

## SCHEDULE 1 – CONDITIONS OF CONSENT

### 1.0 - General Conditions of Consent

The following conditions of consent are general conditions applying to the development.

- (1) **General terms of approval** – The General Terms of Approval from state authorities must be complied with prior to, during, and at the completion of the development.

The General Terms of Approval are:

1. Transport for NSW, reference 2020/001558 dated 28 April 2020 and 2020/003688 dated 12 August 2020.
2. Natural Resources Access Regulator, reference IDAS1123400 dated 24 April 2020.
3. Biodiversity and Conservation Division (BCD), reference 20/185614 dated 16 April 2020.
4. Department of Primary Industries – Fisheries, reference IDA20/22 dated 21 April 2020.
5. Heritage NSW, reference 20/646664 dated 2 September 2020.

A copy of the General Terms of Approval is attached to this determination notice.

- (2) **External agency approvals** – The requirements from the following agencies must be complied with prior to, during, and at the completion of the development.

The Requirements are:

1. Ausgrid, reference 1900099147 dated 27 April 2020.

A copy of the Requirements is attached to this determination notice.

- (3) **Approved plans and documentation** – Development must be carried out in accordance with the following plans and documentation, and all recommendations made therein, except where amended by the conditions of this development consent:

Plan reference/ drawing no.	Name of plan	Prepared by	Date
NL120526 / C1.01/ Rev 2.	Preliminary Sewer And Water Alignment – Overall Site Plan	Northrop	28/03/2019
NL120526 / C2.01 – C2.05 / Rev 2.	Preliminary Sewer And Water Alignment Detailed Plan	Northrop	28/03/2019
NL120526 / C2.21 – C2.25 / Rev 2.	Preliminary Sewer And Water Alignment Concept Earthworks Plan	Northrop	26/09/2019

NL120526 / C3.01 – C3.04/ Rev 2.	Preliminary Water Longitudinal Section	Northrop	26/03/2019
NL120526 / C3.05 Rev 3.	Preliminary Water Longitudinal Section	Northrop	21/08/2019
NL120526 / C3.06/ Rev 5.	Preliminary Water Longitudinal Section	Northrop	10/10/2019

Document title	Prepared by	Date
Environmental Impact Statement (EIS)	Arcadis	February 2020
Air Quality Assessment (ref. 19.1070.FR1V1)	Northstar Air Quality	September 2019
Report on Preliminary Desktop Assessment	Douglas Partners	October 2019
Noise and Vibration Assessment (ref. S180828RP1)	Resonate	October 2019
Aboriginal Cultural Heritage Assessment Report	Artefact	October 2019
Statement of Heritage Impact	Artefact	October 2019
Response to Submissions (RtS)	Arcadis	July 2020
Acid Sulfate Soils Management Plan	Arcadis	July 2020
Addendum to the Statement of Heritage Impact	Artefact	July 2020
Compilation of Mitigation Measures	Arcadis	August 2020
Indicative Tree Removal in Urban Areas Memorandum	Arcadis	August 2020

In the event of any inconsistency between the approved plans and the conditions, the conditions will prevail.

- (4) **Sign** – Except in the case of work only carried out to the interior of a building or Crown building work, a sign must be erected in a prominent position on the site showing the name, address and telephone number of the Principal Certifying Authority for the work, the name of any principal contractor and their after-hours contact number, and must contain a statement that unauthorised entry to the site is prohibited.

## 2.0 – Prior to Commencement of Pre-Construction Activities

The following conditions of consent shall be complied with for pre-construction activities identified within the Compilation of Mitigation Measures prepared by Arcadis (dated August 2020).

- (1) **Pre-Construction Environmental Management Plan** - A Pre-Construction Environmental Management Plan (Pre-CEMP) is to be submitted to and approved by the Certifying Authority (and provided to Council for information). The required Pre-CEMP must include the following:
  - a) description of activities to be undertaken during pre-construction;
  - b) figure illustrating the proposed pre-construction work areas;
  - c) a program for ongoing analysis of the key environmental risks arising from the pre-construction activities described in subsection (a) of this condition, including an initial risk assessment undertaken prior to the commencement of pre-construction activities ;
  - d) detail how the pre-construction activities described in subsection (a) of this condition will be carried out:
    - i) meet the performance outcomes stated in the documents listed in the EIS;
    - ii) manage the risks identified in the risk analysis undertaken in subsection (c) of this condition.
  - e) a program for monitoring the performance outcomes.

## 3.0 – Prior to Commencement of Works

The following conditions of consent shall be complied with prior to Construction or Excavation Works. These conditions are not relevant to pre-construction activities identified within the Compilation of Mitigation Measures prepared by Arcadis (dated August 2020).

- (1) **Dilapidation report – Adjoining property** - A dilapidation report including a photographic survey of all properties along the alignment to be impacted by vibration and construction activities must be provided to the Certifying Authority. The dilapidation report must detail the physical condition of those properties, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

Both pre and post construction building condition surveys (i.e. dilapidation surveys) on all buildings potentially affected by vibration during construction activities must be provided.

The dilapidation report is to be prepared by a qualified Engineer. All costs incurred in achieving compliance with this condition must be borne by the applicant.

- (2) **Civil engineering plans** – Civil engineering plans prepared by a qualified Engineer, indicating drainage, roads, earthworks, pavement design, traffic management, water quality and quantity facilities including stormwater detention and disposal, must be prepared in accordance with the approved plans and Council's Infrastructure Specifications.

Details demonstrating compliance must be provided to the Certifying Authority.

**Note.** Under the *Roads Act 1993*, only the Roads Authority can approve commencement of works within an existing road reserve.

- (3) **Stormwater/drainage plans** – Detailed stormwater drainage plans must be prepared by a qualified Engineer in accordance with the approved plans, Council's Infrastructure Specifications and the current Australian Rainfall and Runoff guidelines using the Hydrologic Soil Mapping data for Port Stephens (available from Council).

Details demonstrating compliance must be provided to the Certifying Authority.

**Note.** Under the *Roads Act 1993*, only the Roads Authority can approve commencement of works within an existing road reserve.

- (4) **Flood Risk Management Plan** – A Flood Risk Management Plan prepared by a suitably qualified Engineer must be provided to the Certifying Authority demonstrating compliance with the following:
- a) The design must show that the proposed development is capable of withstanding the effects of flood waters, including immersion, structural stability, buoyancy and impact and loading from debris up to and including the 1% Annual Exceedance Probability (AEP) event.
  - b) Certification demonstrating that any damage to the proposed development sustained in a flood will not generate debris capable of causing damage to downstream buildings or property
  - c) Certification demonstrating that the finishes, plant fittings and equipment and any other buoyant fixtures will be of materials and functional capacity to withstand the forces of floodwater in events up to and including the 1% AEP event including hydrostatic pressure, hydrodynamic pressure and buoyancy forces.
- (5) **Soil, erosion, sediment and water management** – An Erosion and Sediment Control Plan (ESCP) must be prepared in accordance with Council's Infrastructure Specifications. Details demonstrating compliance must be provided to the Certifying Authority.
- (6) **Long service levy** – In accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986*, the applicant must pay a long service levy at the prescribed rate to either the Long Service Payments Corporation or Council for any works that cost \$25,000 or more.
- (7) **Hunter Water Corporation approval** - A Section 49 Application under the *Hunter Water Act 1991* must be lodged with Hunter Water Corporation (HWC) and details of the Notice of Compliance from HWC must be provided to the Certifying Authority.
- (8) **Vegetation Management Plan** - A Vegetation Management Plan (VMP) must be developed for the areas identified as bush land or riparian zones on the approved plans, or areas to be rehabilitated, and submitted to Council for approval prior to any clearing works occurring on site. The VMP must be prepared and implemented by a qualified Environmental Consultant.

The plan should include clear management objectives, a schedule of works and maps. The Vegetation Management Plan is to be prepared and implemented prior to the

commencement of works on the site.

- (9) **Temporary Site Structures** - The installation of temporary site structures must comply with the following requirements:
- a) Temporary site structures are to be installed in accordance with the; *Work Health and Safety Act 2011*; *Work Health and Safety Regulation 2017*; relevant Australian Standards; requirements of SafeWork NSW, and any other applicable Legislation;
  - b) No third party advertising is permitted to be displayed on temporary site structures at any time;
  - c) Temporary site structures must be maintained in a clean, tidy and safe condition at all times;
  - d) Removal of all graffiti from temporary site structures must occur within 2 business days of its application;
  - e) The person having the benefit of this consent must submit a 'Works on Public Infrastructure (Roads, Drainage, Driveways)' application to Council and obtain approval prior to the installation of any temporary site structures over Council footways or road reserves, and
  - f) Temporary site structures must be removed as soon as practicable after they are no longer required for public safety and/or work purposes.
- (10) **Installation graphics / artwork temporary site structures (graphic displays)** - A graphic display must be installed on temporary site structures in accordance with the approved plans and the following requirements:
- a) At least 75% of the surface area (including end panels, large access gates / doors, and fascia) of the temporary site structures must be covered by the graphic display. The remaining surface must be finished and painted flat black or a colour complementary to the graphic display,
  - b) Required site signage (including developer or corporate identification) must be sympathetic to the graphic display and must not exceed more than 5% (combined) of the surface area of the temporary site structure,
  - c) No third party advertising is permitted to be displayed at any time,
  - d) Graphic displays must be printed from UV-stabilised or latex-based inks. The material on which graphic displays are printed must comply with the relevant Australian Standards for temporary site structures and applicable works safety standards,
  - e) Graphic displays must be installed to ensure long-term durability with a clean finish to the face of the temporary site structure,
  - f) Where damage to graphic display occurs the replacement of damage section is required to occur within 2 business days, and
  - g) Graphic displays must be maintained in good repair for the duration of the project or until such time that the construction works no longer results in an adverse visual impact to the surrounding locality.

Details demonstrating compliance must be provided to the Certifying Authority prior to the Commencement of Works.

- (11) **Staging of Construction Works** – A detailed staging plan for the timing and delivery of works is to be prepared. Details of the staging plan must be provided to the Certifying Authority prior to the Commencement of Works.

- (12) **Footings and Excavation near Council Property** - All works proposed within the zone of influence of Council's asset/s are to be designed and certified by a qualified Geotechnical or Structural Engineer.

Plans and specifications demonstrating compliance with this requirement must be submitted to the Certifying Authority.

- (13) **Dilapidation Report – Council Property** - A Dilapidation Report prepared by a qualified Structural/Civil Engineer must be submitted to the Certifying Authority.

The report must include a photographic survey of existing public roads, kerbs, footpaths, drainage structures, street trees and any other existing public infrastructure within the immediate area of the subject site.

All costs incurred in achieving compliance with this condition must be borne by the applicant. Details demonstrating compliance must be provided to the Certifying Authority.

- (14) **Retaining Walls** - All retaining walls must be designed and certified by a suitably qualified Structural Engineer in accordance with Council's Infrastructure Specifications.

Details demonstrating compliance must be provided to the Certifying Authority.

- (15) **Roads Act Approval** - For construction/reconstruction of Council infrastructure, including vehicular crossings, footpath, kerb and gutter, stormwater drainage, an application must be made for a Roadworks Permit under Section 138 of the Roads Act 1993.

- (16) **Biodiversity Offset Scheme – Ecosystem credit retirement** - The class and number of ecosystem credits in the following table must be retired to offset the residual biodiversity impacts of the development prior to the Commencement of Works.

The requirement to retire credits may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of ecosystem credits, as calculated by the Biodiversity Offsets Payment Calculator.

Impact plant community type	No. of ecosystem credits	IBRA sub-region	Plant community type(s) that can be used to offset impacts of development
1600-Spotted Gum - Red Ironbark - Narrow-leaved Ironbark - Grey Box shrub-grass open forest of the lower Hunter	22	Karuah Manning, Hunter, Macleay Hastings, Mummel Escarpment and Upper Hunter. or Any IBRA subregion that is within 100 kilometers of the impacted site.	Hunter-Macleay Dry Sclerophyll Forests This includes PCT's: 1178, 1589, 1600, 1601



1590-Spotted Gum - Broad-leaved Mahogany - Red Ironbark shrubby open forest	7	Karuah Manning, Hunter, Macleay Hastings, Mummel Escarpment and Upper Hunter. or Any IBRA subregion that is within 100 kilometers of the outer edge of the impacted site.	Hunter-Macleay Dry Sclerophyll Forests This includes PCT's: 715, 904, 922, 1178, 1215, 1588, 1589, 1590, 1591, 1592, 1593, 1600, 1601, 1602, 1608, 1612, 1626, 1748
1619-Smooth-barked Apple - Red Bloodwood – Brown Stringybark - Hairpin Banksia heathy open forest of coastal lowlands	13	Hunter, Ellerston, Karuah Manning, Kerrabee, Liverpool Range, Peel, Tomalla, Upper Hunter, Wyong and Yengo. or Any IBRA subregion that is within 100 kilometers of the outer edge of the impacted site.	Sydney Coastal Dry Sclerophyll Forests This includes PCT's: 1083, 1138, 1156, 1181, 1183, 1250, 1253, 1619, 1620, 1621, 1623, 1624, 1625, 1627, 1632, 1636, 1638, 1642, 1643, 1681, 1776, 1777, 1778, 1780, 1782, 1783, 1785, 1786, 1787

Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund detailed in the above table must be provided to the consent authority prior the issue of Commencement of Works.

- (17) **Biodiversity Offset Scheme – Species credit retirement** - The class and number of species credits in the following table must be retired to offset the residual biodiversity impacts of the development prior to the Commencement of Works.

The requirement to retire credits may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of species credits, as calculated by the Biodiversity Offsets Payment Calculator.

Impacted species credit	Number of species credits	IBRA sub-region
<b>Myotis macropus</b> / Southern Myotis	1	Any in NSW
<b>Petaurus norfolcensis</b> / Squirrel Glider	37	Any in NSW
<b>Phascogale tapoatafa</b> / Brush-tailed Phascogale	37	Any in NSW
<b>Phascolarctos cinereus</b> / Koala	35	Any in NSW

Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund detailed in the above table must be provided to the consent authority prior the Commencement of Construction Works.

- (18) **Biodiversity Management Plan** - A Biodiversity Management Plan must be prepared to the satisfaction of Council.

- a) Identification of the development site as per the Biodiversity Development Assessment Report (BDAR) and approved plans.
- b) Identification of the areas of land that are to be retained as outlined in the BDAR and as informed by the detailed design phase.
- c) Construction impacts must be restricted to the development site and must not encroach into areas of retained native vegetation and habitat. All materials stockpiles, vehicle parking, machinery storage and other temporary facilities must be located within the areas for which biodiversity impacts were assessed in the BDAR.
- d) The Biodiversity Management Plan must identify all measures proposed in the BDAR to mitigate and manage impacts on biodiversity and as outlined in the following table, including performance measures for each commitment.

Biodiversity issue	Measure	Timing
Koala habitat offsetting in accordance with the PSC CKPoM	<ul style="list-style-type: none"> <li>Identify and map suitable locations for koala feed tree offsetting in consultation with relevant landholders.</li> <li>Plant koala feed trees.</li> <li>Monitor and maintain Koala feed tree offset plantings.</li> </ul>	During detailed design and Post-construction
Grey-crowned Babbler	<ul style="list-style-type: none"> <li>Conduct pre-clearance searches for Grey-crowned Babbler dormitory nests (which are used year-round by family groups of up to 15 birds). If Grey-crowned Babbler nests are found, delineate the area on a Site Plan and in the field using flagging tape / bunting.</li> <li>Avoid removal or disturbance of the nests.</li> </ul>	Prior to and during construction
Nest boxes	<ul style="list-style-type: none"> <li>Identify number, type and installation location of nest boxes</li> <li>Monitoring and maintenance of nest boxes</li> </ul>	Post-construction
Rehabilitation of compound sites	<ul style="list-style-type: none"> <li>Compound sites to be rehabilitated with plantings consistent with mapped PCTs.</li> <li>Weeds to be managed and maintained.</li> </ul>	Post-construction

(19) **Construction Environmental Management Plan** - A Construction Environmental Management Plan (CEMP) is to be submitted to and approved by the Certifying Authority and Council. The required CEMP must include the following:

- sequence and construction methodology and specify mitigating measures to ensure all works are carried out with minimal environmental impact in relation to project staging,



- waste management,
- noise and vibration management,
- traffic and transport management,
- soils and contamination,
- environmental management,
- water and hydrology,
- Aboriginal and non-aboriginal heritage,
- biodiversity,
- air quality and odour,
- bushfire,
- hazard and risk,
- rehabilitation,
- legislative requirements relating to environmental management of the construction works, and allocation of responsibilities for environmental management procedures.

The measures outlined in the approved Compilation of Mitigation Measures prepared by Arcadis (dated August 2020) must be incorporated into the CEMP.

- (20) **Section 7.12 Development Contributions** - A monetary contribution is to be paid to Council, pursuant to section 7.12 of the Environmental Planning and Assessment Act 1979 and the Port Stephens Council Fixed Development Contributions Plan, related to the Capital Investment Value (CIV) of the development as determined in accordance with clause 25j of the Environmental Planning and Assessment Regulation 2000 and outlined in the table below.

Capital Investment Value	Levy Rate (% of CIV)
Up to and including \$100,000	Nil
More than \$100,000 and up to and including \$200,000	0.5%
More than \$200,000	1%

The payment of the fixed development consent levy is to be accompanied by a Cost Summary Report Form setting out an estimate of the CIV in accordance with Schedule 1 of the Port Stephens Council Fixed Development Contributions Plan. Where the estimated cost of carrying out the whole of the development is more than \$1,000,000, the Cost Summary Report Form must be completed by a Quantity Surveyor who is a registered Associate member or above, of the Australian Institute of Quantity Surveyors. This condition cannot be taken to be satisfied until a payment has been made in accordance with the CIV stated on a cost summary report submitted to Council in accordance with this condition.

Payment of the above amount must apply to Development Applications as follows:

a) Prior the Commencement of Works.

- (21) **Construction Noise and Vibration Plan** - A Construction Noise and Vibration Plan (CNVP) must be prepared for the construction phase of the development. As a minimum the (CNVP) should include all noise mitigation and management measures specified in the Noise and Vibration Assessment by Resonate (Section 5 and 6) and the Compilation of Mitigation Measures prepared by Arcadis (August 2020).

The Plan is to include:

- Construction sequence;
- Machinery and equipment to be used;
- Hours and operation, including times and days when noisy construction would occur;
- Legislative requirements and responsibilities;
- The design of noise mitigation measures such as temporary barriers or enclosures.
- Methods for monitoring and responding to complaints about construction noise.

The Construction Noise and Vibration Plan (CMVP) must be submitted to Council for approval.

- (22) **Water Management Plan** – A Water Quality Monitoring and Management Plan for must be prepared for the construction phase of the development for surface water leaving the development footprint and draining into Irrawang Swamp. The Plan must outline monitoring locations (flow and quality), water quality parameters, and monitoring program (frequency and duration). The Plan must also demonstrate that water leaving the site complies with *Protection of the Environment Operations Act 1997* (POEO Act) in terms of not causing pollution of the environment.

The Water Quality Monitoring and Management Plan (WQMMP) should outline an adaptive management framework describing the process to be undertaken if monitoring indicates water quality targets are not being achieved. The WQMMP and ongoing monitoring should be undertaken by a suitably qualified independent environmental consultant at the proponent's expense.

The Water Quality Monitoring and Management Plan is to be approved by Council prior to the Commencement of Works.

- (23) **Arborist Report** – A qualified arborist with minimum Australian Qualification Framework Level 3 qualifications or higher, is required to prepare a report to determine whether there will be impacts to the root zones of mature trees along Boomerang Park, Rees James Road and Adelaide Street. Mitigation measures from this report are to be implemented as required. No clearing or pruning of the heritage listed trees is to occur without Council approval.

Where trees are required to be removed, like for like compensatory tree planting in accordance with Council's Tree Technical Specification is to occur as part of Rehabilitation Works.

The report must be provided to Council and the Certifying Authority.

- (24) **Air Quality Management Plan** - A Construction Air Quality Management must be prepared for the construction phase of the development. This can be prepared as part of the CEMP. As a minimum the Air Quality Management Plan should include all mitigation and management measures specified in the Air Quality Assessment by Northstar Air Quality (Section 6 and 7) and the Compilation of Mitigation Measures prepared by Arcadis (August 2020). The Plan is to include:

- Construction operations and sequence;
- Machinery and equipment to be used;
- Legislative requirements and responsibilities;
- Dust control and management;
- The design and implementation of air quality mitigation measures.
- Methods for monitoring and responding to complaints about construction dust and air quality.

The Air Quality Management must be submitted to the Certifying Authority and Council for approval.

(25) **Rehabilitation Plan** – A detailed rehabilitation plan is to be submitted to Council for approval and the Principal Certifying Authority. The plan is to detail site rehabilitation works upon completion of construction, including:

- Earthworks to reinstate previous topography;
- Tree replacement for impacted trees in urban areas;
- Rehabilitation of disturbed bush areas;
- Construction compounds must be assessed for contamination and remediated where appropriate at the end of the project;
- Decommissioning of compound areas;
- Stabilising disturbed soils in accordance with relevant guidelines;
- Removal of water diversion and reinstatement of flows;
- Removal of erosion and sediment controls.

(26) **Consistency Review Report** – A Consistency Review Report is to be prepared and submitted to Council for approval once the Section 49 Application under the *Hunter Water Act 1991* is approved by Hunter Water Corporation (HWC). The Consistency Review Report is to demonstrate the environmental impacts and mitigation measures identified in the Compilation of Mitigation Measures prepared by Arcadis (August 2020) are consistent with the detailed water and sewer design. Specifically, the review is to address the following:

- Review and update as required the mitigation strategies associated with the detailed design relative to this consent;
- Review and assess if the detailed design is consistent with this consent.

(27) **Groundwater and Groundwater Dependant Ecosystems (GDEs)**

- a) Intrusive groundwater investigations shall be undertaken as part of the detailed design, and prior to the Commencement of excavation works, to address impacts to Groundwater Dependent Ecosystems (GDEs).
- b) A Groundwater Monitoring Program will be designed and implemented based on the findings of the groundwater investigation to monitor the construction and operational impacts of the proposal.

The Groundwater Monitoring Program is to be submitted to Council for approval.

(28) **Hydrology Management** - A site specific hydrological investigation shall be undertaken to assess and model the frequency and intensity of overflows from the Sewage Pumping Station into the receiving wetlands.

- a) The detailed design of the Sewage Pumping Station will:

- i. be informed by the findings of the Hydrological Study to minimise the likelihood of overflows to an acceptable level and;
- ii. apply the design specifications of the Hunter Water Design Specifications for Sensitive Receiving Environments.

The hydrological investigation is to be submitted to Council for approval.

(29) **Groundwater Interception** - A detailed Groundwater Interception Management Plan which will detail:

- a) How intercepted groundwater will be collected, treated (if necessary) and discharged;
- b) Groundwater discharge monitoring requirements; including water quantity and water quality (standard physical parameters).
- c) Triggers for treatment based on monitoring results
- d) Groundwater treatment methods to be used prior to disposal.

The Groundwater Interception Management Plan is to be submitted to Council for approval.

(30) **Traffic Management Plan** – A detailed Construction Traffic Management Plan is to be provided to Council and the Certifying Authority for approval. The Construction Traffic Management Plan is to be consistent with the Compilation of Mitigation Measures prepared by Arcadis (August 2020). Relevant legislative requirements and allocation of responsibilities are to be included.

(31) **Geotechnical Assessment** – A detailed geotechnical assessment of the site is to be undertaken by a suitably qualified Geotechnical Engineer and submitted to the Certifying Authority. The detailed assessment is to comply with the recommendations of the Preliminary Desktop Assessment: Proposed Water Supply and Sewer Pipeline Kings Hill, North Raymond Terrace, Revision 1, by Douglas Partners and Dated 10 October 2019.

(32) **Notice of Principal Certifying Authority appointment** – Notice must be given to Council at least two days prior to building works commencing in accordance with Clause 103 of the *Environmental Planning & Assessment Regulation 2000*. The notice must include:

- a) a description of the work to be carried out;
- b) the address of the land on which the work is to be carried out;
- c) the Registered number and date of issue of the relevant development consent;
- d) the name and address of the Principal Certifying Authority (PCA), and of the person by whom the PCA was appointed;
- e) if the PCA is an accredited certifier, their accreditation number, and a statement signed by the accredited certifier consenting to being appointed as PCA; and
- f) a telephone number on which the PCA may be contacted for business purposes.

(33) **Notice commencement of work** – Notice must be given to Council at least two days prior to excavation or building works commencing in accordance with Clause 104 of the *Environmental Planning & Assessment Regulation 2000*. The notice must include:

- a) the name and address of the person by whom the notice is being given;
- b) a description of the work to be carried out;
- c) the address of the land on which the work is to be carried out;
- d) the Registered number and date of issue of the relevant development consent;
- e) a statement signed by or on behalf of the Principal Certifying Authority to the effect that all conditions of the consent that are required to be satisfied prior to the work commencing have been satisfied; and
- f) the date on which the work is intended to commence.

(34) **Sign of PCA and contact details** – A sign must be erected in a prominent position on the site stating the following:

- a) that unauthorised entry to the work site is prohibited;
- b) the name of the principal contractor (or person in charge of the site) and a telephone number on which that person can be contacted at any time for business purposes and outside working hours;
- c) the name, address and telephone number of the Principal Certifying Authority.

The sign must be maintained while the work is being carried out and must be removed upon the completion of works.

(35) **Site is to be secured** – The site must be secured and fenced to the satisfaction of the Principal Certifying Authority. All hoarding, fencing or awnings (associated with securing the site during construction) is to be removed upon the completion of works.

(36) **Demolition work** – All demolition works are to be carried out in accordance with Australian Standard AS 2601 'The demolition of Structures'. All waste materials are to be either recycled or disposed of to a licensed waste facility. Copies of tipping dockets must be retained and supplied to Council upon request

Any asbestos containing material encountered during demolition or works, is to be removed in accordance with the requirements of Safe Work NSW and disposed of to an appropriately licenced waste facility.

Evidence is to be provided to the Certifying Authority demonstrating that asbestos waste has been disposed of in accordance with this condition.

(37) **Soil erosion and sediment control** – Soil erosion and sediment controls must be implemented prior to works commencing on the site in accordance with 'Managing Urban Stormwater – Soils and Construction ('the blue book') and any Sediment and Erosion plans approved with this Development Consent.

Soil erosion and sediment control measures must be maintained during construction works and must only be removed upon completion of that stage of the development when all landscaping and disturbed surfaces have been stabilised (for example, with site turfing, paving or re-vegetation).

(38) **All weather access** – A 3m wide all-weather vehicle access is to be provided for the delivery of materials and use by trades people.



No materials, waste or the like are to be stored on the all-weather access at any time.

- (39) **Protection of trees /existing street trees** – Protection of trees not identified for removal must be protected in accordance with AS490 'Protection of Trees on Development Sites' and the following:

a) No existing nature strip(s), street tree(s), tree guard(s), protective bollard(s), garden bed surrounds or root barrier installation(s) must be disturbed, relocated, removed or damaged during earthworks, demolition, excavation (including any driveway installation), construction, maintenance and/or establishment works applicable to this consent, without Council agreement and/or consent.

- (40) **Weed management** – Weed removal and suppression must be undertaken using approved bush regeneration techniques under the supervision of a suitably qualified and approved bush regenerator and in accordance with the requirements for the *NSW Biosecurity Act 2015*, associated Regulations and NSW Weed Control Handbook.

The site is to be inspected by a representative of Council's Invasive Species team one week prior to works commencing.

- (41) **Public liability insurance** – The owner or contractor must take out a Public Liability Insurance Policy with a minimum cover of \$20 million in relation to the occupation of, and works within, public property (i.e. kerbs, gutters, footpaths, walkways, reserves, etc.) for the full duration of the proposed works.

Evidence of this Policy must be provided to Council and the Certifying Authority.

- (42) **Construction Certificate** – In accordance with the provisions of Section 6.7 of the *Environmental Planning & Assessment Act 1979 (EP&A Act 1979)*, any building work must not commence until the following has been satisfied:

- b) a Construction Certificate has been issued by a Consent Authority;
- c) a Principal Certifying Authority (PCA) has been appointed by the person having benefit of the development consent in accordance with Section 6.5 of the *EP&A Act 1979*; and
- d) the PCA is notified in writing of the name and contractor licence number of the owner/builder intending to carry out the approved works.

- (43) **Rubbish generated from the development** – Where not already available, a waste containment facility is to be established on site. The facility is to be regularly emptied and maintained for the duration of works.

No rubbish must be stockpiled in a manner which facilitates the rubbish to be blown or washed off site. The site must be cleared of all building refuse and spoil immediately upon completion of the development.

- (44) **Scour Plan** - A Scour Plan is to be prepared addressing flow rates, typical chemical ranges, capture and treatment of superchlorinated water, and location and method of discharge such as tankering. The Scour Plan is to be prepared in accordance with HWC Procedure EP0112 - Dechlorination of discharge water, which describes the steps required for release of water to the environment following works on the potable water network.



Chlorinated water, including superchlorinated used during commissioning, is not to be discharged, either directly or indirectly, to the environment.

- (45) **Water Management Approval** - Prior to the commencement of any dewatering or works that may impact water supply intercept the groundwater table, an application must be submitted to WaterNSW, and approval obtained under the Water Management Act 2000.

## 4.0 - During Works

The following conditions of consent shall be complied with during the construction phase of the development.

- (1) **Construction hours** – All work (including delivery of materials) must be restricted to the hours of 7.00am to 6.00pm Monday to Friday and 8.00am to 1.00pm Saturday. Work is not to be carried out on Sundays or Public Holidays.

Works that cannot be undertaken during the standard construction hours specified above due to critical operational or safety requirements are permitted to occur Monday to Friday, between 6pm – 10pm. Works undertaken in this time period:

- Would be limited to the category of works detailed in EIS Section 4.3.3 and 8B of the Compilation of Mitigation Measures prepared by Arcadis (August 2020);
- Would require the proponent to maintain a written record outlining assessment and justification for the works;
- Would require notification to affected receivers (10 days prior); and
- Would be required to be submitted to the relevant authority on request.

Any works outside the conditioned time periods would require the prior approval of Council.

- (2) **Toilet facilities** – Temporary toilet(s) must be provided and maintained on site from the time of commencement of building work to completion. The number of toilets provided must be one toilet per 20 persons or part thereof employed on the site at any one time.

The temporary toilet is to be either connected to the sewerage system or an approved septic tank or otherwise may be a chemical toilet supplied by a licensed contractor.

- (3) **Excavations and backfilling** – All excavations and backfilling associated with this development consent must be executed safely, and be properly guarded and protected to prevent them from being dangerous to life or property, and in accordance with the design of a suitably qualified Structural Engineer.

If an excavation extends below the level of the base of the footings of a building on an adjoining allotment, the person causing the excavation must:

- a) preserve and protect the building from damage; and
- b) if necessary, underpin and support the building in an approved manner; and
- c) give at least seven days' notice to the adjoining owner before excavating, of the

intention to excavate.

The principal contractor, owner builder or any person who needs to excavate and undertake building work, must contact “Dial Before You Dig” prior to works commencing, and allow a reasonable period of time for the utilities to provide locations of their underground assets.

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.

- (4) **Placement of fill** - Filling must not be placed in such a manner that natural drainage from adjoining land will be obstructed or in such a manner that surface water will be diverted.

Further, any alterations to the natural surface contours must not impede or divert natural surface water runoff so as to cause a nuisance to adjoining property owners.

- (5) **Disposal of stormwater** – Water seeping into any site excavations is not to be pumped into the stormwater system unless it complies with relevant Environmental Protection Agency and Australian and New Zealand Environment and Conservation Council standards for water quality discharge.

- (6) **Location of stockpiles** – Stockpiles of soil must not be located on / near any drainage lines or easements, natural watercourses or water bodies, footpath or roadway without first providing suitable protective measures adequate to protect these water bodies. All stockpiles of contaminated materials must be suitably covered to prevent dust and odour nuisance.

- (7) **Truck wash down** – Provision must be made for all trucks to be effectively washed down after loading and unloading, prior to leaving the site. This must be within a suitably contained and designated area. All water run-off from the wash down area must be directed to an approved public stormwater drainage system and not cause any water quality pollution. Water run off must comply with *Protection of the Environment Operations Act 1997* (POEO Act) in terms of not causing pollution of the environment.

- (8) **Tree protection measures** – All trees to be retained must be protected in accordance with AS4970 ‘Protection of Trees on Development Sites’ for the duration of construction.

- (9) **Soil, erosion, sediment and water management** – All requirements of the Erosion and Sediment Control Plan or Water Management Plan must be maintained at all times during the works and any measures required by the plan must not be removed until the site has been stabilised.

- (10) **Offensive noise, dust, odour and vibration** – All work must not give rise to offensive noise, dust, odour or vibration as defined in the *Protection of the Environment Operations Act 1997* when measured at the nearest property boundary.

- (11) **Delivery register** - The applicant must maintain a register of deliveries which includes date, time, truck registration number, quantity of fill, origin of fill and type of fill delivered.

This register must be made available to Council officers on request and be provided to the Council at the completion of the development.

(12) **Fill material** – The only fill material that may be received at the development site is:

- a) Virgin excavated natural material (VENM) within the meaning of the *Protection of the Environment Operations Act (POEO Act 1997)*;  
or
- b) Excavated natural material (ENM) within the meaning of the *POEO Act 1997*;  
or
- c) Any other waste-derived material the subject of a resource recovery exemption under s.91 of the *Protection of the Environment Operations (Waste) Regulation 2014* that is permitted to be used as fill material.

Any waste-derived fill material the subject of a resource recovery exemption received at the development site must be accompanied by documentation as to the material's compliance with the exemption conditions and must be provided to the Principal Certifying Authority.

Any fill, soil, mulch and plant brought onto the site must be certified as free of weeds and weed seeds.

(13) **Construction Noise and Vibration Plan (CMVP)** – All works must be undertaken in accordance with the approved Construction Noise and Vibration Plan (CMVP).

Should there be justified noise complaints (as assessed by Council Officers) the applicant must employ an acoustic consultant (at applicant's cost) to advise on suitable noise mitigation measures.

(14) **Compliance with BCA** – All building work must be carried out in accordance with the requirements of the Building Code of Australia.

(15) **Potential acid sulfate soils** – All works and encounters with ASS are to be undertaken in accordance with the approved ASS Management Plan prepared by Arcadis (July 2020). The recommendations and/or mitigation measures contained within the ASS Management Plan must be complied with at all times during works.

(16) **Site Identification** - Prior to undertaking any site or construction works:

- a) A registered land surveyor is to be engaged to mark out the boundaries of the approved excavation areas;
- b) These boundaries are to be clearly marked and maintained at all times during works.

(17) **Construction Environmental Management Plan Implementation** - All operations must be carried out in accordance with the measures contained in the approved Construction Environmental Management Plan and Compilation of Mitigation measures prepared by Arcadis (August 2020), in relation to project staging, waste management, noise and dust management, traffic management and environmental management etc.

- (18) **Weed management** – All machinery that has operated in affected areas shall be cleaned thoroughly prior to leaving the site. A wash down area shall be established, and subsequently monitored for the presence of Biosecurity Matter. Cleaning must include the removal of all mud and plant matter, followed by washing with high pressure water.

An area for storage of contaminated soil that is separate from clean material shall be provided during construction.

- (19) **Unexpected finds contingency (general)** – Should any suspect materials (identified by unusual staining, odour, discolouration or inclusions such as building rubble, asbestos, ash material, etc.) be encountered during any stage of works (including earthworks, site preparation or construction works, etc.), such works must cease immediately until a qualified environmental specialist has been contacted and conducted a thorough assessment.

In the event that contamination is identified as a result of this assessment and if remediation is required, all works must cease in the vicinity of the contamination and Council must be notified immediately.

Where remediation work is required, the applicant will be required to obtain consent for the remediation works.

- (20) **Heritage** – All works are to be undertaken in accordance with the recommendations and mitigation measures contained in the Aboriginal Cultural Heritage Assessment (Section 8) prepared by Artefact (October 2019), Statement of Heritage Impact (Section 7) prepared by Artefact (October 2019), the Addendum to the Statement of Heritage Impact prepared by Artefact (July 2020) and Compilation of Mitigation measures prepared by Arcadis (August 2020).

- (21) **Compliance with Management Plans** – At all times works must be undertaken in accordance with the approved Management Plans and Compilation of Mitigation measures prepared by Arcadis (August 2020).

- (22) **Removal of Waste Materials and Contaminated Fill** - Where there is a need to remove any identified materials from the site that contain fill/rubbish/asbestos, the waste material must be assessed and classified in accordance with the NSW Environmental Protection Agency Waste Classification Guidelines (2008).

Once assessed, the materials must be disposed to a licensed waste facility suitable for that particular classification of waste. Copies of tipping dockets must be retained and supplied to Council upon request.

- (23) **Construction Air Quality Management Plan** – All works must be undertaken in accordance with the approved Construction Air Quality Management Plan.

Should there be justified dust or air quality complaints (as assessed by Council Officers) the applicant must employ an air quality consultant (at applicant's cost) to advise on suitable noise mitigation measures.

- (24) **Nest Boxes** - Nest box removal is to be avoided. Where this cannot occur, nest boxes are to be relocated to a suitable location. Nest box removal is to be undertaken outside of spring/summer.

If fauna are occupying any nest boxes to be relocated, they are to be removed by a suitably qualified ecologist prior to relocation.

## 5.0 - Prior to Commencement / Commissioning of Use

The following conditions of consent shall be complied with prior to the Commencement / Commissioning of Use.

- (1) **Plan of Management** – An Operational Environmental Management Plan (OEMP) is to be submitted to and approved by the Certifying Authority and Council at the completion of each stage of commissioning. The required OEMP must include:
  - a) A Site Specific Incident Response Plan prepared for the Sewage Pump Station which details appropriate management and response actions to minimise impacts of overflows into the receiving environment, including any relevant ongoing management and monitoring actions,
  - b) Rehabilitation and environmental management,
  - c) Legislative requirements and responsibilities.
- (2) **Bushfire Safety** - The site is located within a bushfire prone area. Certification from a suitably accredited NSW Bushfire Consultant must be provided to certify that the development complies with the relevant version of NSW Rural Fire Service publication "Planning for Bush Fire Protection."
- (3) **Stormwater/drainage works** – All stormwater and drainage works required to be undertaken in accordance with this consent must be completed.

The certification/verification must be provided to the satisfaction of the Principal Certifying Authority.

- (4) **Rectification damage to public infrastructure** – The applicant must rectify any new damage to public infrastructure to the satisfaction of the Council as the Roads Authority.
- (5) **Completion of Roads Act Approval works** - All approved excavation and drainage works, have been completed in the road reserve in accordance with the Roads Act Approval to the satisfaction of the Roads Authority.
- (6) **Works as Executed Plans and Report** - Works As Executed Plans must be prepared and provided to the Principal Certifying Authority in accordance with Council's Infrastructure Specifications confirming all stormwater drainage systems are constructed in accordance with the approved plans/documentation.
- (7) **Geotechnical Compliance Certificate** – A Certificate of Compliance prepared by a qualified Geotechnical Engineer must be provided to the Principal Certifying Authority stating that the works detailed in the Geotechnical Report (Douglas Partners, reference 81502.11, dated October 2019) have been undertaken under the Engineer's supervision and to the Engineer's satisfaction, and that the assumptions relating to site conditions made in preparation of the report were validated during construction.

This certificate must accompany the Works as Executed plans.

- (8) **Certificate of Compliance** - Once the installation of the water and sewer system is completed, a Certificate of Compliance prepared by a suitably qualified person with details of tests carried out must be provided to the Principal Certifying Authority and Council. Verification must be provided that the system as installed has been tested and complies with the approved plans and relevant specifications, legislation and standards.
- (9) **Rehabilitation Works** – All rehabilitation works required to be undertaken as part of the approved rehabilitation plan are to be complete. A report demonstrating all works have been completed as required under the rehabilitation plan must be provided to Council for approval and the Principal Certifying Authority. Construction compounds must be assessed for contamination and remediated where appropriate at the end of the project.

Rehabilitation works must be consistent with the Compilation of Mitigation measures prepared by Arcadis (August 2020).

## 6.0 – Ongoing

The following conditions of consent are operational conditions applying to the development.

- (1) **Amenity** – The operation must be conducted, and movements controlled at all times so that no interference occurs to the amenity of the area and adjoining occupations and residential or business premises.
- (2) **Rehabilitation and Management** – Ongoing management and rehabilitation works are to be undertaken in accordance with the Compilation of Mitigation Measures prepared by Arcadis (August 2020) and approved Rehabilitation Plan.
- (3) **Chemical Bunding** - All paints, chemicals and other liquids must be stored in approved receptacles, which must be housed in a suitably constructed, covered, impervious bunded area.
- (4) **Ecology Monitoring Reports** - Monitoring reports in accordance with the approved Biodiversity Management Plan must be prepared and submitted to Council.
- (5) **Lighting** – All lighting must comply with AS 1158 'Lighting for Roads and Public Spaces' and AS 4282 'Control of Obtrusive Effects of Outdoor Lighting'.

No flood lighting is permitted to be erected on site. External lighting is to be for domestic purposes only.



## Advice Note(s):

- (1) **'Dial Before you Dig'** – Before any excavation work starts, contractors and others should phone the “Dial Before You Dig” service to access plans/information for underground pipes and cables.
- (2) **Dividing fences** – The erection of dividing fences under this consent does not affect the provisions of the *Dividing Fences Act 1991*. Under this Act, all relevant parties must be in agreement prior to the erection of any approved dividing fence/s under this consent.

Council has no regulatory authority in this area and does not adjudicate civil disputes relating to the provision of, or payment for, the erection of dividing fences. If there is a neighbour dispute about the boundary fence and you are seeking mediation, you may contact the Community Justice Centre, or if legal advice or action is required, you may contact the Chamber Magistrate.

- (3) **Premise standard** – It is the Applicants responsibility to ensure compliance with the requirements of the *Disability Discrimination Act 1992* (DDA).

**Note:** Compliance with the Building Code of Australia does not necessarily meet the requirements of the DDA.

- (4) **Disability Discrimination Act** – The Commonwealth Disability Discrimination Act makes it an offence to discriminate against people on the grounds of disability, in the provision of access to premises, accommodation, or services. It is the owner/applicants responsibility to ensure compliance with the requirements of this Act.
- (5) **Aboriginal archaeological deposit** – In the event of any Aboriginal artefact, object or structure being unearthed, all work must cease immediately in the affected area, and the Heritage NSW shall be informed of the discovery. Work must not recommence until the material has been inspected and permission has been given by BCD to proceed.
- (6) **Works near/adjoining electricity network assets** – There are underground electricity network assets adjacent to the proposed development in Nelson Bay Road. Any works undertaken adjacent to Ausgrid underground assets must be undertaken with care in accordance with Ausgrid Network Standard Document NS 156 – Work Near or Around Underground Cables.
- (7) **Responsibility for damage or tree removal/pruning** – The applicant is responsible for any damage caused to existing public utilities, footpaths or public roads during the cutting down, grinding, removal and disposal of the timber and roots. Care must also be taken by the applicant and the applicant's agents to prevent any damage to adjoining properties. The applicant or the applicants' agent may be liable to pay compensation to any adjoining owner if, due to tree works, damage is caused to such adjoining property.