with little or no heritage significance that are to be demolished:

A photographic archival record of the building and landscape elements to be demolished is to be submitted prior to the commencement of demolition work and prior to the issue of a Construction Certificate.

The photographic archival recording is to be bound in an A4 format and is to include the following:

- a) Site plan at a scale of 1 :200 (or 1 :500 if appropriate) of all structures and major landscape elements including their relationship to the street and adjoining properties.
- b) Postcard sized photographs of:
 - each elevation,
 - each structure and landscape feature;
 - views to the subject property from each street and laneway or public space.

Each photograph to be mounted, labelled and cross-referenced in accordance with recognised archival recording practice.

One original coloured photographic set and a coloured photocopy are to be submitted to the satisfaction of Council prior to the commencement of demolition work and prior to the issue of a construction certificate. The original will be retained by Council and the coloured photocopy will be provided to North Sydney Local History Library

B.2 Arborists periodic site inspection log

To ensure the condition and health of existing street trees are maintained, an arboricultural log book for the subject property, is to be prepared by a qualified arborist and retained by the site foreman. Details of the arborist's site inspections' are to be recorded in the log during each visit. At each site visit the arborist must check and monitor the condition of existing trees and compliance with approved protection measures or recommend action to improve site conditions.

C. Conditions which must be satisfied prior to the issue of any construction certificate

C.1 Modification of details of the development (s80A(l)(g) of the Act)

The *Construction Certificate* plans reflecting the above items must be accompanied by a certificate from a *professional engineer* (acoustic engineer) certifying that the plans have achieved the above design criteria.

Note: Further information including lists of Acoustic Engineers can be obtained from:

1. **Australian Acoustical Society** - professional society of noise-related professionals (www.acoustics.asn.au/index.php).

2. **Association of Australian Acoustical Consultants** - professional society of noise related professionals (www.aaac.org.au).

Note: The effect of this condition is that it requires design changes and/or further information to be provided with the *Construction Certificate* drawings and specifications to address specific issues identified during assessment under section 79C of the *Act*.

Note: Clause 146 of the *Regulation* prohibits the issue of any *Construction Certificate* subject to this condition unless the *Certifying Authority* is satisfied that the condition has been complied with.

Note: Clause 145 of the *Regulation* prohibits the issue of any *Construction Certificate* that is inconsistent with this consent.

C.2 Payment of Security, Levies and Fees (Section 80A(6) and Section 94 of the Act, Section 608 of the Local Government Act 1993)

The certifying authority must not issue any *Part 4A Certificate* until provided with the original receipt(s) for the payment of all of the following levy, security, contributions, and fees prior to the issue of a *construction certificate, subdivision certificate or occupation certificate*, as will apply.

C.3 Road and Public Domain Works

A separate application under Section 138 of the *Roads Act* 1993 is to be made to, and be approved by, Council for the following infrastructure works prior to the issuing of any *Construction Certificate*. The infrastructure works must be carried out at the applicant's expense:

- a) Road and Drainage Works – resurface Willoughby Lane adjacent to subject site
- b) General

Detailed engineering plans (plan, sections and elevation views) and specifications of all works for the footpath, driveways, kerb & gutter, drainage long sections new gully pit showing clearly the connection point of site outlet pipe(s) of the works required by this Condition must accompany the S 138 Application form. The plans must also clearly show the following:

- Full width vehicular crossings to be constructed in accordance with Council's standard driveway drawing
- A design longitudinal surface profile for the proposed driveway must be submitted for assessment.
- Removal and replacement of the existing footpath for the full width of the property in accordance with Council's standard drawing
- Removal of all driveway crossings and kerb laybacks which will be no longer required.
- Full footpath, kerb and gutter details.
- Full new pavement details.
- Engineering drawings of the new drainage line to be constructed joining the new and existing drainage pits including services.

Note: To ensure that this work is completed to Council's satisfaction, this consent by separate condition, may impose one or more Infrastructure Works Bonds.

Note: Road has the same meaning as in the *Roads Act 1993*.

Note: The intent of this condition is that the design of the road, footpaths, driveway crossings and public stormwater drainage works must be detailed and approved prior to the issue of any *Construction Certificate*. Changes in levels may arise from the detailed design of buildings, road, footpath, driveway crossing grades and storm water. Changes required under *Roads Act 1993* approvals may necessitate design and levels changes under this consent. This may in turn require the applicant to seek to amend this consent.

C.4 Waste Storage - Compliance with Waste Management Plan

The *Construction Certificate* plans and specifications, required to be submitted to the Certifying Authority pursuant to clause 139 of the Regulation, must detail provisions for waste management.

Waste Storage Areas must meet the following requirements:

- a) Bins must be stored with lids down to prevent vermin from entering the waste containers.
- b) The area must be constructed with a smooth impervious floor graded to a floor waste. A waste storage area that is located internal to the building must be fitted with both a hot and cold water supply and hose cocks. Wastewater must be discharged to the sewer in accordance with the requirements of Sydney Water.
- c) Walls and ceilings of the waste storage area must be constructed of an impervious material with a smooth finish. The junction between the walls and the floor must be covered with a minimum radius of 25mm to prevent the accumulation of waste matter.
- d) The garbage storage area must be well lit to enable use at night. A timer switch must be fitted to the light fitting to ensure the light is turned off after use.
- e) Odour problems must be minimised by good exhaust ventilation.
- f) Both putrescible and recycling bins/crates must be stored together. Recycling bins must never stand alone. They must always be located beside putrescible waste bins. Putrescible bins must be located closest to the entrance to the waste storage room.
- g) Signage on the correct use of the waste management system and what materials may be recycled must be posted in the communal waste storage cupboard/ room or bin bay.

C.5 Utility Services Generally

The *Construction Certificate* plans and specifications, required by clause 139 of the Regulation, must demonstrate that all utility services (telecommunications, electricity, gas, water and waste water) will be provided underground. All service ducts, pipes and conduits must be provided within the fabric of the building (excluding stormwater down pipes).

Where telecommunications and electricity are provided from existing poles in the road they must, in accordance with the relevant suppliers' requirements, be carried to the site underground directly to the main switch board within the fabric of the building.

Note: Where adequate provision has not been made for an electrical sub-station within the building, this may necessitate the lodgement of an application to amend this consent under section 96 of the Act to detail the location, landscape/streetscape impacts and compliance with AS2890 as applicable.

The location of service poles and substations required by the relevant suppliers must be shown upon the plans submitted with any *Construction Certificate* application together with a letter from each relevant supplier setting out their requirements. Proposed water pipes, waste pipes, stack work, duct work, mechanical ventilation plant and the like must be located within the building unless expressly shown upon the approved DA plans. Details confirming compliance with this condition must be shown on the *Construction Certificate* plans and/or detailed within the *Construction Certificate* specifications. Required external vents or vent pipes on the roof or above the eaves must be shown on the *Construction Certificate* plans.

Note: The intent of this condition is that the design quality of the development must not be compromised by cables, pipes, conduits, ducts, plant, equipment, electricity substations or the like placed such that they are visible from any adjoining public place. They must be contained within the building unless shown otherwise by the approved development consent plans.

The Construction Certificate plans and specifications, required to be submitted to the Certifying Authority pursuant to clause 139 of the Regulation, must detail the replacement of all private sewer pipes between all sanitary fixtures and Sydney Waters sewer main where they are not found by inspection to be UPVC or copper with continuously welded joints.

Note: This condition has been imposed to ensure that where private sewer pipes are old, may leak or may be subject to root invasion (whether from existing or proposed private or public landscaping) that existing cast iron, concrete, earthenware or terracotta pipes be replaced with new UPVC or copper continuously welded pipes between all sanitary fixtures and Sydney Waters sewer main. Further, leaking sewer pipes are a potential source of water pollution, unsafe and unhealthy conditions which must be remedied in the public interest

C.6 Provision for Energy Supplies

The applicant must provide to the *Certifying Authority* a letter from Energy Australia setting out Energy Australia's requirements relative to the provision of electricity/gas supply to the development.

Any required substation must be located within the boundaries of the site. Where an electricity substation is required within the site but no provision has been made to place it within the building and such substation has not been detailed upon the approved development consent plans a section 96 application is required to be submitted to Council. Council will assess the proposed location of the required substation.

The *Construction Certificate* plans and specifications, required to be submitted pursuant to clause 139 of the *Regulation*, must detail provisions to meet the requirements of Energy Australia.

Note: If the substation is not located within the building its location, screening vegetation, all screen walls or fire separating walls must have been approved by the grant of development consent or amended development consent prior to the issue of any *Construction Certificate* for those works. Documentary evidence of compliance, including correspondence from the energy authority is to be provided to the *Certifying Authority* prior to issue of the *Construction Certificate*. The *Certifying Authority* must be satisfied that the requirements of energy authority have been met prior to issue of the *Construction Certificate*.

Note: Where it is proposed to shield any booster connection or any building from any substation pursuant to clause 5.6.3(c)(ii) of AS 2419. I-I 994 or by fire resisting construction under the *BCA* respectively and this construction has not been detailed upon the approved development consent plans such works should be considered inconsistent with consent pursuant to clause 145 of the *Regulation*. The Applicant must lodge with Council details for any such construction pursuant to section 96 of the *Act* to allow assessment under section 79C of the *Act*.

Note: Substations must not be located within the minimum sight distance at driveway entrances under Australian Standard ASINZS 2890 (Set)-2004 Parking Facilities Set whether such driveways service the site or any adjoining land. Standard Condition: C21

C.7 Soil and Water Management Plan - Submission & Approval

The *principal contractor* or *owner builder* must submit to the *Certifying Authority* a soil and water management plan complying with:

- a) "*Managing Urban Stormwater - Soils and Construction*" published by the NSW Department of Housing 4th Edition" (*The Blue Book*). .

Where there is any conflict *The Blue Book* takes precedence. The *Certifying Authority* must be satisfied that the soil and water management plan complies with the publications above prior to issuing any *Construction Certificate*.

Note: This condition has been imposed to eliminate potential water pollution and dust nuisance.

Note: The International Erosion Control Association - Australasia <http://www.austieca.com.au/lists> consultant experts who can assist in ensuring compliance with this condition. Where erosion and sedimentation plans are required for larger projects it is recommended that expert consultants produce these plans.

Note: Pursuant to clause 161(1)(a)(5) of the *Regulation* an *Accredited Certifier* may be satisfied as to this matter.

C.8 Professional Engineering Details

The *Construction Certificate* plans and specifications, required by clause 139 of the Regulation, must include detailed *professional engineering* plans and/or specifications for all structural, electrical, hydraulic, hydro-geological, geotechnical, mechanical and civil work complying with this consent, approved plans, the statement of environmental effects and supporting documentation. Detailed professional engineering plans and/or specifications must be submitted to the *Certifying Authority* with the application for any *Construction Certificate*.

Note: This does not affect the right of the developer to seek staged Construction Certificates.

C.9 Parking Facilities

The *Construction Certificate* plans and specifications required by clause 139 of the Regulation, must include detailed plans and specifications for any bicycle, car and commercial vehicle parking demonstrating compliance with AS2890.3: 1993 *Parking Facilities - Bicycle Parking Facilities*, ASINZS 2890.1 :2004 : *Parking Facilities – Off Street Car Parking* and AS 2890.2:2002 - *Off-Street Parking: Commercial Vehicle Facilities* respectively.

Access levels and grades must comply with access levels and grade required by Council under the *Roads Act* 1993.

The *Certifying Authority* has no discretion to reduce or increase the number or area of car parking or commercial parking spaces required to be provided and maintained by this consent.

C.10 Relocation or reconstruction of Council's stormwater drainage system

The developer must meet all costs of relocation or reconstruction of any part of Council's drainage system (including design drawings and easements) required to carry out the approved development. All engineering drawings (plan, sections and elevation views) and specifications of the new stormwater drainage system to be constructed are to be prepared by the applicant. The design plans must be lodged and approved by Council prior to the issue of a Construction Certificate.

The design and construction of the works must be in accordance with Council's DCP and Specifications for Road Works, Drainage and Miscellaneous Works which include Council's Standard Drawings.

Note: Four weeks should be allowed for assessment

Note: To ensure that this work is completed to Council's satisfaction, this consent by separate condition, may impose one or more Infrastructure Works Bonds.

C.11 Stormwater management plan

The *Construction Certificate* plans and specifications, required by clause 139 of the Regulation, must include a *Stormwater Management Plan* for the site. The *Stormwater Management Plan* must detail:

- a) general design in accordance with Stormwater disposal concept plan prepared by
 - Stormwater Drainage Concept Design by Northrop and
- b) the discharge of stormwater, by a single direct connection to the nearest Council drainage pit/system
- c) compliance the objectives and performance requirements of the BCA;
- d) general compliance with the Council's Development Control Plan requirements

The *Stormwater Management Plan* must include the following specific requirements:

Layout plan

A detailed drainage plan at a scale of 1:100 based on drainage calculations prepared in accordance with the Institute of Engineers Australia publication, *Australian Rainfall and Run-off*, 1987 edition or most current version thereof. It must include:

- All pipe layouts, dimensions, grades, lengths and material specification,
- All invert levels reduced to Australian Height Datum (AHD),
- Location and dimensions of all drainage pits,
- Point and method of connection to Councils drainage infrastructure,
- Overland flow paths over impervious areas.
- Subsoil Drainage - Subsoil drainage details, clean out points, discharge point.

Note: This Condition is imposed to ensure that site stormwater is disposed of in a controlled and sustainable manner.

C.12 Light & Ventilation

The *Construction Certificate* plans and specifications, required to be submitted to the *Certifying Authority* pursuant to clause 139 of the *Regulation*, must detail all lighting, mechanical ventilation or air-conditioning systems complying with Part F.4 of the *BCA* or clause 3.8.4 and 3.8.5 of the *BCA* Housing Provisions, inclusive of AS 1668.1, AS 1668.2 and AS/NZS 3666.1. If an alternate solution is proposed then the *Construction Certificate* application must include a statement as to how the performance requirements of the *BCA* are to be complied with and support the performance based solution by expert *evidence of suitability*. This condition does not set aside the mandatory requirements of the *Public Health (Microbial Control) Regulation 2000* in relation to *regulated systems*. This condition does not set aside the effect of the *Protection of the Environment Operations Act 1997* in relation to offensive noise or odour.

Note: Clause 98 of the *Regulation* requires compliance with the *BCA*. Clause 145 of the *Regulation* prevents the issue of a *Construction Certificate* unless the *Accredited Certifier/Council* is satisfied that compliance has been achieved. Schedule 1, Part 3 of the *Regulation* details what information must be submitted with any *Construction Certificate*. It is the Applicant's responsibility to demonstrate compliance through the *Construction Certificate* application process. Applicants must also consider possible noise and odour nuisances that may arise. The provisions of the *Protection of the Environment Operations Act 1997* have overriding effect if offensive noise or odour arises from the use. Applicant's must pay attention to the location of air intakes and air exhausts relative to sources of potentially contaminated air and neighbouring windows and air intakes respectively, see section 2 and 3 of AS 1668.2.

C.13 Food Premises - Construction Certificate Plans & Specifications

The person with the benefit of this consent must submit to Council details for the construction and fit out of food premises. Such details must demonstrate compliance with the *Food Act 2003*, *Food Regulation 2004*; the *Food Standards Code* as published by Food Standards Australia and New Zealand and Australian Standard AS 4674-2004: *Construction and fit out of food premises*.

No *Construction Certificate* relating to the construction or fit out of food premises must be issued until Council's Environmental Health Officers have advised in writing that the plans and specifications are considered satisfactory.

The details for the construction and fit out of food premises, as considered satisfactory by Council's Environmental Health Officers' must form part of any *Construction Certificate*.

Note: The assessment of food premises fitout plans and specifications is subject to an adopted fee. The construction and fitout of food premises is not listed under clause 161 of the *Environmental Planning & Assessment Regulation 2000* as a matter that a *Certifying Authority* may be satisfied as to. Hence, the detailed plans & specifications must be referred to Council and be to Council's satisfaction prior to the issue of any *Construction Certificate* for such works.

C.14 Acoustic Certification of Mechanical Plant & Equipment (including electrical substations)

The *Construction Certificate* plans and specification required to be submitted pursuant to clause 13 9 of the *Regulation* must be accompanied by a certificate from a *professional engineer* (acoustic engineer) certifying that the noise level from any proposed mechanical plant and equipment (including electrical substations) measured at any time of the day or night, at the nearest, or at any residential property facade, while the proposed mechanical plant and equipment is operating, will not exceed the *nocturnal background noise level*.

The certificate must further certify that the cumulative noise level from all relevant items of mechanical plant and equipment (including electrical substations), when measured at the same location will not exceed the nocturnal background level by more than 5dB(A).

The *background noise level* is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed. For assessment purposes the background noise level is the LA90, 15 minute level measured by a sound level meter. To be measured on a Tuesday night.

Where sound attenuation is required this must be detailed on the *Construction Certificate* plans and specification.

Note: Further information including lists of Acoustic Engineers can be obtained from:

1. **Australian Acoustical Society** - professional society of noise-related professionals (www.acoustics.asn.au/index.php).
2. **Association of Australian Acoustical Consultants**-professional society of noise related professionals (www.aaac.org.au).
3. **The background noise level** is to be measured on a windless Tuesday night which is normally the quietest night of the week.

C.15 Water and waste water - Section 73 Developers Certificate and Upgrading of existing system (Clause 25(1) WLEP 1995)

A developer compliance certificate under Part 6, Division 9 of the *Sydney Water Act 1994* must have been issued by the Sydney Water Corporation prior to the issue of any *Construction Certificate*. The effect of this certificate is that adequate provision has been made or is available for the provision of potable water to and the removal of waste water from the development.

Note: Following application to Sydney Water, a 'Notice of Requirements' will detail water and sewer extensions to be built and charges to be paid. Please make early contact with Sydney Water's authorised Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

Note: Further information can be obtained from the Sydney Water Corporation on or telephone 13 20 92 or by visiting their web site:http://www.sydneywater.com.au/html/yourHome/edeveloper/urban_dev_qa.cfrn.

C.16 Australian Standard AS 2890

All aspects of the proposed carpark and loading docks must comply with the Australian Standard AS 2890.1 and AS 2890.2 respectively.

D. Conditions which must be satisfied prior to the commencement of any development work

D.1 Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989

For the purposes of section 80A (11) of the Act, the following conditions are prescribed in relation to a development consent for development that involves any building work:

- a) that the work must be carried out in accordance with the requirements of the Building Code of Australia,
- b) in the case of residential building work for which *the Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

This condition does not apply:

- a) to the extent to which an exemption is in force under the *Home Building Regulation 2004*,
- b) to the erection of a temporary building.

In this condition, a reference to the *BCA* is a reference to that code as in force on the date the application for the relevant construction certificate is made.

Note: This condition must be satisfied prior to commencement of any work in relation to the contract of insurance under the *Home Building Act 1989*. This condition also has effect during the carrying out of all building work with respect to compliance with the Building Code of Australia.

Note: All new guttering is to comply with the provisions of Part 3.5.2 of the Building Code of Australia.

D.2 Remediation Action Plan

The areas of soil contamination/materials identified at the site are to be excavated and disposed off-site in accordance with a remedial action plan so that the site is rendered suitable for the proposed commercial land use.

D.3 Validation and Monitoring Report

A Validation and Monitoring Report must be submitted to the consent authority within 30 days of completing remediation works and prior to the commencement of building construction works pursuant to Clause 18 of SEPP No. 55 - Remediation of Land.

The objectives of the Validation and Monitoring Report are to demonstrate that the objectives stated in the preferred remedial option ('excavation & off-site disposal') of the Remediation Action Plan, including compliance with relevant development consent conditions have been achieved. The Validation and Monitoring Report shall provide a clear statement that the consultant considers that the subject site to be suitable for the proposed use and detail, if any, all limitations and constraints on the use of the site and recommendation for further work, if appropriate.

D.4 Environmental Management Plan (EMP)

An (EMP) is to be prepared for the site. The EMP is to be prepared and finalised for Council review before the commencement of demolition and excavation works at the development site. The objectives of the EMP shall detail but not be limited to:

- Identify the environmental issues/risks associated with development works focusing on pollution control measures. These measures are to be designed to prevent migration of contaminated soil from the designated excavation areas; suppress dust & odours; prevent surface water/sediment run-off from excavations and stockpiles; minimise noise
- Excavation pump-out of site waters
- Site access and all haulage routes for trucks transporting soil, materials and equipment to and from the site
- Management practices to restrict access to contaminated materials & responsibilities for implementing the EMP

D.5 Dilapidation Reports for existing buildings

Dilapidation surveys must be conducted and dilapidation reports prepared by a *professional engineer* (structural) of all buildings on land whose title boundary abuts the site and of such further buildings located within the likely "zone of influence" of any excavation, dewatering and/or construction induced vibration.

The dilapidation reports must be completed and submitted to *Council* with the *Notice of Commencement* prior to the commencement of any *development work*.

Where excavation of the site will extend below the level of any immediately adjoining building the *principal contractor* or *owner builder* must give the adjoining building owner(s) a copy of the dilapidation report for their building(s) and a copy of the *notice of commencement* required by s81A(2) of the *Act* not less than two (2) days prior to the commencement of any work.

Note: The reasons for this condition are:

- To provide a record of the condition of buildings prior to development being carried out
- To encourage developers and its contractors to use construction techniques that will minimise the risk of damage to buildings on neighbouring land

Also refer to the Dilapidation Report Advising for more information regarding this condition

D.6 Dilapidation Reports for Public Infrastructure

To clarify the existing state of public infrastructure prior to the commencement of any development (including prior to any demolition), the *Principal Contractor* must submit a dilapidation report, prepared by a *professional engineer*, on Council's infrastructure within and near the development site as described below:

- Falcon Street - full width of site frontage from 6-8 Falcon Street to Alexander Street
- Alexander Street - full width of site from Falcon Street to Burlington Street
- Burlington Street – full width of site from Alexander Street to Willoughby Lane
- Willoughby Lane - full width of site from Burlington Street to property at 6-8 Falcon Street

The dilapidation report must be submitted to Council prior to the commencement of any work and include:

- a. Photographs showing any existing damage to the road pavement fronting the site,
- b. Photographs showing any existing damage to the kerb and gutter fronting the site,
- c. Photographs showing any existing damage to the footway including footpath pavement fronting the site,
- d. Photographs showing any existing damage to retaining walls within the footway or road, and

- e. Closed circuit television/video inspection (in DVD format) of public stormwater drainage systems fronting, adjoining or within the site and
- f. The full name and signature of the professional engineer.

The reports are to be supplied in both paper copy and electronic format in Word. Photographs are to be in colour, digital and date stamped.

The dilapidation report must specify (with supporting photographic/DVD evidence) the exact location and extent of any damaged or defective public infrastructure prior to the commencement of any work. If the required report is not submitted then Council will assume there was no damage to any infrastructure in the immediate vicinity of the site prior to the commencement of any work under this consent.

Note: If the Principal Contractor fails to submit the dilapidation report required by this condition and damage is occasioned to public assets adjoining the site Council will deduct from security any costs associated with remedying, repairing or replacing damaged public infrastructure. Nothing in this condition prevents Council making any claim against security held for this purpose.

D.7 Adjoining buildings founded on loose foundation materials

The *principal contractor* must ensure that a *professional engineer* determines the possibility of any adjoining buildings founded on loose foundation materials being affected by piling, piers or excavation. The *professional engineer* (geotechnical consultant) must assess the requirements for underpinning any adjoining or adjacent buildings founded on such soil on a case by case basis and the *principal contractor* must comply with any reasonable direction of the *professional engineer*.

Note: A failure by contractors to adequately assess and seek professional engineering (geotechnical) advice to ensure that appropriate underpinning and support to adjoining land is maintained prior to commencement may result in damage to adjoining land and buildings. Such contractors are likely to be held responsible for any damages arising from the removal of any support to supported land as defined by section 177 of the *Conveyancing Act 1919*.

D.8 Establishment of Tree Protection Zones

To limit the potential for damage to trees to be retained, Tree Protection Fencing is to be established around all street trees to be retained.

- a) Tree Protection Areas are to be fenced with a 1.8 metre high chainmesh or weld mesh fence to minimise disturbance to existing ground conditions. The area within the fence must be mulched, to a depth of 75mm, irrigated and maintained for the duration of the construction works.
- b) Trunk protection, to a maximum height permitted by the first branches, is to be installed around the trunks of the trees listed in the table below;

A padding material e.g. Hessian or thick carpet underlay is to be wrapped around the trunk first. Harwood planks, 50x100mm and to the maximum possible length, are to be placed over the padding and around the trunk of the tree at 150mm centres.

These planks are to be secured in place by 8 gauge wire at 300mm spacing.

- c) A sign must be erected on each side of the fence indicating the existence of a Tree Protection Zone and providing the contact details of the site Arborist.
- d) Existing soil levels must be maintained within Tree Protection Fenced Zone. Where excavation is undertaken adjacent such an area, the edge of the excavation must be stabilised, until such time as permanent measures are installed (e.g. retaining wall etc) to prevent erosion within the Tree Protection Zone.
- e) Sediment control measures are to be installed around all Tree Protection Fenced areas to protect the existing soil levels.

- f) The storage of materials, stockpiling, siting of works sheds, preparation of mixes, cleaning of tools or equipment is not permitted within Tree Protection Fenced area.

Site personnel must be made aware of all Tree Protection requirements, measures and any actions that constitute a breach of the Conditions of Development Consent with regard to tree protection on site during their site induction.

Note: Water Restrictions take precedence over this condition. Having regard to water restrictions manual hosing may be necessary.

D.9 Construction Management Plan

As a result of the site constraints, limited space and access a Construction Management Plan (CMP) is to be submitted to Council. Also, due to the lack of on-street parking a Work Zone will be required during construction.

A Construction Management Plan is to be prepared to detail and must include at least:

- a) Describe the anticipated impact of the demolition, excavation and construction works on:
- Local traffic routes
 - Pedestrian circulation adjacent to the building site
 - On-street parking in the local area
- b) Describe the means proposed to:
- Manage construction works to minimise such impacts,
 - Provide for the standing of vehicles during construction,
 - Provide for the movement of trucks to and from the site, and deliveries to the site
 - Manage the impacts associated with the loss of public car parking on the subject site.
- c) Show the location of:
- Any site sheds and any anticipated use of cranes and concrete pumps,
 - Any areas of Council property on which it is proposed to install a Works Zone (Construction Zone)
 - Structures to be erected such as hoardings, scaffolding or shoring
 - Any excavation
- d) Describe the excavation impact on the area including
- Number and types of trucks to be used
 - Time frame
 - Streets to be used
 - Routes to be taken
 - Directions of travel
 - Truck storage areas
 - It is recommended that vehicle routes be shared
- e) Protect Trees, Bushland and Public Open Space:
- Show the location of all Tree Protection (Exclusion) Zones as required within the conditions of this development consent.

The Plan must make provision for all materials, plant, etc. to be stored within the development site at all times during construction. Structures or works on Council property such as hoardings, scaffolding, shoring or excavation need separate approval from Council. Standing of cranes and concrete pumps on Council property will need approval on each occasion.

Note: A minimum of eight weeks will be required for assessment. Work must not commence until the Construction Management Plan is approved. Failure to comply with this condition may result in fines and proceedings to stop work.

D.10 Works (Construction) Zone - Approval & Implementation

A works zone is required for this development. The *principal contractor* or *owner* must apply for a works zone. If the works zone is approved the *principal contractor* or *owner* must pay all fees for and implement the required works zone before commencement of any work.

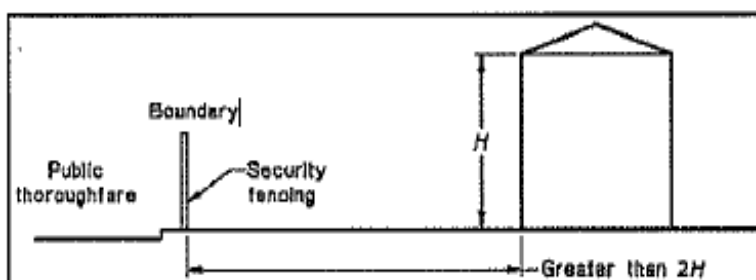
The *principal contractor* must pay all fees associated with the application and occupation and use of the road as a works zone. All works zone signs must have been erected by Council to permit enforcement of the works zone by Rangers and Police before commencement of any work. Signs must not be erected until full payment of works zone fees.

Note: The *principal contractor* or *owner* must allow not less than four to six weeks (for routine applications) from the date of making an application to the Traffic Committee (North Sydney Local Traffic Committee) constituted under the Clause 22 of the *Transport Administration (General) Regulation 2000* to exercise those functions delegated by the Roads and Traffic Authority under Section 50 of the *Transport Administration Act 1988*.

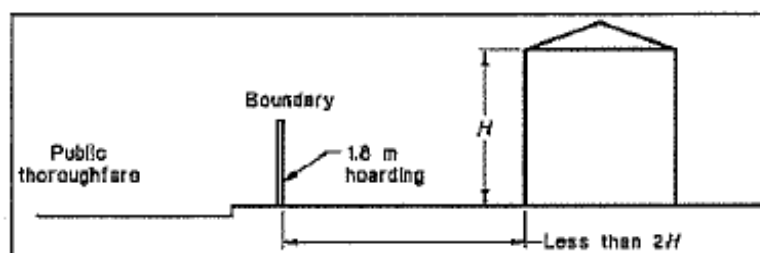
Note: The enforcement of the works zone is at the discretion of Council's Rangers and the NSW Police Service. The principal contractor must report any breach of the works zone to either Council or the NSW Police Service.

D. 11 Security Fencing, Hoarding and Overhead Protection

Security fencing must be provided around the perimeter of the development site, including any additional precautionary measures taken to prevent unauthorised entry to the site at all times during the demolition, excavation and construction period. Security fencing must be the equivalent 1.8m high chain wire as specified in AS 1725.



Where the development site adjoins a public thoroughfare, the common boundary between them must be fenced for its full length with a hoarding, unless the least horizontal distance between the common boundary and the nearest parts of the structure is greater than twice the height of the structure. The hoarding must be constructed of solid materials (chain wire or the like is not acceptable) to a height of not less than 1.8m adjacent to the thoroughfare.

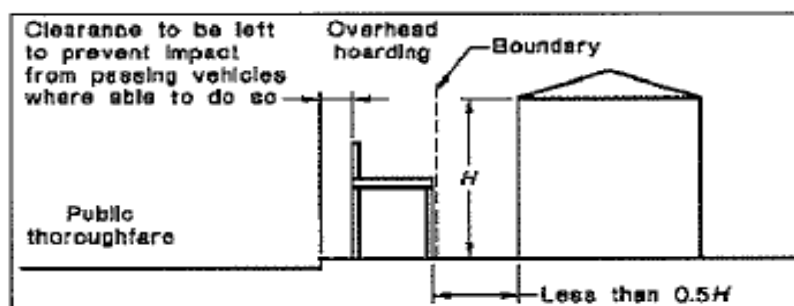


Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an *overhead protective structure* and the facing facade protected by heavy-duty scaffolding, unless either:

- The vertical height above footpath level of the structure being demolished is less than 4.0m; or
- The least horizontal distance between footpath and the nearest part of the structure is greater than half the height of the structure.

The overhead structure must consist of a horizontal platform of solid construction and vertical supports, and the platform must:

- Extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary;
- Have a clear height above the footpath of not less than 2.1 m;
- Terminate 200mm from the edge of the carriageway (clearance to be left to prevent impact from passing vehicles) with a continuous solid up stand projecting not less than 0.5 m above the platform surface; and
- Together with its supports, be designed for a uniformly distributed live load of not less than 7 kPa.



The *principal contractor* or *owner builder* must pay all fees associated with the application and occupation and use of the road (footway) for required hoarding or overhead protection.

The *principal contractor* or *owner builder* must ensure that Overhead Protective Structures are installed and maintained in accordance with WorkCover NSW Code of Practice - Overhead Protective Structures, gazetted 16 December 1994, as commenced 20 March 1995. This can be downloaded from:

<http://www.workcover.nsw.gov.au/Publications/LawAndPolicy/CodesofPractice/ohedprotstructs.htm>.

Security fencing, hoarding and overhead protective structure must not obstruct access to utilities services including but not limited to man holes, pits, stop valves, fire hydrants or the like.

Note: The *principal contractor* or *owner* must allow not less than two (2) weeks from the date of making a hoarding application for determination. Any approval for a hoarding or overhead protection under the *Roads Act* 1993 will be subject to its own conditions and fees.

D.12 Site Signs

The *Principal Contractor* or *owner builder* must ensure that the sign/s required by clauses 98A and 227 A of the *Regulation* is/are erected and maintained at all times.

Clause 98A of the *Regulation* provides:

Erection of signs

- For the purposes of section 80A (11) of the *Act*, the requirements of subclauses (2) and (3) are prescribed as conditions of a development consent 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 work 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 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.
- 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.
- This clause does not apply 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."

Clause 227A of the *Regulation* provides:

If there is a person who is the PCA or the principal contractor for any building work, subdivision work or demolition work authorised to be carried out on a site by a development consent or complying development certificate:

- Each such person MUST ensure that a rigid and durable sign showing the person's identifying particulars so that they can be read easily by anyone in any public road or other public place adjacent to the site is erected in a prominent position on the site before the commencement of work, and is maintained on the site at all times while this clause applies until the work has been carried out.

Note: Clause 227 A imposes a penalty exceeding \$1,000 if these requirements are not complied with.

Note: If *Council* is appointed as the *PCA* it will provide the sign to the *principal contractor* or *owner builder* who must ensure that the sign is erected and maintained as required by Clause 98A and Clause 227 A of the *Regulation*.

D.13 Toilet Facilities

Toilet facilities are to 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:

- a) must be a standard flushing toilet, and
- b) must be connected to a public sewer, or
- c) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the council, or
- d) if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the council

- e) allow the use of temporary toilets with holding tanks.

The provision of toilet facilities in accordance with this condition must be completed before any other work is commenced.

In this condition:

Accredited sewage management facility means a sewage management facility to which Division 4A of Part 3 of the *Local Government (Approvals) Regulation 1993* applies, being a sewage management facility that is installed or constructed to a design or plan the subject of a certificate of accreditation referred to in clause 95B of the *Local Government (Approvals) Regulation 1993*.

Approval by the council means the subject of an approval in force under Division 1 of Part 3 of the *Local Government (Approvals) Regulation 1993*.

public sewer has the same meaning as it has in the *Local Government (Approvals) Regulation 1993*.

sewage management facility has the same meaning as it has in the *Local Government (Approvals) Regulation 1993*.

Note: This condition does not set aside the requirement to comply with Workcover NSW requirements.

D.14 Erosion and Sediment Controls - Installation

The *principal contractor* or *owner builder* must install and maintain water pollution, erosion and sedimentation controls in accordance with:

- a) The *Soil and Water Management Plan* if required under this consent;
- b) "Managing Urban Stormwater - Soils and Construction" published by the NSW Department of Housing 4th Edition" ('The Blue Book').

Where there is any conflict The Blue Book takes precedence.

Note: The International Erosion Control Association - Australasia (<http://www.austieca.com.au/>) lists consultant experts who can assist in ensuring compliance with this condition. Where Soil and Water Management Plan is required for larger projects it is recommended that this be produced by a member of the International Erosion Control Association - Australasia.

Note: A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the Act and/or the *Protection of the Environment Operations Act 1997* **without any further warning**. It is a criminal offence to cause, permit or allow pollution.

Note: Section 257 of the *Protection of the Environment Operations Act 1997* provides inter alia that "the occupier of premises at or from which any pollution occurs is taken to have caused the pollution"

Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the *Protection of the Environment Operations Act 1997* where pollution is caused, permitted or allowed as the result of their occupation of the land being developed.

D.15 Building - Construction Certificate, Appointment of Principal Certifying Authority, Appointment of Principal Contractor and Notice of Commencement (s81A(2) of the Act)

The erection of the building in accordance with this development consent must not be commenced until:

- a) A construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited Certifier, and
- b) The person having the benefit of the development consent has:
 - Appointed a principal certifying authority for the building work, and
 - Notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
- c) the principal certifying authority has, no later than 2 days before the building work commences:

- Notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
 - Notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- d) The person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
- Appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and
 - Notified the principal certifying authority of any such appointment, and
 - Unless that person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
 - Given at least 2 days' notice to the council of the person's intention to commence the erection of the building.

Note: *building* has the same meaning as in section 4 of the *Act* and includes part of a building and any structure or part of a structure.

Note: *new building* has the same meaning as in section 109H of the *Act* and includes an altered portion of, or an extension to, an existing building.

Note: The commencement of demolition works associated with an altered portion of, or an extension to, an existing building is considered to be the commencement of building work requiring compliance with section 82A(2) of the *Act* (including the need for a *Construction Certificate*) prior to any demolition work. See: *Over our Dead Body Society Inc v Byron Bay Community Association Inc* [2001] NSWLEC 125.

Note: *Construction Certificate* Application, *PCA Service Agreement* and *Notice of Commencement* forms can be downloaded from Council's website www.norhsydney.nsw.gov.au.

Note: It is an offence for any person to carry out the erection of a *building* in breach of this condition and in breach of section 81A(2) of the *Act*.

D.16 Establishment of boundary location, building location and datum

Prior to the commencement of any work the principal contractor or owner builder must ensure that a surveyor registered under the *Surveying Act* 2002 sets out:

- a) the boundaries of the *site* by permanent marks (including permanent recovery points);
- b) the location and level of foundation excavations, footings, walls and slabs by permanent marks, pegs or profiles relative to the boundaries of the land and relative to Australian Height Datum ("AHD") in compliance with the approved plans;
- c) establishes a permanent datum point (bench mark) within the boundaries of the *site* relative to AHD; and
- d) provides a copy of a survey report by the registered surveyor detailing, the title boundaries, pegs/profiles, recovery points and bench mark locations as established pursuant to this condition to the PCA.

Note: Where the *principal contractor* or *owner builder* notes any discrepancy between the approved development consent and the *Construction Certificate*, especially in relation to the height, location or external configuration of the building (but not limited to these issues) the *principal contractor* or *owner builder* should not proceed until satisfied that the variations as shown are consistent with the consent. Failure to do so may result in a breach of development consent.

Note: On larger developments, or where boundary redefinition is required, the placement of new State Survey Marks as permanent marks should be considered by the registered surveyor.

D.17 Checking Construction Certificate plans & protecting assets owned by the Sydney Water Corporation

Construction Certificate plans must be stamped by the Sydney Water Corporation prior to the commencement of any development work. This is required to ensure that buildings close to or over Sydney Water Corporation assets are identified and requirements for protecting them are implemented.

Note: Further information can be obtained from the Sydney Water Corporation on or telephone 13 2092 or by visiting their web site:

[http://www.sydneywater.com.au/html/yourhome/quickcheck/building renovating.cfm](http://www.sydneywater.com.au/html/yourhome/quickcheck/building%20renovating.cfm)

D.18 Construction noise mitigation measures

The noise mitigation measures contained in the SLR Report dated **July** 2013 including barriers at the perimeter of the construction site and/or around construction machinery and the selection of alternate equipment that produces less noise to negate noise emissions from such activities are to be in place prior to the commencement of construction activities.

Attended noise and vibration monitoring is to be carried out at sensitive receivers at the commencement of each process/activity that has the potential to produce excessive noise or vibration.

D.19 Site acoustic barriers/screening

Prior to the commencement of any works temporary barriers of plywood of a minimum thickness of 20mm and a minimum height of 2100mm shall be erected to the perimeter of the construction site to minimise the impact of the construction noise on the amenity of the neighbourhood. The barriers are to be maintained during the development.

D.20 Consultation/complaints handling procedure

Prior to the commencement of any works the principal contractor shall put in place a formal consultation and complaints handling procedure to address complaints from the occupants of surrounding properties.

The procedure shall include mechanisms for providing the occupants of surrounding properties with information on the progress of the development and formal notification of noisy activities, a minimum of 48 hours prior to such activities. A copy of the required procedure shall be submitted to the Council and the Principal Certifying Authority prior to the commencement of any work.

D.21 Noise control measures for construction plant and equipment

Prior to the commencement of any works a certificate from a *professional engineer* (acoustic engineer) shall be submitted to the Principal Certifying Authority certifying that;

- a) a works schedule has been prepared that identifies all machinery and equipment to be used at the development site; and
- b) the nominated equipment and machinery that will be used at each stage of the development have been fitted with noise control measures to minimise their impact on the surrounding properties.

E. Conditions which must be satisfied during any development work

E.1 Compliance with Building Code of Australia and insurance requirements under the Home Building Act 1989

For the purposes of section 80A (II) of the Act, the following condition is prescribed in relation to a development consent for development that involves any building work:

- a) That the work must be carried out in accordance with the requirements of the Building Code of Australia,
- b) In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

This condition does not apply:

- a) To the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4) of the Regulation, or
- b) To the erection of a temporary building.

In this clause, a reference to the BCA is a reference to that Code as in force on the date the application for the relevant construction certificate is made.

Note: All new guttering is to comply with the provisions of Part 3.5.2 of the Building Code of Australia.

E.2 Compliance with Australian Standard for Demolition

Demolition of buildings and structures must comply with Australian Standard AS 2601-1991: The Demolition of Structures, published by Standards Australia, and as in force at 1 July 1993.

E.3 Compliance with Construction Management Plan

All development activities and traffic movements must be carried out in accordance with the approved construction management plan required by condition D.9. All controls in the Plan must be maintained at all times. A copy of the Plan must be kept onsite at all times and made available to the *PCA* or *Council* on request.

Note: Irrespective of the provisions of the Construction Management Plan the provisions of traffic and parking legislation prevails.

E.4 Requirement to notify about new evidence

Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination, heritage significance, threatened species or other relevant matters must be immediately notified to Council and the Principal Certifying Authority.

E.5 Critical Stage Inspections

Critical stage inspections must be called for by the *principal contractor* as required by the PCA, any PCA service agreement, the *Act* and the *Regulation*.

Work must not proceed beyond each critical stage until the PCA is satisfied that work is proceeding in accordance with this consent, the Construction Certificate(s) and the *Act*. *Critical stage inspections* means the inspections prescribed by the *Regulations* for the

purposes of section 109E(3)(d) of the Act or as required by the PCA and any PCA Service Agreement.

Note: The PCA may require inspections beyond mandatory critical stage inspections in order that the PCA be satisfied that work is proceeding in accordance with this consent.

Note: The PCA may, in addition to inspections, require the submission of *Compliance Certificates*, survey reports or evidence of suitability in accordance with Part A2.2 of the BCA in relation to any matter relevant to the development.

E.6 Acoustic barriers/screening

To minimise the impact of construction noise on the amenity of the neighbourhood the following acoustic measures are to be implemented;

- a) Hoardings are to be erected at all exposed entries of the site acoustic barriers and doorways; and
- b) Acoustic enclosures and screens are to be placed directly adjacent to stationary noise sources such as compressors, generators and the like as required by the construction noise and vibration control strategies of the SLR report dated July 2013.

E.7 Hours of Work-Amenity of the neighbourhood

- a) No work must take place on any Sunday or public holiday,
- b) No work must take place before 7am or after 5pm any weekday,
- c) No work must take place before 7am or after 4pm any Saturday,
- d) No loading or unloading of material or equipment associated with the activities listed in part b) above must take place before 7am or after 5pm any weekday, or before 7am or after 4pm any Saturday or at any time on a Sunday or public holiday.
- e) No operation of any equipment associated with the activities listed in part b) above must take place before 7am or after 5pm any weekday, or before 7am or after 4 pm any Saturday or at any time on a Sunday or public holiday

This condition has been imposed to mitigate the impact of work upon the amenity of the neighbourhood. Impact of work includes, but is not limited to, noise, vibration, dust, odour, traffic and parking impacts.

Note: Each and every breach of this condition by any person may be subject to separate penalty infringement notice or prosecution.

Note: The delivery and removal of plant, equipment and machinery associated with wide loads subject to RMS and Police restrictions on their movement outside the approved hours of work will be considered on a case by case basis.

Note: Compliance with these hours of work does not affect the rights of any person to seek a remedy to offensive noise as defined by the *Protection of the Environment Operations Act 1997*, the *Protection of the Environment Operations (Noise Control) Regulation 2000*.

Note: EPA Guidelines can be downloaded from <http://www.epa.nsw.gov.au/noise/nglg.htm>.

Note: see <http://www.epa.nsw.gov.au/resources/ci/buildsheet7.pdf>

E.8 Public Footpaths - Safety, Access and Maintenance

The *principal contractor* and any other person acting with the benefit of this consent must:

- a) Not erect or maintain any gate or fence swing out or encroaching upon the road or the footway.
- b) Not use the road or footway for the storage of any article, material, matter, waste or thing.
- c) Not use the road or footway for any work.

- d) Keep the road and footway in good repair free of any trip hazard or obstruction.
- e) Not stand any plant and equipment upon the road or footway.
- f) Provide a clear safe pedestrian route a minimum of 1.5m wide.
- g) Protect street name inlays in the footpath which are not to be removed or damaged during development.

This condition does not apply to the extent that a permit or approval exists under the section 73 of the *Road Transport (Safety and Traffic Management) Act 1999*, section 138 of the *Roads Act 1993* or section 94 of the *Local Government Act 1993* except that at all times compliance is required with:

- a) Australian Standard AS 1742 (Set) Manual of uniform traffic control devices and all relevant parts of this set of standards.
- b) Australian Road Rules to the extent they are adopted under the *Road Transport (Safety and Traffic Management) (Road Rules) Regulation 1999*.

Note: Section 73 of the *Road Transport (Safety and Traffic Management) Act 1999* allows the Police to close any road or road related area to traffic during any temporary obstruction or danger to traffic or for any temporary purpose. Any road closure requires Police approval.

Note: Section 138 of the *Roads Act 1993* provides that a person must not:

- erect a structure or carry out a work in, on or over a public road, or
- dig up or disturb the surface of a public road, or
- remove or interfere with a structure, work or tree on a public road, or
- pump water into a public road from any land adjoining the road, or
- connect a road (whether public or private) to a classified road, otherwise than with the consent of the appropriate roads authority.

Note: Section 68 of the *Local Government Act 1993* provides that a person may carry out certain activities only with the prior approval of the council including:

- Part C Management of Waste:
 - a) For fee or reward, transport waste over or under a public place
 - b) Place waste in a public place
 - c) Place a waste storage container in a public place."
- Part E Public roads:
 - a) Swing or hoist goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway
 - b) Expose or allow to be exposed (whether for sale or otherwise) any article in or on or so as to overhang any part of the road or outside a shop window or doorway abutting the road, or hang an article beneath an awning over the road."
 - c) Any work in, on or over the Road or Footway requires *Council* Approval and in the case of classified roads the NSW Roads and Traffic Authority. Road includes that portion of the road uses as a footway.

E.9 Tree preservation and approved landscaping works

All landscape works must be undertaken in accordance with the approved landscape plan, arborist report and tree management plan as applicable.

E.10 Tree Preservation

All persons must comply with Council's *Tree Preservation Order* ("the TPO"), other than where varied by this consent. The order applies to any tree, with a height greater than 5 metres or a diameter spread of branches greater than 3 metres, is subject to Council's Tree Preservation Order unless, exempted by specific provisions. Works to be carried out within a 5 metre radius of any tree, subject to the Tree Preservation Order, require the prior written consent of Council.

General Protection Requirements

- a) There must be no excavation or *work* within the required Tree Protection Zone(s). The Tree Protection Zone(s) must be maintained during all *development work*.

- b) Where excavation encounters tree roots with a diameter exceeding 40mm excavation must cease. The *principal contractor* must procure an inspection of the tree roots exposed by a qualified arborist. Excavation must only recommence with the implementation of the recommendations of the qualified arborist or where specific instructions are given by Council's Tree Management Officer in strict accordance with such Council instructions.
- c) Where there is damage to any part of a tree the *principal contractor* must procure an inspection of the tree by a qualified arborist immediately. The *principal contractor* must immediately implement treatment as directed by the qualified arborist or where specific instructions are given by Council's Tree Management Officer in strict accordance with such Council instructions.

Note: Trees must be pruned in accordance with Australian Standard AS 4373 - 2007 "Pruning of Amenity Trees" and Workcover NSW Code of Practice Amenity Tree Industry 1998.

E.11 Works within tree root zones

Any works undertaken within the specified radius from the trunks of the following trees (including excavation, changes to levels, soft landscaping, changes to road way surfaces, installation of services and pipes and demolition of existing walls or hard surfaces) must be supervised by the site arborist and carried out in accordance with the recommendations within the submitted tree management plan and tree protection plan. No root with a diameter equal to or in excess of 50mm is to be cut unless approved, in writing, by a qualified Arborist (minimum qualification of Australian Qualification Framework Level 4 or recognised equivalent).

All root pruning must be undertaken in accordance with the *Australian Standard 4373 "Pruning of Amenity Trees"* and carried out by a qualified Arborist (minimum qualification of *Australian Qualification Framework Level 4* or recognised equivalent). Any exposed surface roots must be covered to prevent drying out and watered. Materials used to minimise surface roots drying out include leaf litter mulch or a geotextile fabric.

Beyond this radius, mechanical excavation is permitted, when root pruning by hand along the perimeter line of such works is completed.

E.12 Maintenance of Environmental Controls

The *principal contractor* or *owner builder* must ensure that the following monitoring, measures and controls are maintained:

- a) Erosion and sediment controls,
- b) Dust controls,
- c) Dewatering discharges,
- d) Noise controls;
- e) Vibration monitoring and controls;
- f) Ablutions;

Note: See <http://www.epa.nsw.gov.au/smallbusinessbuilders.htm> for additional information.

E.13 Support of adjoining land and buildings

A person must not do anything on or in relation to the *site* (the supporting land) that removes the support provided by the supporting land to any other land (the supported land) or building (the supported building). For the purposes of this condition, supporting land

includes the natural surface of the site, the subsoil of the site, any water beneath the site, and any part of the site that has been reclaimed.

Note: This condition does not authorise any trespass or encroachment upon any adjoining or supported land or building whether private or public. Where any underpinning, shoring, soil anchoring (temporary or permanent) or the like is considered necessary upon any adjoining or supported land by any person the *principal contractor* or *owner builder* must obtain:

- a) the consent of the *owners* of such adjoining or supported land to trespass or encroach, or
- b) an access order under the Access to Neighbouring Land Act 2000, or
- c) an easement under section 88K of the *Conveyancing Act* 1919, or
- d) an easement under section 40 of the *Land & Environment Court Act* 1979 as appropriate.

Note: Section 177 of the *Conveyancing Act* 1919 creates a statutory duty of care in relation to support of land. Accordingly, a person has a duty of care not to do anything on or in relation to land being developed (the supporting land) that removes the support provided by the supporting land to any other adjoining land (the supported land).

Note: Clause 20 of the *Roads (General) Regulation 2000* prohibits excavation in the vicinity of roads as follows: "**Excavations adjacent to road** -A person must not excavate land in the vicinity of a road if the excavation is capable of causing damage to the road (such as by way of subsidence) or to any work or structure on the road." Separate approval is required under the *Roads Act* 1993 for any underpinning, shoring, soil anchoring (temporary) or the like within or under any road. Council will not give approval to permanent underpinning, shoring, soil anchoring within or under any road.

Note: The encroachment of work or the like is a civil matter of trespass or encroachment and Council does not adjudicate or regulate such trespasses or encroachments except in relation to encroachments upon any road, public place, crown land under Council's care control or management, or any community or operational land as defined by the *Local Government Act* 1993.

E.14 Vibration Monitoring

Vibration monitoring equipment must be installed and maintained, under the supervision of a *professional engineer* with expertise and experience in geotechnical engineering, between any potential source of vibration and any *building* identified by the *professional engineer* as being potentially at risk of movement or damage from settlement and/or vibration during the excavation and during the removal of any excavated material from the land being developed.

If vibration monitoring equipment detects any vibration at the level of the footings of any adjacent building exceeding the peak particle velocity adopted by the *professional engineer* as the maximum acceptable peak particle velocity an audible alarm must activate such that the *principal contractor* and any sub-contractor are easily alerted to the event.

Where any such alarm triggers all excavation works must cease immediately. Prior to the vibration monitoring equipment being reset by the *professional engineer* and any further work recommencing the event must be recorded and the cause of the event identified and documented by the *professional engineer*. Where the event requires, in the opinion of the *professional engineer*, any change in work practices to ensure that vibration at the level of the footings of any adjacent building does not exceed the peak particle velocity adopted by the *professional engineer* as the maximum acceptable peak particle velocity these changes in work practices must be documented and a written direction given by the *professional engineer* to the *principal contractor* and any sub-contractor clearly setting out required work practice.

The *principal contractor* and any sub-contractor must comply with all work directions, verbal or written, given by the *professional engineer*.

A copy of any written direction required by this condition must be provided to the *Principal Certifying Authority* within 24 hours of any event.

Where there is any movement in foundations such that damaged is occasioned to any adjoining *building* or such that there is any removal of support to *supported land* the *professional engineer*, *principal contractor* and any sub-contractor responsible for such work must immediately cease all work, inform the owner of that *supported land* and take

immediate action under the direction of the *professional engineer* to prevent any further damage and restore support to the *supported land*.

Note: *Professional engineer* has the same meaning as in Clause A1.1 of the BCA.

Note: *Building* has the same meaning as in section 4 of the Act i.e. "*building* includes part of a building and any structure or part of a structure".

Note: *Supported land* has the same meaning as in section 88K of the Conveyancing Act 1919.

E.15 Erosion and Sediment Controls - Maintenance

The *principal contractor* or *owner builder* must maintain water pollution, erosion and sedimentation controls in accordance with:

- a) The Soil and Water Management Plan required under this consent;
- b) "*Managing Urban Stormwater - Soils and Construction*" published by the NSW Department of Housing 4th Edition ("*The Blue Book*").

Where there is any conflict *The Blue Book* takes precedence.

Note: A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the Act and/or the Protection of the Environment Operations Act 1997 without any further warning. It is a criminal offence to cause, permit or allow pollution.

Note: Section 257 of the Protection of the Environment Operations Act 1997 provides that "the occupier of premises at or from which any pollution occurs is taken to have caused the pollution".

Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the Protection of the Environment Operations Act 1997 where pollution is caused, permitted or allowed as the result of the occupation of the land being developed whether or not they actually cause the pollution.

E.16 Disposal of site water during construction

The principal contractor or owner builder must ensure:

- a) Prior to pumping any water into the road or public stormwater system that approval is obtained from *Council* under section 138(1)(d) of the *Roads Act 1993*;
- b) That *water pollution*, as defined by the *Protection of the Environment Operations Act 1997*, does not occur as the result of the discharge to the road, public stormwater system or other place or any site water;
- c) That stormwater from any roof or other impervious areas is linked, via temporary downpipes and stormwater pipes, to a Council approved stormwater disposal system immediately upon completion of the roof installation or work creating other impervious areas.

Note: This condition has been imposed to ensure that adjoining and neighbouring land is not adversely affected by unreasonable overland flows of storm water and that site water does not concentrate water such that they cause erosion and water pollution.

E.17 Filling of site

To the extent that this consent permits filling of the site such fill must be *virgin excavated natural material* ("*VENM*").

VENM means "*Virgin excavated natural material (such as clay, gravel, sand, soil and rock) that is not mixed with any other type of waste and which has been excavated from areas of land that are not contaminated with human-made chemicals as a result of industrial, commercial, mining or agricultural activities and which do not contain sulphidic ores or soils.*"

Note: This definition is the same as in Schedule I of the *Protection of the Environment Operations Act 1997*, Appendix IX: Types of waste.

Note: Sulphidic ores and soils are commonly known as Acid Sulphate Soils.

Note: If a person transports waste to a place (the site) that cannot lawfully be used as a waste facility for that waste: (a) the person, and, (b) if the person is not the owner of the waste, the owner, are each guilty of an offence under section 143 of the *Protection of the Environment Operations Act 1997*.

Note: A person who is the owner or occupier (principal contractor) of any land that cannot lawfully be used as a waste facility and who permits the land to be used as a waste facility is guilty of an offence under section 144 of the *Protection of the Environment Operations Act 1997*.

Note: Additional information is available from the following websites: Illegal waste dumping - <http://www.epa.nsw.gov.au/waste/dumping.htm>

Is that fill legal? <http://www.epa.nsw.gov.au/resources/OI2648web.epa%20fill.dl%20bro.pdf>

E.18 Site Cranes

Site Crane(s) and hoist(s) may be erected within the boundary of the land being developed subject to compliance with Australian Standards AS 1418, AS 2549 and AS 2550 and all relevant parts to these standards.

Cranes must not swing or hoist over any public place unless the *principal contractor* or *owner builder* have the relevant approval under the *Local Government Act 1993*, *Crown Lands Act 1989* or *Roads Act 1993*.

The crane must not be illuminated outside approved working hours other than in relation to safety beacons required by the Civil Aviation Safety Authority under the *Civil Aviation Act 1988 (Cth)*.

No illuminated sign(s) must be erected upon or displayed upon any site crane.

Note: Where it is proposed to swing a crane over a public place the *principal contractor* or *owner builder* must make a separate application to Council under section 68 of the *Local Government Act 1993* and obtain activity approval from Council prior to swinging or hoisting over the public place.

Note: Where it is proposed to swing a crane over private land the consent of the owner of that private land is required. Alternatively, the *principal contractor* or *owner builder* must obtain an access order under the *Access to Neighbouring Land Act 2000* or easement under section 88K of the *Conveyancing Act 1919* or section 40 of the *Land & Environment Court Act 1979* as appropriate. The encroachment of cranes or the like is a civil matter of trespass and encroachment. Council does not adjudicate or regulate such trespasses or encroachments.

Standard Condition: E19

E.19 Check Surveys - boundary location, building location, building height, stormwater drainage system and flood protection measures relative to Australian Height Datum

The *Principal Contractor* or *Owner Builder* **must** ensure that a surveyor registered under the *Surveying Act 2002* carries out check surveys and provides survey certificates confirming the location of the building(s), ancillary works, flood protection works and the stormwater drainage system relative to the boundaries of the *site* and that the height of buildings, ancillary works, flood protection works and the stormwater drainage system relative to Australian Height Datum complies with this consent at the following critical stages.

The *Principal Contractor* or *Owner Builder* must ensure that work must not proceed beyond each of the following critical stages until compliance has been demonstrated to the *PCA* 's satisfaction:

- a) Upon the completion of foundation walls prior to the laying of any floor or the pouring of any floor slab and generally at damp proof course level;
- b) Upon the completion of form work for floor slabs prior to the laying of any floor or the pouring of any concrete and generally at each storey;
- c) Upon the completion of form work or framework for the roof(s) prior to the laying of any roofing or the pouring of any concrete roof;

- d) Upon the completion of formwork and steel fixing prior to pouring of any concrete for any ancillary structure, flood protection work, swimming pool or spa pool or the like;
- e) Upon the completion of form work and steel fixing prior to pouring of any concrete for driveways showing transitions and crest thresholds confirming that driveway levels match Council approved driveway crossing levels and minimum flood levels.;
- f) Stormwater Drainage Systems prior to back filling over pipes confirming location, height and capacity of works.
- g) Flood protection measures are in place confirming location, height and capacity.

Note: This condition has been imposed to ensure that development occurs in the location and at the height approved under this consent. This is critical to ensure that building are constructed to minimum heights for flood protection and maximum heights to protect views and the amenity of neighbours.

E.20 Placement and use of Skip Bins

The *principal contractor* or *owner builder* must ensure that all waste storage containers, including but not limited to skip bins, must be stored within the site unless:

- a) Activity Approval has been issued by Council under section 94 of the *Local Government Act* 1993 to place the waste storage container in a public place, and
- b) Where located on the road it is located only in a positions where a vehicle may lawfully park in accordance with the Australian Road Rules to the extent they are adopted under the *Road Transport (Safety and Traffic Management) (Road Rules) Regulation* 1999.

Note: Waste storage containers must not be located on the footpath without a site specific activity approval. Where such site specific activity approval is granted a 1.5m wide clear path of travel is maintained free of any trip hazards.

E.21 Prohibition of burning

There must be no burning of any waste or other materials. The burning of CCA (copper chrome arsenate) or PCP (pentachlorophenol) treated timber is prohibited in all parts of NSW. All burning is prohibited in the North Sydney local government area.

Note: Pursuant to the *Protection of the Environment Operations (Control of Burning) Regulation* 2000 all burning (including burning of vegetation and domestic waste) is prohibited except with approval. No approval is granted under this consent for any burning.

E.22 Dust Mitigation

Dust mitigation must be implemented and requires:

- a) Dust screens to all hoardings and site fences.
- b) All stockpiles or loose materials to be covered when not being used.
- c) All equipment, where capable, being fitted with dust catchers.
- d) All loose materials being placed bags before placing into waste or skip bins.
- e) All waste and skip bins being kept covered when not being filled or emptied.
- f) The surface of excavation work being kept wet to minimise dust.
- g) Landscaping incorporating trees, dense shrubs and grass being implemented as soon as practically possible to minimise dust.

Note: Special precautions must be taken when removing asbestos or lead materials from development sites. Additional information can be obtained from www.workcover.nsw.gov.au and www.epa.nsw.gov.au. Other specific condition and advice may apply.

Note: Demolition and construction activities may affect local air quality and contribute to urban air pollution. The causes are dust, smoke and fumes coming from equipment or activities, and airborne chemicals when spraying for pest management. Precautions must be taken to prevent air pollution.

E.23 Compliance with Council's Specification for Roadworks, Drainage and Miscellaneous Works Road works and work within the Road and Footway

All work carried out on assets which are under Council ownership or will revert to the ownership, care, control or management of Council in connection with the *development* to which this consent relates must comply with Council's *Specification for Roadworks, Drainage and Miscellaneous Works*.

The *owner, principal contractor* or *owner builder* must meet all costs associated with such works.

This condition does not set aside the need to obtain relevant approvals under the *Roads Act 1993* or *Local Government Act 1993* for works within Roads and other public places.

E.24 Food Premises - Construction & Fitout

The *principal contractor* or *owner builder* must ensure that all construction and fitout of the food premises complies with the details for the food premises submitted to and considered satisfactory by Council's Environmental Health Officers but no less compliant than with the *Food Act 2003*, *Food Regulation 2004*; the *Food Standards Code* as published by Food Standards Australia and New Zealand and AS 4674-2004: *Construction and fit out of food premises*.

This condition has been imposed to protect public health and ensure that food premises are easily maintained in a clean condition fit for food preparation and consumption.

E.25 Site waste minimisation and management - Demolition

In order to maximise resource recovery and minimise residual waste from demolition activities:

- a) The provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work
- b) An area is to be allocated for the storage of materials for use, recycling and disposal (giving consideration to slope, drainage, location of waterways, stormwater outlets, vegetation and access and handling requirements)
- c) Provide separate collection bins and/or areas for the storage of residual waste
- d) Clearly 'signpost' the purpose and content of the bins and/or storage areas
- e) Implement measures to prevent damage by the elements, odour, health risks and windborne litter
- f) Minimise site disturbance, limiting unnecessary excavation

When implementing the SWMMP the applicant must ensure:

- a) Footpaths, public reserves and street gutters are not used as places to store demolition waste or materials of any kind without Council approval
- b) Any material moved off site is transported in accordance with the requirements of the *Protection of the Environment Operations Act (1997)*
- c) Waste is only transported to a place that can lawfully be used as a waste facility
- d) Generation, storage, treatment and disposal of hazardous waste and special waste (including asbestos) is conducted in accordance with relevant waste legislation administered by the EPA and relevant Occupational Health and Safety legislation administered by Workcover NSW
- e) Evidence such as weighbridge dockets and invoices for waste disposal or recycling services are retained

Note: Materials that have an existing reuse or recycling market should not be disposed of in a landfill. Reuse and recycling opportunities are decreased when asbestos is not carefully removed and segregated from other waste streams.

E.27 Site waste minimisation and management - Construction

In order to maximise resource recovery and minimise residual waste from construction activities:

- a) The provisions of the Site Waste Minimisation and Management Plan (SWMMP) are to be implemented at all times during the course of the work
- b) Arrange for the delivery of materials so that materials are delivered 'as needed' to prevent the degradation of materials through weathering and moisture damage
- c) Consider organising to return excess materials to the supplier or manufacturer
- d) Allocate an area for the storage of materials for use, recycling and disposal (considering slope, drainage, location of waterways, stormwater outlets and vegetation)
- e) Clearly 'signpost' the purpose and content of the storage areas
- f) Arrange contractors for the transport, processing and disposal of waste and recycling. Ensure that all contractors are aware of the legal requirements for disposing of waste.
- g) Promote separate collection bins or areas for the storage of residual waste
- h) implement measures to prevent damage by the elements, odour and health risks, and windborne litter
- i) Minimise site disturbance and limit unnecessary excavation
- j) Ensure that all waste is transported to a place that can lawfully be used as a waste facility
- k) Retain all records demonstrating lawful disposal of waste and keep them readily accessible for inspection by regulatory authorities such as council, Department of Environment and Climate Change (DECC) or Work Cover NSW
- l) In order to maximise resource recovery and minimise residual waste from demolition and construction activities at the Kiaora Lands Development Site, the measures outlined in the Waste Management Plan (February 2012) prepared by J D MACDONALD, Waste Management Consultants shall be fully implemented.
- m) Soil removal from the site shall have regard to the findings outlined in the report titled 'Update of Preliminary Waste Classification - Letter Report for Kiaora Place, Double Bay' (Project 362S0.02-2 dated 15 February, 2010) prepared by Douglas Partners.

E.28 Shoring and adequacy of adjoining property

For the purposes of section SOA (11) of the Act, the following condition is prescribed in relation to a development consent for development that involves an excavation that extends below the level of the base of the footings of a building on adjoining land. The person having the benefit of the development consent must, at the person's own expense;

- a) protect and support the adjoining premises from possible damage from the excavation, and
- b) where necessary, underpin the adjoining premises to prevent any such damage

Note: this condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

F. Conditions which must be satisfied prior to any occupation or use of the building (Part 4A of the Act and Part 8 Division 3 of the Regulation)

F.1 Occupation Certificate (section 109M of the Act)

A person must not commence occupation or use of the whole or any part of a new building (within the meaning of section 109H (4) of the *Act*) unless an occupation certificate has been issued in relation to the building or part.

Note: New building includes an altered portion of, or an extension to, an existing building.

F.2 Provision of Category 1 Fire Safety Provisions (clause 93 of the Regulation)

A person must not commence occupation or use of the whole or any part of a the building unless such of the Category 1 fire safety provisions as are applicable to the building's proposed new use are provided.

Note: Category 1 fire safety provision means the following provisions of the BCA, EP1.3, EP1.4, EP1.6, EP2.1, EP2.2 and EP3.2 in Volume One of that Code and P2.3.2 in Volume Two of that Code.

F.3 Fire Safety Certificates

In the case of a *final occupation certificate* to authorise a person:

- a) to commence occupation or use of a *new building*, or
- b) to commence a change of building use for an existing building,

a *certifying authority* must be satisfied that a final fire safety certificate has been issued for the building.

In the case of an *interim occupation certificate* to authorise a person:

- a) to commence occupation or use of a partially completed *new building*, or
- b) to commence a change of building use for part of an existing building, a *certifying authority* must be satisfied that a final fire safety certificate or an interim fire safety certificate has been issued for the relevant part of the building.

Note: This condition does not apply to a class 1a or class 10 building within the meaning of clause 167 of the Regulation.

Note: In this condition:

interim fire safety certificate has the same meaning as it has in Part 9 of the Regulation.

final fire safety certificate has the same meaning as it has in Part 9 of the Regulation.

new building has the same meaning as it has in section 109H of the Act.

F.4 Compliance Certificate from Sydney Water

All work must be completed in accordance with the Compliance Certificate under the Sydney Water Act 1994 and the "Notice of Requirements".

Note: Please refer to "Your Business" section of Sydney Water's web site at www.sydneywater.com.au then the "e-developer" icon or telephone 13 20 92.

F.5 Commissioning and Certification of Systems and Works

The *principal contractor* or *owner builder* must submit to the satisfaction of the PCA works-as-executed ("W AE") plans, *Compliance Certificates* and evidence of suitability in accordance with Part A2.2 of the BCA confirming that the *works*, as executed and as

detailed, comply with the requirement of this consent, the *Act*, the *Regulations*, any relevant *construction certificate*, the *BCA* and relevant *Australian Standards*. Works-as-executed ("W AE") plans, *Compliance Certificates* and evidence of suitability in accordance with Part A2.2 of the *BCA* must include but may not be limited to:

- a) Certification from the supervising professional engineer that the requirement of the Geotechnical conditions and report recommendations were implemented and satisfied during development work.
- b) All flood protection measures.
- c) All garage/car park/basement car park, driveways and access ramps comply with Australian Standard AS 2890.1 - "Off-Street car parking."
- d) All stormwater drainage and storage systems.
- e) All mechanical ventilation systems.
- f) All hydraulic systems.
- g) All structural work.
- h) All acoustic attenuation work.
- i) All waterproofing.
- j) Such further matters as the Principal Certifying Authority may require.

Note: This condition has been imposed to ensure that systems and works as completed meet *development standards* as defined by the *Act*, comply with the *BCA*, comply with this consent and so that a public record of works as execute is maintained.

Note: The *PCA* may require any number of WAE plans, certificates, or other evidence of suitability as necessary to confirm compliance with the *Act*, *Regulation*, Development Standards, *BCA*, and relevant *Australia Standards*. As a minimum W AE plans and certification is required for storm water drainage and detention, mechanical ventilation work, hydraulic services (including but not limited to fire services).

Note: The *PCA* must submit to Council, with any *Occupation Certificate*, copies of works-as-executed ("W AE") plans, *Compliance Certificates* and evidence of suitability in accordance with Part A2.2 of the *BCA* upon which the *PCA* has relied in issuing any *Occupation Certificate*.

F.6 Inspection, Certification and Registration of Regulated Systems

Prior to the issue of any *Occupation Certificate* or occupation or use of part of the building serviced by a *regulated system* the *principal contractor* or *owner builder* must submit to the satisfaction of *PCA* certification by a '*competent person*' that the regulated system as installed can operate as required by Clause 9 of the *Public Health (Microbial Control) Regulation, 2000*. The owner must register the regulated systems with Council and provide the *PCA* with evidence of registration pursuant to Clause 15 of the *Public Health (Microbial Control) Regulation, 2000*.

Note: *Regulated System* has the same mean as in the Public Health Act 1991.

Note: *Competent person* has the same meaning as in Clause 9(3) of the *Public Health (Microbial Control) Regulation, 2000*.

Note: The NSW Code of Practice for the Control of Legionnaires' Disease can be down loaded free from: http://www.health.nsw.gov.au/pubs/2004/pdf/legionnaires_disease.pdf

F.7 Commissioning and Certification of Public Infrastructure Works

The *principal contractor* or *owner builder* must submit, to the satisfaction of North Sydney Municipal Council, certification from a *professional engineer* that all public infrastructure works have been executed in compliance with this consent and with Council's *Specification for Roadworks, Drainage and Miscellaneous Works*.

The certification must be supported by closed circuit television / video inspection provided on DVD of all stormwater drainage together with Works As Executed engineering plans and a survey report detailing all finished reduced levels.

F.8 Food Premises - Inspection and Registration

Prior to the issue of any *Occupation Certificate* or occupation or use of any food premises:

- a) The *Principal Contractor* or *owner* must arrange an inspection of the fit out of the Food Premises by Council's Environmental Health Officer;
- b) A satisfactory final inspection must have been undertaken by Council's Environmental Health Officer; and
- c) The *owner* or *occupier* must have registered the Food Premises (Notification of conduct under section 100 of the *Food Act 2003*).

Note: Notification can be done on-line at www.foodnotiry.nsw.gov.au

Note: Inspections are subject to payment of the adopted inspection fee.

Note: Section 100 of the *Food Act 2003* requires:

"100 Notification of conduct of food businesses.

(1) The proprietor of a food business must not conduct the food business unless the proprietor has given written notice, in the approved form, of the information specified in the Food Safety Standards that is to be notified to the appropriate enforcement agency before the business is conducted. Maximum penalty: 500 penalty units in the case of an individual and 2,500 penalty units in the case of a corporation."

Note: *Accredited Certifiers* are unable to issue *Compliance Certificates* in relation to compliance with the *Food Act 2003*, *Food Regulation 2004*; the Food Standards Code and the Australian Standard AS 4674-2004: *Construction and fit out of food premises*; since these are not matters which an *Accredited Certifier* can be satisfied in relation to under Clause 161 of the *Regulation*. This condition can only be satisfied following an inspection and sign off from Council's Environmental Health Officers.

F.9 New Waste Services

No occupation certificate must be issued until the owner/developer has procured the provision of required wastes services including purchase of all waste and recycling storage containers (bins and crates) from Council or otherwise in accordance with the approved *Waste Management Plan*.

F.10 Acoustic certification

Prior to the occupation or use of the building or the issue of any occupation certificate, a certificate is to be submitted to the Principal Certifying Authority from a *professional engineer* (acoustic engineer) certifying that all the acoustic and noise control measures identified by the development consent and/or detailed on the construction certificate drawings are in place and achieve the required design objectives.

F.11 Acoustic certification of mechanical plant and equipment

Prior to the occupation or use of the building or the issue of any occupation certificate, a certificate is to be submitted to the Principal Certifying Authority from a *professional engineer* (acoustic engineer) certifying that the noise level from all mechanical plant and equipment installed in the building measured at any time of the day or night, at the nearest, or at any residential property facade, while the proposed mechanical plant and equipment is operating does not exceed the *nocturnal background noise level*.

The certificate must further certify that the cumulative noise level from all installed items of mechanical plant and equipment, when measure at the same location will not exceed the nocturnal background level by more than 5dB(A) and that all required sound attenuating measures are in place.

The *background noise level* is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed. For assessment purposes the background noise level is the LA90, 15 minute level measured by a sound level meter.

Note: Further information including lists of Acoustic Engineers can be obtained from:

1. **Australian Acoustical Society**-professional society of noise-related professionals (www.acoustics.asn.au/index.phn).
2. **Association of Australian Acoustical Consultants**-professional society of noise related professionals (www.aaac.org.au).

F.12 Lighting for pedestrian ways

Lighting for pedestrian ways to, from and around the carpark is to conform to the requirements of AS/NZS 1158 *Lighting for roads and public spaces*.

F.13 Car park lighting

Lighting throughout the car park must conform to the requirements of AS 2890 *Off Street Car parking* and AS 1680.2 *Interior Lighting*.

F.14 Operational Transport Management Plan

An Operational Transport Management Plan must be submitted to Council for approval by Council's Manager Engineering Services prior to the issue of the Occupation Certificate. The Plan is to address the following:

- Describe the maximum number and types of trucks required to service the various components of the development
- Describe the hours of operation of the loading docks and the proposed means to ensure no deliveries are received outside of the approved trading hours.
- Describe the management strategy to ensure that at no time are heavy vehicles queued, waiting or parked in the driveway to the loading dock and/ or in surrounding streets
- Describe the routes to be used by the heavy vehicles through the LGA
- Describe the means proposed to minimise the impact of heavy vehicles on the local community
- Describe the means proposed to ensure pedestrian safety at the entry and exits from the loading docks
- Describe the means to ensure all heavy vehicles, including delivery and garbage trucks, enter and exit the site in a forwards direction.
- Confirm that the loading dock is to be available for moving/delivery vehicles for the commercial component of the development, as well as the retail components of the development
- Compliance with the Operational Transport Management Plan must form part of any lease with the tenants of the development

This condition is imposed with regard to traffic related impacts of the proposed development.

G. Conditions which must be satisfied prior to the issue of any Subdivision Certificate

G.1 Electricity Substations - Dedication as road and/or easements for access

If an electricity substation, is required on the site the owner must dedicate to the appropriate energy authority (to its satisfaction), free of cost, an area of land adjoining the street alignment to enable an electricity substation to be established. The size and location of the electricity substation is to be in accordance with the requirements of the appropriate energy authority and Council. The opening of any access doors are not to intrude onto the public road (footway or road pavement).

Documentary evidence of compliance, including correspondence from the energy authority is to be provided to the *Principal Certifying Authority* prior to issue of the Construction Certificate detailing energy authority requirements.

The Accredited Certifier must be satisfied that the requirements of the energy authority have been met prior to issue of the Construction Certificate.

Where an electricity substation is provided on the site adjoining the road boundary, the area within which the electricity substation is located must be dedicated as public road. Where access is required across the site to access an electricity substation an easement for access across the site from the public place must be created upon the linen plans burdening the subject site and benefiting the Crown in right of New South Wales and any Statutory Corporation requiring access to the electricity substation.

H. Conditions which must be satisfied prior to the issue of a Final Occupation Certificate (sl09C(1)(c))

H.1 Removal of Ancillary Works and Structures

The *principal contractor* or *owner* must remove from the land and any adjoining public place:

- a) The site sign;
- b) Ablutions;
- c) Hoarding;
- d) Scaffolding; and
- e) Waste materials, matter, article or thing.

Note: This condition has been imposed to ensure that all ancillary matter is removed prior to the issue of the *Final Occupation Certificate*.

Standard Condition: H12

H.2 Road Works (including footpaths)

The following works must be completed to the satisfaction of Council, in accordance with the *Roads Act* 1993 approvals and comply with Council's "*Specification for Roadworks, Drainage and Miscellaneous Works*" unless expressly provided otherwise by these conditions at the *principal contractor's* or *owner's* expense:

- a) Stormwater pipes, pits and connections to public stormwater systems within the *road*;
- b) Driveways and vehicular crossings within the *road*;
- c) Removal of redundant driveways and vehicular crossings;
- d) New footpaths within the *road*;
- e) Relocation of existing power/light pole
- f) relocation/provision of street signs
- g) New or replacement street trees;
- h) New footway verges, where a grass verge exists, the balance of the area between the footpath and the kerb or site boundary over the full frontage of the proposed development must be turfed. The grass verge must be constructed to contain a uniform minimum 75mm of friable growing medium and have a total cover of turf predominant within the street. .
- i) New or reinstated kerb and guttering within the *road*; and
- j) New or reinstated road surface pavement within the *road*.

Note: Security held by Council pursuant to section 80A(6) of the Act will not be release by Council until compliance has been achieved with this condition. An application for refund of security must be submitted with the *Final Occupation Certificate* to Council.

H.3 Dilapidation Report for public infrastructure works

The *Principal Contractor* must submit a follow up dilapidation report, prepared by a *professional engineer*, on Council's infrastructure within and near the development site to Council upon completion of the work.

The Final Occupation Certificate must not be issued until Council's Civil Works Engineer is satisfied that the works have been satisfactorily completed and the PCA has been provided with correspondence from Council to this effect.

The dilapidation report must include:

- a) Photographs showing any existing damage to the road pavement fronting the site,
- b) Photographs showing any existing damage to the kerb and gutter fronting the site,

- c) Photographs showing any existing damage to the footway including footpath pavement fronting the site,
- d) Photographs showing any existing damage to retaining walls within the footway or road, and
- e) Closed circuit television/video inspection (in DVD format) of public storm water drainage systems fronting, adjoining or within the site, and
- f) The full name and signature of the professional engineer. The reports are to be supplied in both paper copy and electronic format in Word. Photographs are to be in colour, digital and date stamped. The dilapidation report must specify (with supporting photographic/DVD evidence) the exact location and extent of any damaged or defective public infrastructure. If the required report is not submitted then Council will assume any damage to any infrastructure in the immediate vicinity of the site was caused by the principal contractor and owner carrying out work under this consent.

Note: If the Principal Contractor fails to submit the dilapidation report required by this condition and damage is occasioned to public assets adjoining the site Council will deduct from security any costs associated with remedying, repairing or replacing damaged public infrastructure. Nothing in this condition prevents Council making any claim against security held for this purpose.

I. Conditions which must be satisfied during the ongoing use of the development

I.1 Operation of Regulated Systems

The occupier must operate *regulated systems* in compliance with Clause 9 of the Public Health (Microbial Control) Regulation, 2000.

Where there is any change in the regulated system the occupier must register the changes in the *regulated systems* with Council pursuant to Clause 15 of the *Public Health (Microbial Control) Regulation, 2000*.

Water cooling system must be certified by a *competent person* annually as being an effective process of disinfection under the range of operating conditions that could ordinarily be expected. This condition has been imposed to ensure public health.

Note: *Regulated System* has the same mean as in the *Public Health Act 1991*. *Competent person* has the same meaning as in Clause 9(3) of the Public Health (Microbial Control) Regulation, 2000. The *NSW Code of Practice for the Control of Legionnaires' Disease* can be down loaded free from: [http://www.health.nsw.gov.au/ipubs/2004/pdf/legionnaires disease. pdf](http://www.health.nsw.gov.au/ipubs/2004/pdf/legionnaires%20disease.pdf).

Standard Condition: I11

I.2 On-going maintenance of the on-site-detention system

The Owner(s) must in accordance with this condition and any positive covenant:

- a) Permit stormwater to be temporarily detained by the system;
- b) Keep the system clean and free of silt rubbish and debris;
- c) If the car park is used as a detention basin, a weather resistant sign must be maintained in a prominent position in the car park warning residents that periodic inundation of the car park may occur during heavy rain;
- d) Maintain renew and repair as reasonably required from time to time the whole or part of the system so that it functions in a safe and efficient manner and **in** doing so complete the same within the time and in the manner reasonably specified in written notice issued by the Council;
- e) Carry out the matters referred to in paragraphs (b) and (c) at the Owners expense;
- f) Not make any alterations to the system or elements thereof without prior consent in writing of the Council and not interfere with the system or by its act or omission cause it to be interfered with so that it does not function or operate properly;
- g) Permit the Councillor its authorised agents from time to time upon giving reasonable notice (but at anytime and without notice in the case of an emergency) to enter and inspect the land with regard to compliance with the requirements of this and any positive covenant;
- h) Comply with the terms of any written notice issued by Council in respect to the requirements of this condition within the time reasonably stated in the notice;
- i) Where the Owner fails to comply with the Owner's obligations under this and any other positive covenant, permit the Council or its agents at all times and on reasonable notice at the Owner's cost to enter the land with equipment, machinery or otherwise to carry out the works required by those obligations;
- j) Indemnify the Council against all claims or actions and costs arising from those claims or actions which Council may suffer or incur in respect of the system and caused by an act or omission by the Owners in respect of the Owner's obligations under this condition. This condition has been imposed to ensure that owners are aware of the maintenance requirements for their stormwater systems.

Note: This condition is supplementary to the owner(s) obligations and Council's rights under any positive covenant.

I.3 Waste Management - Commercial

The owner and/or occupier must comply with the approved detailed Waste Management Plan.

Receptacles are not to be stored in any public place at anytime. Waste and recycling receptacles must be stored at all times within the boundaries of the site.

This condition does not apply to the extent that Activity Approval exists under the Local Government Act 1993 or the Roads Act 1993 and subject that all conditions of such approval(s) are complied with.

This condition has been imposed to ensure that the provisions of the approved Waste Management Plan are complied with during the ongoing operations of the development.

Note: No waste will be collected by Council that isn't presented properly. The waste must be presented with lid closed to reduce littering.

I.4 Annual Fire Safety Statements (Class 1b to 9c buildings inclusive)

Each year, the owner of a building to which an *essential fire safety measure* is applicable must provide an *annual fire safety statement* to Council and the Commissioner of the NSW Fire Brigades. The *annual fire safety statement* must be prominently displayed in the building.

Note: *Essential fire safety measure* has the same meaning as in clause 165 of the *Regulation*. *Annual fire safety statement* has the same meaning as in clause 175 of the *Regulation*. Part 9 Division 5 of the *Regulation* applies in addition to this condition at the date of this consent. Visit Council's web site for additional information in relation to fire safety

I.5 Emergency response and evacuation plan- compliance & review

Occupation and use of the development must be in accordance with the emergency response and evacuation plan and procedure.

The emergency response and evacuation plan and procedure must be reviewed and, if necessary, updated at each annual meeting of the *emergency planning committee* constituted under AS 3745-2002 - *Emergency control organisation and procedures for buildings, structures and workplaces*. The emergency response and evacuation plan and procedure must form part of the listed *essential fire safety measures* subject to *Annual Fire Safety Certificates*.

Any amended emergency response and evacuation plan and procedure must be submitted to the Director General, New South Wales State Emergency Service and the Commissioner of the NSW Fire Brigades. Any changes requested by these emergency services that are consistent with AS 3745-2002 - *Emergency control organisation and procedures for buildings, structures and workplaces* must be adopted by the emergency response and evacuation plan and procedure prior to implementation of the amended emergency response and evacuation plan and procedure.

Note: The emergency response and evacuation plan and is the primary mechanism for the protection of life and safety.

I.6 Removal of Graffiti

All graffiti must be removed or obliterated from buildings and fences within 72 hours. This condition has been imposed to ensure the quality of our urban environment is not degraded by the accumulation of graffiti.

Note: Procedures for working with graffiti are contained in a special training program available from the Master Painters Australia NSW Association Inc. See: <http://www.masterpainters.com.au>

I.7 Storage and handling of flammable and combustible liquids

The storage and handling of flammable and combustible liquids must be in accordance with AS 1940-2004 - *The storage and handling of flammable and combustible liquids*.

This condition has been imposed to protect public safety.

I.8 Installation/operation of LPG facility

The installation and operation of the LPG facility must be in accordance with AS 1596:1997 - *Storage and handling of LP Gas*.

This condition has been imposed to protect public safety.

I.9 Food Premises - Maintenance of Food Premises

The food premises must be maintained in accordance with the *Food Act 2003*, *Food Regulation 2004*; the Food Standards Code as published by Food Standards Australia and New Zealand and Australian Standard AS 4674-2004: *Construction and fit out of food premises*. This condition has been imposed to protect public health.

Note: The provisions of the Food Act 2003 may change over time and irrespective of this condition compliance with this Act, regulations, food standards and other standards adopted under the Food Act (as amended) are mandatory. The *Food Act* and applicable regulations can be accessed free of charge at www.legislation.nsw.gov.au.

I.10 Outdoor lighting - Commercial

Outdoor lighting must comply with AS 4282-1997: *Control of the obtrusive effects of outdoor lighting*. The maximum luminous intensity from each luminaire must not exceed the level 1 control relevant under table 2.2 of AS 4282. The maximum illuminance and the threshold limits must be in accordance with Table 2.1 of AS 4282.

This condition has been imposed to protect the amenity of neighbours and limit the obtrusive effects of outdoor lighting in public places.

Note: Council may consider, subject to an appropriate section 96 application relaxation of this condition where it can be demonstrated, by expert report, that the level of lighting in the existing area already exceeds the above criteria, where physical shielding is present or physical shielding is reasonably possible.

I.11 Noise Control

The use of the premises must not give rise to the transmission of *offensive noise* to any place of different occupancy. *Offensive noise* is defined in the *Protection of the Environment Operations Act 1997*.

This condition has been imposed to protect the amenity of the neighbourhood.

Note: Council will generally enforce this condition in accordance with the *Noise Guide for Local Government* (<http://www.environment.nsw.gov.au/noise/nglg.htm>) and the *Industrial Noise Guidelines* (<http://www.environment.nsw.gov.au/noise/industrial.htm>) published by the Department of Environment and Conservation. Other state government authorities also regulate the *Protection of the Environment Operations Act 1997*.

Useful links:

Community Justice Centres-free mediation service provided by the NSW Government (www.cjc.nsw.gov.au).

Department of Environment and Conservation NSW, Noise Policy Section web page e
(www.environment.nsw.gov.au/noise).

New South Wales Government Legislation home page for access to all NSW legislation, including the
Protection of the Environment Operations Act 1997 and the *Protection of the Environment Noise Control
Regulation 2000* (www.legislation.nsw.gov.au).

Australian Acoustical Society-professional society of noise-related professionals
(www.acollistics.asn.au/index.php).

Association of Australian Acoustical Consultants-professional society of noise related professionals
(www.aaac.org.au).

Department of Gaming and Racing – (www.dgr.nsw.gov.au).

I.12 Maintenance of Sound Attenuation

Sound attenuation measures must be maintained in accordance with the Noise Impact Assessment prepared by SLR and dated July 2013 and the peer review prepared by Dr Steven Cooper The Acoustic Group dated October 2013.

I.13 Noise from mechanical plant and equipment

The noise level measured at any boundary of the site at any time while the mechanical plant and equipment is operating must not exceed the *background noise level*. Where noise sensitive receivers are located within the site, the noise level is measured from the nearest strata, stratum or community title land and must not exceed *background noise level* at any time.

The *background noise level* is the underlying level present in the ambient noise, excluding the subject noise source, when extraneous noise is removed. For assessment purposes the background noise level is the LA90, 15 minute level measured by a sound level meter.

This condition has been imposed to protect the amenity of the neighbourhood.

Note: Words in this condition have the same meaning as in the: *NSW Industrial Noise Policy* (http://www.environment.nsw.gov.au/resources/ind_noise.pdf) ISBN 0 7313 2715 2, dated January 2000, and *Noise Guide/or Local Government* (<http://www.environment.nsw.gov.au/noise/ngl~.htm>) ISBN 1741370671 , dated December 2004.

I.14 Noise - loading dock doors

The loading dock doors are to operate so that their noise emission components when either opening or closing are no more than *5dB(A)* above the background sound level when measured at the facade of the nearest, or any other residential property.

1.15 Noise - external pipes, vents, fans or other items of plant

Noise associated with external pipes, vents, fans or other items of plant must be less than the relevant background sound level at the facade of the nearest of any other residential property. All such plant is to be located as far away as possible from residential properties. In the event that pipes, high velocity air discharge outlets or other pipe work are installed on the face of the building or extend through the rooftop, those outlets must be equipped with acoustically effective discharge silencers and have their directional discharge pointing in a north-westerly direction.

1.16 Noise - use of the premises

The use of the premises must not give rise to noise which exceeds the relevant nocturnal background sound levels by more than 5dB(A) when measured at the facade of the nearest, or any other residential premises.

1.17 Noise - mechanical plant

All mechanical plant is to operate so that at any time of the day or night its noise emission component, when measured at the nearest or at any other residential property facade, must not exceed the nocturnal background level. The cumulative noise level from all relevant items of mechanical plant and equipment, when measured at the same location must not exceed the nocturnal background level by more than 5dB(A).

Note: The background noise level is to be measured on a windless Tuesday night which is normally the quietest night of the week.

1.18 Trading hours

Trading hours are limited to:

Woolworths supermarket

Monday to Sunday: 6am - 12am (midnight)

This condition has been imposed to mitigate amenity impacts upon the neighbourhood by commercial or retail trading including, but not limited to, external impacts associated with clients attending the site for business or otherwise.

Note: This condition does not apply to deliveries to, or dispatches from, the site of wholesale goods or internal activities that occur under the approved hours of use. General use and deliveries or dispatches may be restricted by hours of use conditions. This condition does not restrict the operation of noise pollution laws.

1.19 Operational requirements of the loading docks

The loading docks associated with the development are to comply with the following requirements at all times;

- a) All vehicles are to enter and exit the loading docks in a forward direction. Vehicles are only permitted to reverse inside the loading docks when the loading dock door is fully closed.
- b) The loading dock doors are only to be open as vehicles enter and exit the loading docks. At all other times the loading dock doors are to be closed. This condition has been imposed to protect the amenity of the neighbourhood.

1.20 Compliance with the waste management plan

Waste management is to conform to the detailed Waste management plan including the recommendations of that plan. No waste collection is to occur outside the hours of 7am - 6pm.

J. Miscellaneous Conditions

Nil

K. Advisings

K.1 Criminal Offences - Breach of Development Consent & Environmental laws

Failure to comply with this development consent and any condition of this consent is a criminal offence. Failure to comply with other environmental laws is also a criminal offence.

Where there is any breach Council may without any further warning:

- a) Issue Penalty Infringement Notices (On-the-spot fines);
- b) Issue notices and orders;
- c) Prosecute any person breaching this consent; and/or
- d) Seek injunctions/orders before the courts to restrain and remedy any breach.

Warnings as to potential maximum penalties

Maximum Penalties under NSW Environmental Laws include fines up to \$1.1 Million and/or custodial sentences for serious offences.

Warning as to enforcement and legal costs

Should Council have to take any action to enforced compliance with this consent or other environmental laws Council's policy is to seek from the Court appropriate orders requiring the payments of its costs beyond any penalty or remedy the Court may order. This consent and this specific advice will be tendered to the Court when seeking costs orders from the Court where Council is successful in any necessary enforcement action.

Note: The payment of environmental penalty infringement notices does not result in any criminal offence being recorded. If a penalty infringement notice is challenged in Court and the person is found guilty of the offence by the Court, subject to section 10 of the *Crimes (Sentencing Procedure) Act 1999*, a criminal conviction is recorded. The effect of a criminal conviction beyond any fine is serious. You can obtain further information from the following web sites: <http://www.theshopfront.org/documents/ConvictionsCriminalRecords.pdf> and the Attorney General's www.agd.nsw.gov.au.

K.2 Dial before you dig

The *principal contractor, owner builder* or any person digging may be held financially responsible by the asset owner should they damage underground pipe or cable networks. Minimise your risk and Dial 1100 Before You Dig or visit www.dialbeforeyoudig.com.au.

When you contact Dial Before You Dig, you will be sent details of all Dial Before You Dig members who have underground assets in the vicinity of your proposed excavation.

K.3 Commonwealth Disability Discrimination Act 1992 ("DDA")

The Disability Discrimination Act 1992 (DDA) makes it against the law for public places to be inaccessible to people with a disability. Compliance with this development consent, Council's Access DCP and the BCA does not necessarily satisfy compliance with the DDA.

The DDA applies to existing places as well as places under construction. Existing places must be modified and be accessible (except where this would involve "unjustifiable hardship").

Further detailed advice can be obtained from the Human Rights and Equal Opportunity Commission ("HEROC"):

- a) <http://www.hreoc.gov.au/index.html>
- b) http://www.hreoc.gov.au/disability_rights/dda_guide/ins/ins.html

If you have any further questions relating to the application of the DDA you can send and email to HEROC at disabdis@humanrights.gov.au.

K.4 NSW Police Service and Road Closures

Council and Police approval is required prior to a partial or full temporary road closure. If you are seeking a partial or full temporary road closure you must comply with the relevant conditions of this consent and you must also gain the approval of the Traffic Sergeant.

Warning: If you partial or full close a road without compliance with Council and Police requirements Council Rangers or the Police can issue Penalty Infringement Notices or Court Attendance Notices leading to prosecution.

K.5 Builders Licences and Owner Builders Permits

Section 81A of the *Act* requires among other matters that the person having the benefit of the development consent, if not carrying out the work as an owner-builder, must appoint a *principal contractor* for residential building work who must be the holder of a contractor licence.

Further information can be obtained from the NSW Office of Fair Trading website about how you obtain an owner builders permit or find a principal contractor (builder): <http://www.dft.nsw.gov.au/building.html> .

The Owner(s) must appoint the PCA. The PCA must check that Home Building Act insurance is in place before the commencement of building work. The Principal Contractor (Builder) must provide the Owners with a certificate of insurance evidencing the contract of insurance under the Home Building Act 1989 for the residential building work.

K.6 Building Standards - Guide to Standards and Tolerances

The PCA does not undertake detailed quality control inspections and the role of the PCA is primarily to ensure that the development proceeds in accordance with this consent, Construction Certificates and that the development is fit for occupation in accordance with its classification under the Building Code of Australia. Critical Stage Inspections do not provide the level of supervision required to ensure that the minimum standards and tolerances specified by the "Guide to Standards and Tolerances©" ISBN 0 7347 6010 8 are achieved.

The quality of any development is a function of the quality of the *principal contractor's* or *owner builder's* supervision of individual contractors and trades on a daily basis during the development. The PCA does not undertake this role.

The NSW Office of Fair Trading have published a "Guide to Standards and Tolerances©" ISBN 0 734760108. The guide can be obtained from the Office of Fair Trading by calling 13 32 20 or by Fax: 9619 8618 or by post to: Marketing Branch, PO Box 972, Parramatta NSW 2124.

The Guide can be down loaded from:

<http://www.fairtrading.nsw.gov.au/pdfs/corporate/publications/dft242.pdf> Council, as the PCA or otherwise, does not adjudicate building contract disputes between the *principal contractor*, contractors and the owner.

K.7 Workcover requirements

The *Occupational Health and Safety Act* 2000 No 40 and subordinate regulations, codes of practice and guidelines control and regulate the development industry.

Note: Further information can be obtained from Workcover NSW's website: <http://www.workcover.nsw.gov.au/Industry/Construction/default.htm> or through their head office: Location: WorkCover NSW, 92-100 Donnison Street, GOSFORD 2250 Postal address: WorkCover NSW, Locked Bag 2906, LISAROW 2252, Phone (02) 4321 5000, Fax (02) 4325 4145.

K.8 Asbestos Removal, Repair or Disturbance

Anyone who removes, repairs or disturbs bonded or a friable asbestos material must hold a current removal licence from Workcover NSW. Before starting work, a work site-specific permit approving each asbestos project must be obtained from Workcover NSW. A permit will not be granted without a current Workcover licence.

All removal, repair or disturbance of or to asbestos material must comply with:

- a) The Occupational Health and Safety Act 2000;
- b) The Occupational Health and Safety Regulation 2001;
- c) The Code of Practice for the Safe Removal of Asbestos [NOHSC: 2002 (1998)];
- d) The Guide to the Control of Asbestos Hazards in Buildings and Structures [NOHSC: 3002 (1998)] <http://www.nohsc.gov.au/>;
- e) The Workcover NSW Guidelines for Licensed Asbestos Removal Contractors.

Note: The Code of Practice and Guide referred to above are known collectively as the Worksafe Code of Practice and Guidance Notes on Asbestos. They are specifically referenced in the Occupational Health and Safety Regulation 2001 under Clause 259. Under the Occupational Health and Safety Regulation 2001, the Worksafe Code of Practice and Guidance Notes on Asbestos are the minimum standards for asbestos removal work. Council does not control or regulate the Worksafe Code of Practice and Guidance Notes on Asbestos. You should make yourself aware of the requirements by visiting www.workcover.nsw.gov.au or one of Work cover NSW's offices for further advice.

K.9 Lead Paint

It is beyond the scope of this consent to provide detailed information about dealing with lead paint. Painters working in an area containing lead-based paint should refer to Australian Standard AS 4361.1-1995, Guide to Lead Paint Management-Industrial Applications, or AS 4361.2-1998, Guide to Lead Paint Management-Residential and Commercial Buildings.

Industrial paints, may contain lead. Lead is used in some specialised sign-writing and artist paints, and road marking paints, and anti-corrosive paints. Lead was a major ingredient in commercial and residential paints from the late 1800s to 1970. Most Australian commercial buildings and residential homes built before 1970 contain lead paint. These paints were used both inside and outside buildings.

Lead hazards - Lead particles are released when old lead paint flakes and peels and collects as dust in ceiling, wall and floor voids. If dust is generated it must be contained. If runoff contains lead particles it must be contained. Lead is extremely hazardous, and stripping of lead-based paint and the disposal of contaminated waste must be carried out with all care. Lead is a cumulative poison and even small levels in the body can have severe effects.

K.10 Dividing Fences

The erection of dividing fences under this consent does not affect the provisions of the *Dividing Fences Act 1991*. Council does not adjudicate civil disputes relating to the provision of, or payment for, the erection of dividing fences.

Note: Further information can be obtained from the NSW Department of Lands <http://www.lands.nsw.gov.au/LandManagement/Dividing+Fences.htm>. Community Justice Centres provide a free mediation service to the community to help people resolve a wide range of disputes, including dividing fences matters. Their service is free, confidential, voluntary, timely and easy to use. Mediation sessions are conducted by two impartial, trained mediators who help people work together to reach an agreement. Over 85% of mediations result in an agreement being reached. Mediation sessions can be arranged at convenient times during the day, evening or weekends. Contact the Community Justice Centre either by phone on 1800 671 964 or at <http://www.cjc.nsw.gov.au>.

K.11 Decommissioning of fire protection systems

Decommissioning of any Halon extinguishers and fixed flooding systems must be carried out by a technician authorised under the *Ozone Protection Act* 1989. Yellow portable fire extinguishers contain halon. From 31 December 1995, use or possession of these extinguishers without approval has been illegal.

Standard Advising: K12

K.12 Decommissioning of refrigeration or air conditioning equipment

Decommissioning of any refrigeration or air conditioning equipment must be carried out by an authorised person *under the Ozone Protection Act* 1989, with any fluorocarbon refrigerant recovered in accordance with the requirements of the *Ozone Protection Regulation* 1997.

Standard Advising: K13

K.13 Release of Security

An application must be made to Council by the person who paid the security for release of the securities held under section 80A of the *Act*.

The securities will not be released until a *Final Occupation Certificate* has been lodged with Council, Council has inspected the site and Council is satisfied that the public works have been carried out to Council's requirements. Council may use part or all of the security to complete the works to its satisfaction if the works do not meet Council's requirements.

Council will only release the security upon being satisfied that all damage or all works, the purpose for which the security has been held have been remedied or completed to Council's satisfaction as the case may be.

Council may retain a portion of the security to remedy any defects in any such public work that arise within 6 months after the work is completed.

Upon completion of each section of road, drainage and landscape work to Council's satisfaction, 90% of the Bond monies held by Council for these works will be released upon application. 10% may be retained by Council for a further 6 month period and may be used by Council to repair or rectify any defects or temporary works during the 6 month period.

Note: The Application for Refund of Security form can be downloaded from the Council's website www.northsydney.nsw.gov.au.

K.14 Recycling of Demolition and Building Material

It is estimated that building waste, including disposable materials, resulting from demolition, excavation, construction and renovation, accounts for almost 70% of landfill. Such waste is also a problem in the generation of dust and the pollution of stormwater. Council encourages the recycling of demolition and building materials.

Standard Condition: K17

K.15 Compliance with the Building Code of Australia

Preliminary assessment of the development application drawings indicates that the proposal may not comply with the following sections of the *Building Code of Australia*:

- a) Part 3.3.4 - Weatherproofing of masonry
- b) Part 3.4.1 - Sub floor ventilation
- c) Part 3.7 - Fire safety

- Part 3.7.1 Fire separation
- Part 3.7.2 Smoke alarms
- Part 3.7.3 Heating appliances
- d) Part 3.8 - Health and amenity
 - Part 3.8.1 Wet areas
 - Part 3.8.3 Facilities
 - Part 3.8.4 Light
 - Part 3.8.5 Ventilation
 - Part 3.8.6 Sound insulation
- e) Part 3.9 - Safe movement and access
 - Part 3.9.1 Stair construction
 - Part 3.9.2 Balustrades

Note: There must be no removal of heritage building fabric unless expressly authorised under this consent where compliance with the BCA cannot be achieved without work not authorised under this consent application to amend this consent is required.

K.16 Model

If you submitted a model with the application it must be collected from the Council offices within fourteen (14) days of the date of this determination. Models not collected will be disposed of by Council.

K.17 Encroachments

It is noted that there is an encroachment by the building over Council's road reserve. While in this case the encroachments are only minor, Council may at some future date require its removal or formalisation.

Standard Condition: K22

K.18 Dilapidation Report Condition

Please note the following in relation to the condition for a dilapidation report:

- a) The dilapidation report will be made available to affected property owners on requested and may be used by them in the event of a dispute relating to damage allegedly due to the carrying out of the development.
- b) This condition cannot prevent neighbouring buildings being damaged by the carrying out of the development.
- c) Council will not be held responsible for any damage which may be caused to adjoining buildings as a consequence of the development being carried out.
- d) Council will not become directly involved in disputes between the Developer, its contractors and the owners of neighbouring buildings.
- e) In the event that access for undertaking the dilapidation survey is denied the applicant is to demonstrate in writing to the satisfaction of the Council that all reasonable steps were taken to obtain access to the adjoining property. The dilapidation report will need to be based on a survey of what can be observed externally.

K.19 Roads Act Application

Works or structures over, on or under public roads or footpaths are subject to Sections 138, 139 and 218 of the *Roads Act* 1993 and specifically:

- Construction of driveways and/or new or alterations to footpath paving

- Alteration and/or extension to Council drainage infrastructure
- Alteration and/or addition of retaining walls
- Pumping of water to Council's roadway
- Installation of soil/rock anchors under the roadway
- Public domain improvement works

An "Application to carry out works in a Public Road" form must be completed and lodged, with the Application fee, at Council's Customer Services counter. Detailed plans and specifications of all works (including but not limited to structures, road works, driveway crossings, footpaths and stormwater drainage etc) within existing roads, must be attached, submitted to and approved by *Council* under Section 138 of the *Roads Act* 1993, before the issue of any *Construction Certificate* for these works.

Detailed engineering plans and specifications of the works required by this Condition must accompany the Application form. The plans must clearly show the following:

- Engineering drawings (plan, sections and elevation views) and specifications of the footpath, driveways, kerb & gutter, new gully pit showing clearly the connection point of site outlet pipe(s). Note, the connection drainage lines must be as direct as possible and generally run perpendicular to the kerb alignment.
- Engineering drawings of the new drainage line to be constructed joining the new and existing drainage pits including services.

All driveways must include a design longitudinal surface profile for the proposed driveway for assessment. The driveway profile is to start from the road centreline and be along the worst case edge of the proposed driveway. Gradients and transitions must be in accordance with Clause 2.5.3, 2.6 of AS 2890.1 - 2004, Part I - Off-street car parking. The driveway profile submitted to Council must be to (1:25) scale (for template checking purposes) and contain all relevant details: reduced levels, proposed grades and distances.

The existing footpath level and grade at the street alignment of the property must be maintained unless otherwise specified by *Council*. Driveway levels are to comply with AS2890.1 and Council's Standard Drawings. There may be occasions where these requirements conflict with your development and you are required to carefully check the driveway slab and footpath levels for any variations.

Note: any adjustments required from the ground level carpark slab and the street levels are to be carried out internally on private property.

Drainage design works must comply with the Council's Development Control Plan and

Temporary ground anchors may be permitted, in accordance with Council's "*Rock Anchor Policy*".

All public domain works must comply with Council's "*Specification/or Roadworks, Drainage and Miscellaneous Works*" unless expressly provided otherwise by these conditions.

Note: To ensure that this work is completed to Council's satisfaction, this consent by separate condition, may impose One or more Infrastructure Works Bonds.

Note: When a large *Roads Act* is required, then four (4) weeks is to be allowed for assessment.

Note: *Road* has the same meaning as in the *Roads Act* 1993.

Note: The intent of this condition is that the design of the road, footpaths, driveway crossings and public stormwater drainage works must be detailed and approved prior to the issue of any *Construction Certificate*. Changes in levels may arise from the detailed design of buildings, road, footpath, driveway crossing grades and stormwater. Changes required under *Road Act* 1993 approvals may necessitate design and levels changes under this consent. This may in turn require the applicant to seek to amend this consent. .

K.20 Fire safety

The BCA Logic report in the Development Application lists non compliances with the deemed-to-satisfy provisions of the BCA. It proposes that an alternative solution will have to

be commissioned. The fire engineered alternative solution must comply with the relevant performance requirements of the BCA. The AI accredited principle certifier appointed for the job will have to review and determine if the alternative solution complies prior the issuance of a Construction Certificate.