

Conditions of consent (draft)

Proposed development	<p>A Concept approval under clause 4.22 of the Environmental Planning and Assessment Act 1979 for the Ropes Crossing Village Centre and Stage 1 development application (DA).</p> <p>The Concept Plan - the expansion of the existing shopping centre comprising the addition of 711.6 m² of supermarket floor space and 40.8 m² of specialty retail floor space. The proposal is also for building envelopes for 3 x 6 storey residential flat buildings, containing a total of 128 apartments being 65 x 1 bedroom and 63 x 2 bedroom units. 461 ground level and basement car parking spaces and site improvements including minor landscaping and public domain works.</p> <p>Stage 1 - the construction for lease of the 525 m² commercial tenancy above the existing commercial space.</p>
Property description	<p>Lot 4 DP 10956008, Ropes Crossing Village Centre</p> <p>8 Central Place, Ropes Crossing</p>

1. ADVISORY NOTES

1.1 Terminology

- 1.1.1 Any reference in this document to a 'consent' means a 'development consent' defined in the *Environmental Planning and Assessment Act 1979*.
- 1.1.2 Any reference in this consent to a Construction, Compliance, Occupation or Subdivision Certificate is a reference to a certificate as defined by Part 6 of the Environmental Planning and Assessment Act 1979.

1.2 Scope of Consent

- 1.2.1 The granting of this consent does not imply or confer compliance with the requirements of the Disability Discrimination Act 1992. The applicant is advised to investigate any liability that may apply under that Act. The current suite of Australian Standard 1428 - Design for Access and Mobility, should be consulted for guidance. The prescriptive requirements of Part 1 of the Standard apply to certain buildings requiring development consent.
- 1.2.2 If any food or public health related commercial activities are proposed in the future, then a referral to Environmental Health for the use and fit out of the premises is required to provide conditions.

1.3 Other Approvals

- 1.3.1 A separate valid Construction Certificate for Stage 1 only shall be issued prior to commencement of any construction works.
- 1.3.2 This consent does not authorise the encroachment or overhang of any building or structure over or within any easement.
- 1.3.3 Separate Council approval under the *Roads Act 1993* is required for any crane used to construct this development that swings over public air space.
- 1.3.4 Separate approval is required from Council's Environmental Health Unit for the use and fit out of the premises of any food or public health related commercial activities.

1.4 Services

1.4.1 The applicant is advised to consult with:

- (a) Sydney Water Corporation Limited
- (b) Recognised energy provider
- (c) Natural Gas Company
- (d) The relevant local telecommunications carrier

regarding any requirements for the provision of services to the development and the location of existing services that may be affected by proposed works, either on the land or on the adjacent public road(s).

All approved building construction plans attached to the Construction Certificate should be submitted to Sydney Water Tap In, to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements and if further requirements need to be met. The plans are to be appropriately stamped and all amended plans will require re-stamping. For further information go to:

www.sydneywater.com.au, then follow the "Developing Your Land" link or telephone 1300 082 746 for assistance.

Sydney Water may also require the applicant to obtain a Trade Waste Approval as part of the operation of the approved development. Enquiries should be made to ascertain the Sydney Water requirements for the eventual operation of the approved use.

1.4.2 Underground assets may exist in the area that is subject to your application. In the interests of health, safety, and in order to protect damage to third party assets, please contact Dial Before You Dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (this is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset holders a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.

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

1.5 Identification Survey

1.5.1 The applicant is advised to obtain an identification survey from a registered surveyor to ascertain the correct location of the property boundaries, and to ensure the development does not encroach upon adjoining properties.

1.6 Engineering requirements

1.6.1 All engineering works must be designed and undertaken in accordance with the relevant aspects of the following documents:

- (a) Blacktown City Council's Works Specification – Civil (Current Version)
- (b) Blacktown City Council's Engineering Guide for Development (Current Version)
- (c) Blacktown City Council Development Control Plan (Current Version) including Part J-Water Sensitive Urban Design and Integrated Water Cycle Management
- (d) Blacktown City Council Soil Erosion and Sediment Control Policy (Current Version)
- (e) Blacktown City Council On Site Detention General Guidelines and Checklist
- (f) Blacktown City Council Development Control Plan – Eastern Precinct, St. Mary's.

2. GENERAL

2.1 Scope of Consent

2.1.1 Under Clause 100 of the *Environmental Planning and Assessment Regulation 2000*, this Notice of determination relates to:

- A Concept approval for the expansion of the existing shopping centre 711.6 m² of additional supermarket space and 40.8 m² of specialty retail, building envelopes for 3 x 6 storey residential flat buildings for a total of 128 apartments and associated parking for 461 spaces.
- A Stage 1 Development Application for the construction and lease of the 525 m² commercial tenancy above the existing commercial space.

A subsequent Development Application (Stage 2) or multiple staged Development Applications are required for any work in relation to the retention and expansion of the existing shopping centre, building envelopes for 3 x 6 storey residential flat buildings and associated parking.

2.1.2 While this consent remains in force, the determination of any further Development Application(s) ('Stage 2' Development Application(s)) in respect of the site cannot be inconsistent with this consent, except as provided for in conditions of this consent requiring design amendments.

2.1.3 This consent grants approval for the following development to be constructed subject to full compliance with all other conditions of this consent:

- (a) Stage 1 - the construction and occupation of the 525 m² commercial tenancy above the existing commercial space.

2.1.4 This consent relates to the following drawings/details submitted to Council with the Development Application, subject to compliance with any other conditions of this consent:

Plan reference	Revision issue	Dated
Concept Plans prepared by Mijollo International		
A101-C Coversheet	C	15.08.2019
A102-A Plan Site Analysis & Location	A	02.04.2019
A103-A Plan, Site & Proposal	A	02.04.2019
A104-A Ground Plan, Site & Proposal	A	08.08.2019
A111-A Rationale Diagrams Sheet 1	A	02.04.2019
A112-A Rationale Diagrams Sheet 1	A	02.04.2019
A201-A Basement 2 Plan	A	02.04.2019
A202-A Basement 1 Plan	A	02.04.2019
A203-D Ground Level Plan	D	30.01.2020
D204-B Level 1 Plan	B	30.11.2019
A205-B Levels 2 & 3 Plan	B	30.11.2019
A206-B Levels 4 & 5 Plan	B	30.11.2019
A207-A Level Roof Plan	A	30.11.2019
A215-A Stage 1 Level 2 Plan	A	02.04.2019
A217-A Roof Plan	A	02.04.2019
A221-A Plan North Level Ground	A	08.08.2019
A222-A Plan West Level Ground	A	02.04.2019
A301-A Sections AA & BB	A	02.04.2019
A302-A Sections CC & DD	A	02.04.2019
A311-A Section Details	A	02.04.2019
A312-A Sections FF & GG	A	01.08.2019
A401-A Elevations North & South	A	02.04.2019
A402-A Elevations East & West	A	02.04.2019

Plan reference	Revision issue	Dated
A411-A Colour Elevation West	A	02.04.2019
A421-A Elevations Stage 1 North & South	A	02.04.2019
A422-A Elevations Stage 1 East & West	A	02.04.2019
A431-A Massing Model Aerial Views	A	02.04.2019
A441-A Shadow Analysis – 1 – Stage 1	A	02.04.2019
A442-A Shadow Analysis – 2 – Stage 2	A	02.04.2019
A443-A Shadow Analysis – Elevations East & West	A	02.04.2019
A444-A Shadow Analysis – Elevations South	A	02.04.2019
A445-A Shadow Analysis – Detail Views 1	A	02.04.2019
A446-A Shadow Analysis – Detail Views 2	A	02.04.2019
A451-A Solar Access Analysis – Sheet 1	A	02.04.2019
Concept Landscape Plans prepared by Sturt Noble Associates		
DA-1905-01 Location and Context Plan	B	09.08.2019
DA-1905-02 Master Plan	B	09.08.2019
DA-1905-03 Communal Rooftop Space	B	09.08.2019
DA-1905-04 Communal Lower Podium Garden	B	09.08.2019
DA-1905-05 Possible Landscape to Neighbouring Site	B	09.08.2019
DA-1905-06 Indicative Shrub and Groundcover Planting	B	09.08.2019
Stage 1 Detailed DA Plans prepared by Mijollo International		
A215-A Stage 1 Level 2 Plan	A	02.04.2019
A217-A Roof Plan	A	02.04.2019
A421-A Elevations Stage 1 North & South	A	02.04.2019
A422-A Elevations Stage 1 East & West	A	02.04.2019
A441-A Shadow Analysis – 1 – Stage 1	A	02.04.2019

* Unless modified by any condition(s) of consent.

2.1.5 The following items are not approved and do not form part of this Stage 1 Concept Development Application consent:

- a. Any demolition, excavation, construction and/or occupation (with the exception of the approved Stage 1 detailed DA works which approve the construction and occupation of the 525 m² commercial tenancy above the existing commercial space).
- b. The floor layout, apartment mix and number of residential apartments.
- c. The detailed design of the building exteriors including facades and roof treatment.
- d. Public domain and landscape design.
- e. The number and allocation of car parking spaces, bicycle spaces or loading spaces/areas.
- f. The configuration of the basement car parking levels.
- g. Subdivision (including Torrens title, strata or community title subdivision).

2.2 Building envelopes

2.2.1 Subject to the other conditions of this consent, the building envelope is only approved on the basis that the ultimate building design, including services, balconies, shading devices, lifts, stairs, private and communal open space, circulation space, and the like, will be entirely within the approved building envelope.

2.3 Building height

2.3.1 The maximum height of the rooflines of the buildings, parapets, rooftop plant and

equipment, lift overruns, stairwells and shading structures for the rooftop communal open space area must not exceed the maximum permitted relative levels for building height as shown on the plans approved in this Stage 1 Concept Plan.

2.4 Requirements for future development applications

- 2.4.1 All future Stage 2 - development proposed to be carried out on the site and as detailed in the concept development consent, excluding stage 1 of this consent, shall be the subject of separate development applications to Council.
- 2.4.2 All future Stage 2 - development applications for the site are to demonstrate consistency with the requirements of SPP-19-00003 Planning Agreement executed on 13 December 2019.
- 2.4.3 All future Stage 2 - development applications for the site are to be accompanied by a detailed landscape plan, providing information on proposed landscape treatments.
- 2.4.4 All future Stage 2 - development applications are to demonstrate full compliance with relevant environmental planning instruments and development control strategy unless otherwise varied by the approved concept plan.

This includes amendments/further design detail to demonstrate consistency with the principles of *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development* and the accompanying Apartment Design Guide, with specific regard to providing:

- Part 2F Building Separation: at least 18 m building separation between the 5th and 6th storeys and the habitable rooms/balconies of the existing buildings to the south.
- Part 3C Pubic Domain Interface: legible entries and appropriate directional signage to the residential areas.
- Part 3C Pubic Domain Interface: The location and access to mail boxes are to be addressed in the Stage 2 detailed DA, as required by Australia Post and the NSW Police.
- Part 4B Natural Ventilation: at least 60% of the apartments that are naturally cross ventilated.
- Part 4F Common Circulation and Spaces: internal corridors that are direct and avoid tight corners.
- Part 4H Acoustic Privacy: habitable rooms and bedrooms in the vicinity of the podium level communal open space are to be treated with appropriate measures to protect their acoustic privacy.
- Part 4J Noise and Pollution: The impacts of external noise and pollution are to be minimised through the careful siting and layout of buildings. Appropriate measures are to be implemented to mitigate noise transmission between the land uses, with particular regard to the existing child care centre and the proposed apartments.
- Part 4K Apartment Mix: an appropriate variety of apartment types. The recommendations of the Social Impact Assessment, prepared by Urbis and dated January 2020, are to be implemented, including to 'consider a flexible residential floor plan that could enable 1 to 3 bedroom units in the future to contribute to a more diverse housing supply.'
- Part 4S Mixed Use: residential entries that are clearly defined and separate to the commercial/retail entries. The detailed design of the access points and mail boxes are also to be consistent with the requirements of Australia Post and the NSW Police.

Note: In order to achieve full compliance with the SEPP 65 controls and Apartment

Design Guide including those mentioned above, it may be necessary for the residential density of the development to be reduced accordingly.

2.4.5 All future Stage 2 - development applications shall be accompanied by a Plan of Management regarding the use and management of the car parking areas.

2.4.6 All future Stage 2 - development applications relating to the proposed multi-unit housing component of the development are to include the proposed extension to the child care centre cot room as detailed on the letter prepared by Nordon Jago Architects and date 6 August 2019. The cot room is to be designed to ensure that at least 10% of the floor area of the cot room receives natural light as required by Section F4.2 of the NCC 2019. The cot room is to be appropriately treated to ensure that the cot room is protected against noise and vibration from the construction and occupation of the development.

2.4.7 All future Stage 2 - development applications relating to the proposed multi-unit housing component of the development are to demonstrate that appropriate visual privacy measures are installed to the proposed apartments in the form of solid balustrading, fixed visual privacy louvres and translucent windows, where appropriate.

Future development applications are to be accompanied by a detailed analysis of potential visual privacy impacts on surrounding apartments and dwelling houses. Appropriate visual privacy measures shall be implemented in the design of the development to ensure that sight lines directly into the habitable rooms and outdoor living spaces of surrounding apartments and dwelling houses are protected.

2.4.8 A BASIX Certificate in line with the requirements of *State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004* must be submitted with any relevant stage 2 Development Application.

2.4.9 Any stage 2 Development Application is to be consistent with the recommendations of the Detailed Site Investigation report prepared by EI Australia, Report No. E23388.E02_Rev0 and dated 26 February 2020. Any relevant stage 2 Development Application is to confirm that the site is suitable for the proposed use and demonstrate that the site can be remediated to the extent necessary for the proposed use to the strict residential standards of the *National Environment Protection (Assessment of Site Contamination) Measure 1999, as amended in 2013*.

2.4.10 A noise impact assessment report is to be submitted with any stage 2 Development Application. A qualified acoustic engineer must certify that the buildings have been designed to minimise the noise intrusion from any external noise source and when constructed the building must satisfy the following criteria with windows and doors closed:

Internal space	Time period	Criteria: LAeq (period)
Living Areas	Any time	40 dB(A)
Sleeping Areas	Day (7 am – 10 pm)	40 dB(A)
	Night (10pm – 7 am)	35 dB(A)

A certificate must be provided by a qualified acoustic engineer stating that provision has been made in the design of all sound producing plant, equipment, machinery, mechanical ventilation system or refrigeration systems to ensure that they are acoustically attenuated so that the noise emitted:

- a) does not exceed an LAeq sound pressure level of 5dB(A) above the ambient background noise level when measured at the:
 - i. most effected point on or within any residential property boundary or
 - ii. external edge of any sole occupancy unit balcony within the premises itself at any time the plant or equipment operates
- b) cannot be heard within a habitable room in any sole occupancy unit or other residential premises (regardless of whether any door or window to that room is

open) between the hours of 10 pm and 7 am.

The method of measurement of sound must be carried out in line with Australian Standard 1055.1. The noise assessment is to be in line with the Environment Protection Agency Industrial Noise Policy (INP).

The noise impact assessment is also to consider the impact of the development on surrounding dwellings, the child care centre and retail/commercial tenancies, with particular regard to the design and operation of the communal open space areas and use of the at-grade car park. Particular consideration is to be given to the suspension of construction works during sensitive periods for the child care centre (such as nap times).

2.4.11 Any stage 2 Development Application is to demonstrate that the minimum required car parking spaces and bicycle parking spaces are provided within the basement levels. All parking areas are to be designed in line with AS 2890, the Eastern Precinct Plan and Development Control Strategy and relevant standards (e.g. AusRoads, RMS Guidelines).

2.4.12 Any Stage 2 Development Application is to be accompanied by stormwater drainage plans and engineering details designed and undertaken in accordance with the relevant aspects of the following documents:

- (a) Blacktown City Council's Works Specification – Civil (Current Version)
- (b) Blacktown City Council's Engineering Guide for Development (Current Version)
- (c) Blacktown City Council Development Control Plan (Current Version) including Part J-Water Sensitive Urban Design and Integrated Water Cycle Management
- (d) Blacktown City Council Soil Erosion and Sediment Control Policy (Current Version)
- (e) Blacktown City Council On Site Detention General Guidelines and Checklist
- (f) Blacktown City Council Development Control Plan – Eastern Precinct, St. Mary's

Design plans, calculations and other supporting documentations prepared in line with the above requirements must be submitted to Council including:

- i. Engineering drawings format must be presented as per the Section 2 of Council's Engineering Guide.
- ii. All engineering plans must clearly show the extent of the works boundary.
- iii. A site plan must include proposed staging of works as part of this development application showing all scope of works and future stages of works clearly noted if not part of this application.
- iv. Any demolition works proposed as part of this application must be noted in the engineering plans.
- v. Provide existing and proposed site contours and demonstrate the consistency with the existing design levels.
- vi. Provide site sections to ensure appropriate grading along the site to drain catchment to the street drainage system and to demonstrate boundary levels ties into existing roads levels.
- vii. Provide relevant MUSIC model and Drains model catchment plan for proposed stormwater drainage lines.
- viii. Stormwater drainage long sections must be provided.
- ix. Provide MUSIC model in sqz. format.
- x. All related documents must be up to date and consistent with the amended engineering plan.

- xi. Engineering drawings and all reports are to reflect the proposed future works the subject of separate detailed development applications and/or staging works.
 - xii. Swept turn path plans to demonstrate manoeuvrability of appropriate vehicles in accordance with AUSTROADS.
- 2.4.13 An access report is to be submitted with any stage 2 Development Application to demonstrate that the building has been designed and is capable of being constructed to provide access and facilities for people with a disability in line with the *Disability Discrimination Act 1992* and Access to Premises Standards.
- 2.4.14 Any stage 2 Development Application is to demonstrate compliance with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the ongoing benefit of the community. Any stage 2 Development Application is to satisfy the requirements of the relevant Australian Standards.
- 2.4.15 Any stage 2 Development Applications are to be accompanied by a Crime Prevention Report, or similar, which demonstrates that the design and operation of the proposal is consistent with the principles of Crime Prevention Through Environmental Design. This is to be to the satisfaction of the NSW Police.
- 2.4.16 Any stage 2 Development Applications are to be accompanied by amended plans that demonstrate the following:
- i. Roads and driveways that rated to be suitable for 24 tonne trucks.
 - ii. The location of all bin collection points for the whole site with each bin indicated.
 - iii. Access for collection vehicles that is designed in accordance with the dimensions indicated on the approved architectural plans, CAD files and vertical clearances (as per Australian Standards), showing adequate truck entry and exit and in all manoeuvring areas to Council's satisfaction.
 - iv. 1.5 m wide doorways for any door used to move bins around.
 - v. Where front lift vehicles and hook lift compactor bins are proposed to operate in the loading area, a minimum vertical clearance of 6.5 m is required to be provided.
 - vi. A headroom allowance of 4.5 m for the entire travel path of waste vehicles, as required by AS 2890.2. The path of travel is to be clear of eaves, overhangs, balconies, services and roller door entry points.
- 2.4.17 Any stage 2 Development Applications are to be accompanied by a Waste Management Plan that is generally consistent with the Waste Management Plan (dated January 2020) submitted with this DA, and as further amended to address the following:
- i. Clarification that it is the responsibility of each resident to book a household clean up. Household clean ups are not permitted to be booked by strata/building managers. The building manager can coordinate the items for collection once booked by the resident.
 - ii. Clarification that residents must arrange with the building manager to have their booked clean up items moved and stored in the designated area until the scheduled collection date.
 - iii. Clarification that a collection cycle of up to 5 days per week is permitted for retail developments. The waste room must be able to demonstrate storage for 3 days to cater for long weekends and public holidays.
 - iv. If a tenancy is intended to be occupied as a medical centre, specific details are required to be provided, including additional waste storage requirements.
- 2.4.18 For the stage 2 DA proposing the northern RFB adjacent to the existing child care

centre it is required that the existing sleeping room for the child care centre is to be extended in this application to ensure that sufficient natural light is provided to the sleeping room.

2.5 Roads and Maritime Services - Requirements

- 2.5.1 Any stage 2 Development Applications are to address the following requirements from Roads and Maritime Services as raised in their correspondence dated 7 June 2019:
- i. The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements in relation to landscaping and/or fencing, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1- 2004, AS2890.6-2009 and AS 2890.2 – 2002 for heavy vehicle usage. Parking Restrictions may be required to maintain the required sight distances at the driveway.
 - ii. The swept path of the longest vehicle (including garbage trucks, building maintenance vehicles and removalists) 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.
 - iii. All vehicles are to enter and leave the site in a forward direction.
 - iv. The proposed development will generate additional pedestrian movements in the area. Pedestrian safety is to be considered in the vicinity.

3. PRIOR TO CONSTRUCTION CERTIFICATE (PLANNING)

3.1 DA Plan Consistency

- 3.1.1 A Construction Certificate or Subdivision Works Certificate for the proposed development shall only be issued when the accompanying plans, specifications and/or details are consistent with the approved Development Application design plans.

3.2 Construction Traffic Management Plan

- 3.2.1 A Construction Traffic Management Plan detailing construction vehicle routes, parking, number of trucks, hours of access, access arrangements, road safety and traffic control is to be submitted to Council prior to the issue of any Construction Certificate.

3.3 Aesthetics and Materials

- 3.3.1 The reflectivity index of glass used in the external facade of the building is not to exceed 20%.
- 3.3.2 The development approved by this consent is to be constructed in accordance with the materials, finishes and colours indicated on the Materials and Finishes External Plans submitted with the application. Building materials and finishes are to be finished with an anti-graffiti coating. Details of these building materials and finishes, including colour samples from brochures or the like, are to be included as part of the Construction Certificate plans. Materials and finishes including the external walls of the development are to comply with the requirements of the *Environmental Planning and Assessment Amendment (Identification of Buildings with Combustible Cladding) Regulation 2018* and *State Environmental Planning Policy Amendment (Exempt Development – Cladding and Decorative Work) 2018* which commenced on 22 October 2018.
- 3.3.3 External service fixtures and conduits are to be designed so that they form part of the overall appearance of the building, or are to be screened from view.
- ### **3.4 Utilities, Services, Plant and Equipment**
- 3.4.1 The plans are to demonstrate that all building plant, equipment and services including air conditioning systems, and substations, etc. are appropriately located and treated so

as not to be visually prominent and not to adversely impact on the streetscape presentation and adjoining properties with regard to visual, acoustic and odour impacts.

3.5 **Removal of Asbestos**

- 3.5.1 Any demolition work will require the removal of any asbestos from the site and its transportation to its final destination is to be undertaken in accordance with the NSW Environment Protection Authority's WasteLocate online system for tracking asbestos waste. Upon completion of the transportation, the WasteLocate consignment number is to be submitted to Council. For more information, please refer to the following link: <https://www.epa.nsw.gov.au/your-environment/waste/transporting-asbestos-waste-tyres> .

3.6 **NSW Rural Fire Service**

- 3.6.1 The entire development is to be in accordance with the General Terms of Approval issued by NSW Rural Fire Service in their correspondence dated 31 May 2019. The General Terms of Approval are issued under Division 4.8 of the *Environmental Planning and Assessment Act 1979*, and a Bush Fire Safety Authority is issued under Section 100B of the *Rural Fires Act 1997*, without any specific conditions.

4. **PRIOR TO CONSTRUCTION CERTIFICATE (BUILDING)**

4.1 **Building Code of Australia Compliance**

- 4.1.1 All aspects of the building design shall comply with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the ongoing benefit of the community. Compliance with the performance requirements can only be achieved by:

- (a) Complying with the deemed to satisfy provisions, or
- (b) Formulating an alternative solution which:
 - (i) complies with the performance requirements, or
 - (ii) is shown to be at least equivalent to the deemed to satisfy provision, or
 - (iii) a combination of (a) and (b).

The external wall and any cladding attached to the external wall is to comply with the National Construction Code, Building Code of Australia Volume One including, but not limited to, A0.2 (a) and (c), A2.2, Part C and Part F.

4.2 **Site Works and Drainage**

- 4.2.1 Any required retaining wall(s) and/or other effective method to retain excavated or filled ground (not being Exempt Development under an environmental planning instrument), together with any associated groundwater drainage system, shall be designed by an appropriately qualified person. Details of such site works shall accompany the Construction Certificate.
- 4.2.2 Stormwater drainage from the site shall be designed to satisfactorily drain rainfall intensities of 159 mm per hour over an average recurrence interval of 20 years. The design shall:
- (a) be in accordance with Australian Standard 3500.3, and
 - (b) provide for drainage discharge to an existing Council drainage system, and
 - (c) ensure that the development, either during construction or upon completion, does not impede or divert natural surface water runoff so as to cause a nuisance to adjoining properties.
- 4.2.3 Soil erosion and sediment control measures shall be designed in accordance with Council's Soil Erosion and Sediment Control Policy. Details shall accompany any

Construction Certificate.

- 4.2.4 Should any proposed excavation associated with the development extend below the level of the base of the footings of a building or any other structure on any adjoining allotment of land (including a public place), separate details prepared by a suitably qualified person shall be prepared indicating how that building or structure is to be:

- (a) Preserved and protected from damage, and
- (b) Underpinned and supported.

Such details shall accompany the Construction Certificate.

4.3 Fire Services

- 4.3.1 Where any external on-site fire hydrant or hydrant booster assembly is to be located within any building setback from a boundary, the hydrant or booster assembly shall be located or protected in accordance with the requirements of AS 2419.1.
- 4.3.2 Where any external on-site water storage tank is required by AS 2118.1 or AS 2419.1, details of the location and type of any proposed tank are to be submitted to and approved by Council prior to the issue of the relevant Construction Certificate.

4.4 Internal Works

- 4.4.1 A separate application for development consent shall be lodged with Council for any proposed fit out of a commercial and industrial building (which includes any fixed internal partition wall/display/storage racking/machinery /equipment and the like) that was not approved by this Notice of Determination. This condition does not apply to work or development that is Exempt Development or Complying Development under State Environment Planning Policy (Exempt and Complying Development Codes) 2008.

4.5 Services/Utilities

- 4.5.1 The following documentary evidence shall accompany any Construction Certificate:
- (a) A 'Notification of Arrangement' Certificate from a recognised energy provider, stating that arrangements have been made with the service authority for electrical services to the development.
 - (b) A written clearance from Telstra or any other recognised communication carrier, stating that services have been made available to the development or that arrangements have been made for the provision of services to the development.

5. PRIOR TO CONSTRUCTION CERTIFICATE (ENVIRONMENTAL HEALTH)

5.1 Acoustic Impacts

- 5.1.1 Recommendations outlined in the Construction Noise and Vibration Management Plan, prepared by Acoustic Logic, report ref. 20190190.1/1403A/R0/GW, dated 14 March 2019 must be carried out.
- 5.1.2 A report is to be prepared by an appropriately qualified acoustic consultant that assesses the impact of the construction works and operation of the commercial premises on the continued operation of the child care centre and the amenity of the surrounding dwellings. Particular consideration is to be given to the suspension of construction works during sensitive periods for the child care centre (such as nap times), the appropriate selection of construction materials and noise attenuation measures for plant and equipment. The recommendations and noise attenuation measures are to be implemented at all times.
- 5.1.3 A certificate must be provided by a qualified acoustic engineer stating that provision has been made in the design of all sound producing plant, equipment, machinery, mechanical ventilation system or refrigeration systems to ensure that it is acoustically attenuated so that the noise and vibration emitted:

- a) does not exceed an L_{Aeq} sound pressure level of 5dB (A) above the ambient background noise level when measured
 - at the most effected point on or within any residential property boundary or
 - at the external edge of any sole occupancy unit balcony within the premises itself at any time the plant or equipment operates.
- b) cannot be heard within a habitable room in any sole occupancy unit or other residential premises (regardless of whether any door or window to that room is open) between the hours of 10pm and 7am.

The method of measurement of sound must be carried out in accordance with Australian Standard 1055.1.

6. PRIOR TO DEVELOPMENT WORKS

6.1 Safety/Health/Amenity

- 6.1.1 Toilet facilities shall be provided on the land at the rate of 1 toilet for every 20 persons or part thereof employed at the site.

Each toilet provided shall be:

- (a) a standard flushing toilet, or
- (b) a temporary on-site toilet which is regularly maintained and the waste disposed to an approved sewerage management facility.

- 6.1.2 A sign is to be erected and maintained in a prominent position on the site in accordance with Clause 98 A (2) of the Environmental Planning and Assessment Regulations 2000 indicating:

- (a) the name, address and telephone number of the principal certifying authority for the work, and
- (b) the name of the principal contractor (if any) for the 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.

This condition does not apply to:

- (a) building work carried out inside an existing building, or
- (b) building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.

- 6.1.3 Should the development work:

- (a) be likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
- (b) involve the enclosure of a public place,

a hoarding or protective barrier shall be erected between the work site and the public place. Such hoarding or barrier shall be designed and erected in accordance with Council's current Local Approvals Policy under the Local Government Act 1993.

Where necessary, an awning shall be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.

The hoarding, awning or protective barrier shall be effectively illuminated between sunset and sunrise where it may be hazardous to any person in the public place.

- 6.1.4 All soil erosion and sedimentation control measures indicated in the documentation accompanying the Construction Certificate shall be installed prior to the commencement of development works.

- 6.1.5 A single vehicle/plant access to the land shall be provided to minimise ground

disturbance and transport of soil onto any public place. Such access shall be provided in accordance with the requirements of Appendix "F" of Council's Soil Erosion and Sediment Control Policy. Single sized 40 mm or larger aggregate placed 150 mm deep, and extending from the street kerb/road shoulder to the land shall be provided as a minimum.

- 6.1.6 Any excavation and/or backfilling associated with the development shall be executed safely and in accordance with appropriate professional standards, with any excavation properly guarded and protected to prevent such work being dangerous to life or property.
- 6.1.7 Should any excavation associated with the development extend below the level of the base of the footings of a building or any other structure on any adjoining allotment of land (including a public place), that building or structure:
 - (a) shall be preserved and protected from damage, and
 - (b) if necessary, shall be underpinned and supported in accordance with structural design details accompanying the Construction Certificate, and
 - (c) the owner(s) of which shall, at least 7 days before any such excavation or supporting work commences, be given notice of such intention and particulars of the excavation or supporting work.

6.2 **Notification to Council**

- 6.2.1 The person having the benefit of this consent shall, at least 2 days prior to work commencing on site, submit to Council a notice under Clauses 135 and 136 of the *Environmental Planning and Assessment Regulation 2000*, indicating details of the appointed Principal Certifying Authority and the date construction work is proposed to commence.

6.3 **Sydney Water Authorisation**

- 6.3.1 Sydney Water Corporation's approval, in the form of appropriately stamped Construction Certificate plans, shall be obtained and furnished to the Principal Certifying Authority to verify that the development meets the Corporation's requirements concerning the relationship of the development to any water mains, sewers or stormwater channels.

OR

The approved plans are to be submitted to a Sydney Water Tap In, to determine whether the development will affect Sydney Water's sewer and water mains, stormwater drains and/or easements and if further requirements need to be met. The plans must be appropriately stamped and all amended plans will require restamping. For further information please refer to the "Developing Your Land" section of the website: www.sydneywater.com.au, or telephone 1300 082 746 for assistance.

7. **DURING CONSTRUCTION (BUILDING)**

7.1 **Safety/Health/Amenity**

- 7.1.1 The required toilet facilities shall be maintained on the land at the rate of 1 toilet for every 20 persons or part of 20 persons employed at the site.
- 7.1.2 A sign is to be erected and maintained in a prominent position on the site in accordance with Clause 98 A (2) of the *Environmental Planning and Assessment Regulations 2000* indicating:
 - (a) the name, address and telephone number of the principal certifying authority for the work, and
 - (b) the name of the principal contractor (if any) for the 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.
- 7.1.3 Should the development work:
 - (a) be likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
 - (b) involves the enclosure of a public place,

the required hoarding, awning or protective barrier shall be maintained between the land and the public place.

The hoarding, awning or protective barrier shall be effectively illuminated between sunset and sunrise where it may be hazardous to persons in the public place.
- 7.1.4 All measures specified in the Construction Certificate to control soil erosion and sedimentation shall be maintained throughout development works.
- 7.1.5 A single vehicle/plant access to the land shall be maintained to minimise ground disturbance and transport of soil onto any public place. Such access shall be maintained in accordance with the requirements of Appendix "F" of Council's Soil Erosion and Sediment Control Policy. As a minimum, single sized 40 mm or larger aggregate placed 150 mm deep, and extending from the street kerb/road shoulder to the land shall be provided.
- 7.1.6 Should any excavation associated with the ongoing development works extend below the level of the base of the footings of a building or any other structure on any adjoining allotment of land (including a public place), that building or structure:
 - (a) shall be preserved and protected from damage, and
 - (b) if necessary, shall be underpinned and supported in accordance with structural design details accompanying the Construction Certificate, and
 - (c) the owner(s) of which shall, at least 7 days before any such excavation or supporting works be given notice of such intention and particulars of the excavation or supporting works.
- 7.1.7 Building and construction materials, plant, equipment and the like shall not to be placed or stored at any time on Council's footpath, roadway or any public place.
- 7.2 **Building Code of Australia Compliance**
- 7.2.1 All building work shall be carried out in accordance with the provisions of the Building Code of Australia.
- 7.3 **Surveys**
- 7.3.1 The building(s) shall be set out by a registered surveyor and a survey report lodged with the Principal Certifier to verify the approved position of each structure in relation to the property boundaries.
- 7.4 **Nuisance Control**
- 7.4.1 Any objectionable noise, dust, concussion, vibration or other emission from the development works shall not exceed the limit prescribed in the *Protection of the Environment Operations Act 1997*.
- 7.4.2 The hours of any offensive noise-generating development works shall be limited to between 7 am to 6 pm, Mondays to Fridays: 8 am to 1 pm, Saturdays; and no such work to be undertaken at any time on Sundays or public holidays.
- 7.5 **Waste Control**
- 7.5.1 The waste material sorting, storage and re-use requirements of the approved Waste Management Plan and Council's Site Waste Management and Minimisation Development Control Plan shall be implemented during the course of development works.

7.6 Construction Inspections

- 7.6.1 The person having the benefit of this consent is required to notify the Principal Contractor for the building construction project that various mandatory and critical stage inspections must be conducted by an accredited certifier, and may include inspections (where applicable):
- (a) After excavation for, and prior to placement of, any footings; and
 - (b) Prior to pouring any in-situ reinforced concrete building element; and
 - (c) Prior to the covering of the framework for any floor, wall roof or other building element, and prior to covering waterproofing in any wet areas; and
 - (d) Prior to covering waterproofing in any wet areas (but for a minimum of 10% of rooms with wet areas in any class 2, 3 or 4 building); and
 - (e) Prior to covering any stormwater drainage connections; and
 - (f) After the building work has been completed and prior to any Occupation Certificate being issued in relation to the building.

The critical stage inspection “(f)” must be carried out by the Principal Certifier.

Any inspection conducted by an accredited certifier other than the nominated PC for the project must be verified by way of a Compliance Certificate issued for the relevant works.

Note: Failure to ensure the relevant inspections are conducted will preclude the issue of an Occupation Certificate.

8. DURING CONSTRUCTION (ENVIRONMENTAL HEALTH)

8.1 Premises Construction

- 8.1.1 Any materials requiring off-site disposal will need to be classified, managed and disposed of in accordance with the *Protection of the Environment Operations Act (NSW) 1997* and the *NSW Environment Protection Authority’s Waste Classification Guidelines (2014)*.
- 8.1.2 Any asbestos material is to be handled and treated in accordance with the SafeWork NSW document “*Your Guide to Working With Asbestos - Safety guidelines and requirements for work involving asbestos*” dated March 2008.
- 8.1.3 Recommendations outlined in the Construction Noise and Vibration Management Plan, prepared by Acoustic Logic, report ref. 20190190.1/1403A/R0/GW, dated 14 March 2019 must be carried out.
- 8.1.4 Recommendations and noise attenuation measures outlined in the acoustic assessment, as required by Condition 5.1.2, shall be implemented at all times to ensure that the continued operation of the child care centre is protected during construction and operation.

9. PRIOR TO OCCUPATION CERTIFICATE

9.1 Compliance with Conditions

- 9.1.1 An Occupation Certificate shall not be issued until such time as all conditions of this consent, other than “Operational” conditions, have been satisfied. The use or occupation of the development prior to compliance with all conditions of consent, other than “Operational” conditions, may render the applicant/developer liable to legal proceedings.
- 9.1.2 Prior to commencement of the occupation or use of the whole or any part of a new building, or commencement of a change of building use for the whole or any part of an existing building, it is necessary to obtain an Occupation Certificate from the Principal

Certifier in accordance with the provisions of Section 6.9 of the *Environmental Planning and Assessment Act 1979*.

9.2 Fire Safety Certificate

- 9.2.1 A final fire safety certificate complying with Clause 153 of the *Environmental Planning and Assessment Regulation 2000* shall be issued prior to the use or change of use of the building, except in the case of any Class 1a and Class 10 building(s).

9.2 Fee Payment

- 9.3.1 Any fee payable to Council as part of a Construction, Subdivision Works, Compliance or Occupation Certificate or inspection associated with the development (including the registration of privately issued certificates) shall be paid in full.

9.3 Services / Utilities

- 9.4.1 A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Applications must be made through an authorised Water Servicing Coordinator. Please refer to the 'Building Plumbing and Developing' Section of the website www.sydneywater.com.au, then follow the 'Developing Your Land' link or telephone 13 20 92 for assistance. Following application a 'Notice of Requirements' will advise of water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design. A copy of Sydney Water's Notice of Requirements must be submitted to the Principal Certifying Authority prior to the Construction Certificate being issued. The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to the occupation of the development/release of the plan of subdivision, whichever occurs first.

- 9.4.2 A final written clearance shall be obtained from Sydney Water Corporation including a trade waste approval; a recognised energy provider and Telstra (or any other recognised communication carrier) if such clearance (in the form of a Notification of Arrangement, etc.) has not previously been issued.

9.4 Acoustic Certification - Environmental Health

- 9.5.1 Certification must be provided by a qualified acoustic engineer that all work associated with the installation of the acoustic measures and noise attenuation has been completed in accordance with the certified design and to the standard required by this consent.

10. OPERATIONAL (ENVIRONMENTAL HEALTH)

10.1 Acoustic impacts

- 10.1.1 The recommendations of the acoustic assessments as required by Conditions 5.1.1, 5.1.2 and 5.1.3 must be carried out.

10.2 Environmental Management

- 10.2.1 Upon receipt of a justified complaint in relation to noise pollution emanating from the premises, an acoustical assessment is to be carried out in accordance with the requirements of the Department of Environment and Conservation's Environmental Noise Management - NSW Industrial Noise Policy and provide recommendations to mitigate the emission of offensive noise from the premises. The report shall be prepared by an appropriately qualified acoustic consultant that is a member of the Association of Australian Acoustic Consultants and shall be submitted to Council for consideration.
- 10.2.2 Any activity carried out in accordance with this approval shall not give rise to air pollution (including odour), offensive noise or pollution of land and/or water as defined by the *Protection of the Environment Operations Act 1997*.

- 10.2.3 All waste generated on the site is to be stored, handled and disposed of in such a manner as to not create air pollution (including odour), offensive noise or pollution of land and/or water as defined by the *Protection of the Environment Operations Act 1997*.
- 10.2.4 In accordance with the requirements of Part 5.7 *Protection of the Environment Operations Act 1997*, Council is to be informed of any pollution incident that occurs in the course of carrying out the approved activity where material harm to the environment is caused or threatened.

11. OPERATIONAL (PLANNING)

11.1 Approved Uses and Operation

- 11.1.1 The development approved in this Stage 1 detailed Development Application, being the new commercial tenancy on level 2, shall comply with the requirements of the following definition contained within Sydney Regional Environmental Plan No. 30 – St Marys:

‘Local retail or commercial premises’ means ‘retail or commercial buildings of a scale and nature appropriate to service the needs of people living or working on the land to which this plan applies, and may include but is not limited to things such as supermarkets, newsagencies, butchers’, fruit and vegetable or hairdressers’ shops, real estate agents’ premises, and banks.’

Any such use, including a medical centre as a potential use, shall require the separate approval of council.

- 11.1.2 The development shall not be used or converted for use for any purpose other than that:

- (a) Granted consent by Council’s Notice of Determination, or
- (b) Which is ‘Exempt Development’ under the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 or other NSW or Council planning instrument.

- 11.1.3 The use of the approved development shall, at all times, be conducted in a manner consistent with the terms and conditions of this consent.

11.2 Access/Parking

- 11.2.1 All existing off-street car parking spaces and internal roads shall be maintained to a standard suitable for the intended purpose.
- 11.2.2 All loading and unloading operations shall take place at all times wholly within the confines of the land.
- 11.2.3 Access and parking for people with disabilities shall be maintained in accordance with provisions of Australian Standards 1428.1 and 2890.1.
- 11.2.4 No goods, materials, or trade waste shall be stored, displayed for sale or manufactured at any time outside the building on either the internal roadway, car parking areas, landscaping or footpaths.

11.3 Lighting and Security

- 11.3.1 Spillage of light, if any, shall be controlled so as not to cause nuisance to the amenity of adjoining land.
- 11.3.2 All intruder alarms shall be fitted with a timing device in accordance with the requirements of the *Protection of the Environment Operations Act 1997*.

11.4 Emergency Procedures

- 11.4.1 Instructions concerning procedures to be adopted in the event of an emergency shall be clearly displayed throughout the development for staff, visitors and emergency information at all times to the satisfaction of Council.

11.5 Maintenance of the Site

- 11.5.1 Removal of any graffiti, visible from any public road or place, is the responsibility of the property owner/s. All graffiti must be removed no later than 48 hours after detection.
- 11.5.2 The property owner/s are responsible for ensuring that the site, buildings, lighting and landscaping are to be appropriately maintained at all times.
- 11.5.3 The waste and recycling needs of the new Level 2 commercial tenancy are to be accommodated in the existing waste and loading facilities on the site. The management and regular collection of waste is the responsibility of the owner of the site/manager of the new Level 2 commercial tenancy.