**Application No: DA2022/0162**

**Property: 34 Walker Street RHODES NSW 2138****,**

**CONDITIONS OF CONSENT**

**General Conditions**

1. **DAGCA01 - Approved Plans and Supporting Documents**

The development shall be carried out substantially in accordance with the approved stamped and signed plans and/or documentation listed below **except where modified by any following condition**. Where the plans relate to alteration or additions only those works shown in colour or highlighted are approved.

|  |  |  |  |
| --- | --- | --- | --- |
| ***Reference/Dwg No*** | ***Title/Description*** | ***Prepared By*** | ***Date/s*** |
| DDA 1458 (Rev C) | Access Report | Certis | 4 April 2022 |
| Job No 4440 (Dwg No: 0501-0506) | Architectural Plans - Elevations | SJB Architects | 8 April 2022 |
| Job No 4440 (Dwg No: 0601-0603) | Architectural Plans - Sections | SJB Architects | 8 April 2022 |
| Job No 4440 (Dwg No: 0201-0245) | Architectural Plans - Floor Plans | SJB Architects | 8 April 2022 |
| Job No 4440 (Dwg No: 0112) | Architectural Plans - Site Plan | SJB Architects | 8 April 2022 |
| Job No 4440 (Dwg No: 0901-0905) | Architectural Plans - Adaptable Apartments  | SJB Architects | 8 April 2022 |
| Job No 4440 (Dwg No: 3071) | Architectural Plans - Cross Flow Ventilation | SJB Architects | 8 April 2022 |
| Job No 4440 (Dwg No: 3021-3033) | Architectural Plans - Eye of the Sun | SJB Architects | 8 April 2022 |
| Job No 4440 (Dwg No: 3011-3017) | Architectural Plans - Shadow Diagrams | SJB Architects | 8 April 2022 |
| Job No 4440 (Dwg No: 3051-3058) | Architectural Plans - Solar Access | SJB Architects | 8 April 2022 |
| Job No 4440 (Dwg No: 0251-0269)  | Architectural Plans - Typical Apartment Plans | SJB Architects | 8 April 2022 |
| Cert. No. 887120M | BASIX Certificate | Integreco Consulting | 13 April 2022 |
| 150390 | BCA Assessment Report | Blackett Maguire + Goldsmith | 12 April 2022 |
| No reference | CCTV Camera Coverage Plans | JHA Services | 11 April 2022 |
| 200033 | Dual Water Reticulation Report | JHA Services | 8 April 2022 |
| No reference | ESD Assessment and Report | Integreco | April 2022 |
| 24 Sheets (Issue 7) | GFA Calculation Plans | Craig and Rhodes | 7 April 2022 |
| No reference | Technical Details Report - Landscaping | Junglefy | 11 April 2022 |
| P0037282 | Statement of Environmental Effects | Urbis | 13 April 2022 |
| 200033 | Stormwater Management report | JHA Services | 8 April 2022 |
| 200033 Dwg No: C0000, C1000, C1001, C1200, C1201, C1202 and C2000) | Stormwater Plans | JHA Services | 8 April 2022 |
| N116855 | Traffic Report | Stantec | 11 April 2022 |
| 2101543 | Wind Study and Report | RWDI Australia | 8 April 2022 |

***Note 1****: Modifications to the approved plans will require the lodgement and consideration by Council of a modification pursuant to Section 4.55 of the Environmental Planning and Assessment Act.*

***Note 2****: A warning to all Accredited Certifiers. You should always insist on sighting the original Council stamped approved plans/documentation and not rely solely upon the plan reference numbers in this condition. Should the applicant not be able to provide you with original copies, Council will provide you with access to its files so you that may review our original copies of approved documentation.*

***Note 3****: The approved plans and supporting documentation may be subject to conditions imposed under section 4.17 of the Act modifying or amending the development (refer to conditions of consent which must be satisfied prior to the issue of any Construction Certificate).*

*(Reason: To confirm and clarify the terms of consent)*

**Conditions which must be satisfied prior to the commencement of demolition of any building or structure**

1. **DAPDB01 - Construction Certificate - Prior to the Commencement of any Demolition Works**

Where demolition is associated with the erection of a new structure, or an altered portion of or an extension to an existing building, the demolition of any part of a building is "commencement of building work" pursuant of section 6.6 of the Act. In such circumstance all conditions of this consent must be satisfied prior to any demolition work. This includes, but is not limited to, the **issue of a Construction Certificate, appointment of a PCA and Notice of Commencement under the Act**.

*(Reason; Statutory Requirement)*

**Conditions which must be satisfied prior to the issue of a Construction Certificate**

1. **Modification of DA2017/0544**

Prior to the issue of any Construction Certificate for the development approved by this Consent (DA2022/0162) and pursuant to s4.17(5) of the EP&A Act and s67 of the EP&A Regulation, a notice of modification must be submitted to Council outlining such matters as may be relevant in regard to development consent DA2017/0544.

*(Reason: Consistency with approved development)*

1. **DACCB03 - Long Service Levy Payments**

The payment of a long service levy as required under part 5 of the *Building and Construction Industry Long Service Payments Act 1986*, in respect to this building work, and in this regard, proof that the levy has been paid, is to be submitted to Council **prior to the issue of a Construction Certificate**. Council acts as an agent for the Long Services Payment Corporation and the levy may be paid at Council’s Office.

*(Reason: Statutory requirement)*

1. **DACCB06 - Section 7.11 Contributions (Rhodes Peninsula)**

The following development contributions are required towards the provision of public amenities and services in accordance with the *Canada Bay Local Infrastructure Contribution Plan*.

Based on the following rates and number of dwellings, residents or bedrooms, as September 2022 (CPI 128.6)

|  |  |
| --- | --- |
|  | Monetary Contribution - Residential Development |
|  | **Per Resident\*** | **Per Self-contained seniors living and Boarding house room** | **Studio/one bedroom dwelling and one bedroom secondary dwelling** | **Two bedroom dwelling and two bedroom secondary dwellings** | **Three+ bedroom dwellings and three bedroom secondary dwellings** | **Additional Lot** |
| **Development Contribution** | $9,335.17 | $13,069.45 | $13,434.09 | $20,000 | $20,000 | $20,000 |
| **Number of dwelling/bedrooms/ residents** |  |  | 54 | 105 | 114 |  |
| **Total $** |  |  | **$725,440.86** | **$2,100,000** | **$2,280,000** |  |

**\*** the per resident rate is relevant to calculating the contributions for Group homes and Hostels

Any change in the Consumer Price Index between September 2022 (CPI 128.6) and the date that the

Section 7.11 Development Contribution is paid, will be added/subtracted from the amount cited above.

Contributions must be receipted by Council and submitted to the Accredited Certifier **prior to the issue of any Construction Certificate**.

Please present a copy of this condition when paying the contribution at the Customer Service Centre so that it can be recalculated.

A copy of the *Canada Bay Local Infrastructure Contribution Plan* may be obtained from Council’s website.

*(Reason: To retain a level of service for the existing population and to provide the same level of service to the population resulting from new developments)*

1. **DACCB09 - Affordable Housing Contribution - Payment of Money in Lieu of Floor Space**

In accordance with Clause 6.12 Affordable Housing of the Canada Bay Local Environmental Plan 2013 and the Canada Bay Affordable Housing Contribution Scheme, and prior to a Construction Certificate being issued, the applicant must pay a monetary contribution towards the provision of affordable housing to the City of Canada Bay Council.

The contribution is $13,276,671.09 based on the total uplift in residential GFA of 27,655.7m2 (proposed additional GFA 27,877m2 less the residual GFA up to 7.5:1 (221.3m2)) total residential floor area at $480.07 per square metre as at the 2022 (March Quarter). Contributions will be indexed quarterly in accordance with the formula set out in the scheme and reproduced below.

Notes:

(a) The amount of the monetary contribution is to be as per the Canada Bay Affordable Housing Contribution Scheme.

(b) Applicants are to make the payment either by Bank Cheque or by Online Payment to the City of Canada Bay Council.

(c) The formula for quarterly Contribution Rate indexation adjustment is:

**Next Quarter's Contribution Rate = Current Contribution Rate x (MDP2/MDP1)**

Where:

**MDP1** is the median strata dwelling price \* for the PREVIOUS quarter

**MDP2** is the median strata dwelling price \* for the CURRENT quarter

\* The median strata price is published quarterly in the NSW Government Rent and Sales Report, Table: Sales Price - Greater Metropolitan Region - Strata

*(Reason: To maintain a diverse community and alleviate housing stress experienced by some individuals and families in the private rental housing market.)*

1. **DACCE01 - Amendments to Approved Plans**

The following amendments shall be made to the approved plans prior to the issue of a Construction Certificate:-

**Acoustic Report**

1. An amended noise impact assessment report clearly identifying the relocated plant and equipment is to be prepared and submit to Council for approval.

**Waste**

The Waste Management Plan (WMP) is to be amended to ensure that there will be adequate waste storage and collection, and is to include the following:

1. The WMP (page 6, “limitations”) - information must reflect the requirements of updated DCP, not 2017 version.

2. Waste capacity: Council provides a weekly collection service of garbage and recycling bins. Thus, a total number of 75x 1100L garbage and 75x 1100L recycling bins is required to service buildings D and E. This is equivalent to option 2 in the first “scenario 1” in the plan.

 Demonstrate how waste will be managed according to the current DCP and service requirements.

 Include the provision of garden (and food) organics bins according to the DCP (24L/unit).

3. Clearly show waste discharge rooms in the plan.

4. Source Separation (page 10) within the unit must include sufficient space for the storage of 48h generation of garbage, recycling and food waste.

5. Despite the low level of green waste generated by units, it is important to allow for space and operational planning to separate the organics waste stream (both garden organics and food organics). Council currently provides a service for garden organics and will extend this service to accept food organics waste in the medium term. The NSW Government has a mandate for households to separate food organics by 2030 - refer to NSW Waste and Sustainable Materials Strategy 2041. The mandate also extends to businesses that generate large amounts of food waste.

 Plan for source separation and management of the organics waste stream and demonstrate how this waste stream will be handled in the development (i.e., green waste not to be disposed of in the garbage stream as per page 10).

6. It is crucial to provide adequate thought for the management of bulky waste in buildings, particularly in a development of this scale and bulk. Canada Bay Council provides two bulky household collections per year and requires that developments allocate a room for the storage of bulky waste that is convenient for residents to use and serviceable by collection vehicles (HRVs).

 Clearly demonstrate in the plan where bulky waste will be stored and the travel path of this waste stream. The DCP requirement is for the bulky waste storage area to be calculated as follows: bulky household area (m2) = (number of units x 8) / 52.

7. It is noted that the WMP makes recommendations for other types of resource streams, such as e-waste, chemical waste, and clothing materials. However, the WMP falls short in demonstrating how such materials will be dealt within the building. Best practice waste management encourages source separation and collection methods that are convenient for residents. Council promotes the collection of most materials through drop-off events and collection points.

 Consider including collection areas within the building envelope as a future-proofing strategy and to increase the environmental credentials of the development.

8. The movement and transportation of waste bins in the development as a responsibility of the building manager / caretaker for the building needs to be clarified. This includes the type of “bin-tug, trailer or tractor” that will be used as transport aid - see page 18.

 That the WMP includes details of the transport devices that will be used in the ongoing management of waste in the complex. This includes details of the footprint of the devices and the storage location in the building.

9. The WMP states that the residential bins will be serviced as a wheel out, wheel in arrangement.

 Demonstrate the travel paths of the bins and the truck entering and exiting the building. Show all dimensions in the plan, including adequate unobstructed height for HRVs.

 Provide a ‘swept path analysis’ of truck movements for the collection of waste and recycling from the residential, commercial as well as Rhodes Community Centre waste streams (page 19 states that this was provided - this was not accessible in the existing documentation for the modification).

 Swept path analysis that demonstrates access to HRV must be provided and approved by Council’s Traffic Engineers.

10. Residential Bin Holding room (page 20, Table 10).

 Clarify the details of the arrangement with Stage 3, 29 Marquet St.

11. Provide details regarding the management of demolition and construction waste generated in the WMP, either separately or combined with the operational waste management.

**Note:** This involves a change to the Development Application plans as submitted to and approved by Council. Any changes in this regard shall be reflected as amended plans to be submitted to the Accredited Certifier **prior to the issue of a Construction Certificate** for the proposed development.

(*Reason: To confirm and clarify the terms of Council’s approval)*

1. **Noise Attenuation**

Prior to issue of any Construction Certificate, a report must be provided demonstrating that all residential accommodation will achieve the following maximum LAeq levels:

1. in any bedroom in the residential accommodation—35 dB(A) at any time between 10.00 pm and 7.00 am,
2. anywhere else in the residential accommodation (other than a garage, kitchen, bathroom or hallway)—40 dB(A) at any time.

(*Reason: Residential amenity)*

1. **DACCE04 - Obtaining a Construction Certificate for Building Work**

This Development Consent does not constitute approval to carry out construction work. Construction work may only commence **upon the** **issue of a Construction Certificate, appointment of a Principal Certifying Authority (PCA), and lodgement of Notice of Commencement**.

Please note that if demolition works forms part of the extent of works approved in the same application, then demolition must not commence **prior to the issue of a Construction Certificate**.

*(Reason: Information)*

1. **DACCF02 - Landscape Maintenance Strategy**

To ensure the survival of landscaping following works, a landscape maintenance strategy for the owner/occupier to administer over a 12 month establishment period following the issue of the Occupation Certificate shall be prepared and provided to the satisfaction of the Accredited Certifier **with the Construction Certificate application**. The strategy is to address maintenance issues such as, but not limited to plant survival, irrigation, soil testing, weeding, staking, fertilizing, remedial pruning and plant replacement.

*(Reason: Ensure landscape survival)*

1. **DACCI03 - Protection of Public Places**

The adjoining or adjacent public area is not to be obstructed by any materials, vehicles, refuse skips and the like, under any circumstances unless approved in writing by Council.

If the work involved in the demolition or construction of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or building involves the closure of a public place, a barrier, fence or hoarding shall be erected **prior to the commencement of any work** subject to approval of a Traffic Management Plan.

An application to occupy public space is to be submitted to Council for approval prior to commencement of works.

Where a hoarding is required, an application for hoarding is also to be submitted to and approved by Council prior to commencement of any work. Hoardings shall be erected to comply with the requirements of WorkCover, the Principal Certifying Authority and with relevant Australian Standards.

*(Reason: Safety)*

1. **DACCK02 - BASIX Commitments**

The approved BASIX Certificate shall be submitted to the Accredited Certifier with the application for a Construction Certificate.

Where a change or changes are proposed in the BASIX commitments, the applicant must submit a new BASIX Certificate to the Accredited Certifier and Council. If any proposed change in the BASIX commitments is inconsistent with the development consent the applicant will be required to submit a modification to the development consent to Council under Section 4.55 of the Environmental Planning and Assessment Act 1979.

All commitments in the BASIX Certificate must be shown on the plans accompanying the Construction Certificate **prior to the issue of any Construction Certificate**.

*(Reason: Statutory Compliance)*

1. **DACCK03 - Ausgrid Requirements**

The approved development must comply with the requirements of Ausgrid. **Prior to the issue of a Construction Certificate**, the applicant shall demonstrate to the Accredited Certifier that any such requirements have been complied with.

*(Reason: Statutory requirement)*

1. **DACCK04 - S7.4 Planning Agreement**

In accordance with Section 93I(3) of the Environmental Planning and Assessment Act 1979, the Voluntary Planning Agreement offered by the developer in respect of the Development Application, the subject of this consent, as outlined in the third deed of variation, dated 19 October 2022must be entered into **prior to the issuing of a Construction Certificate by the Accredited Certifier**. The terms of the Voluntary Planning Agreement must, thereafter, be adhered to.

*(Reason: To ensure compliance with the terms of the S93F Agreement)*

1. **DACCL02 - Certification of the Stormwater Drainage System Design**

Certification of the proposed stormwater design shall be obtained from a Professional Civil Engineer whose qualifications are recognised by, and who is a current member of, Engineers Australia and shall certify that the proposed stormwater drainage system has been designed in accordance with Council’s “Appendix 2 - Engineering Specifications of the Canada Bay Development Control Plan”. The certified design shall be submitted to the Principal Certifying Authority **prior to the issue of the Construction Certificate**.

*(Reason: Adequate stormwater management)*

1. **DACCN02 - Electricity Substation**

Any required electricity substation must be located within the boundaries of the site.

Documentary evidence of compliance, including correspondence from the energy authority is to be provided to the Accredited Certifier **prior to the issue of a Construction Certificate** detailing the energy authority's requirements.

*(Reason: Access to utility)*

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

1. **DAPCB01 - Appointment of Principal Certifying Authority**

No work shall commence in connection with this Development Consent until:

(a) A construction certificate for the building work has been issued by:

(i) the consent authority; or

(ii) an accredited certifier; and

(b) the person having the benefit of the development consent has:

(i) appointed a principal certifying authority for the building work, and

(ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and

(b1) the principal certifying authority has, no later than 2 days before the building work commences:

(i) notified the Council of his or her appointment, and

(ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and

(b2) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:

(i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential building work is involved, and

(ii) notified the principal certifying authority of such appointment, and

(iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and

(c) the person having the person having the benefit of the development consent has given at least 2 days notice to the Council of the person's intention to commence the erection of the building.

Note: If the principal certifying authority is the Council, the nomination will be subject to the payment of a fee for the service to cover the cost of undertaking all necessary inspections and the issue of the appropriate certificates.

Under the Environment Planning and Assessment (Quality of Construction) Act, 2003, a sign must be erected in a prominent position on the work site showing the name, address and telephone number of the principal certifying authority; the name of the principal contractor (if any) for the building work and a telephone number at which that person may be contacted outside working hours. That sign must also state that unauthorised entry is prohibited. The sign must not be removed until all work has been completed.

*(Reason: Statutory requirements)*

1. **DAPCB02 - Construction Certificate**

No work shall commence until you:

(a) Obtain a Construction Certificate from either the City of Canada Bay Council or an Accredited Certifier - a fee applies for this service; and

(b) Lodge with the City of Canada Bay Council any Construction Certificate obtained from an Accredited Certifier (together with associated plans and documents) - a fee applies for this service

*(Reason: Statutory Requirement)*

1. **DAPCB05 - Notice of commencement**

No work shall commence untilyou submit a notice of commencement (form will be attached with issue of a Construction Certificate or available from our website) giving Council:

(a) Not less than two (2) days’ notice of the date on which it is proposed to commence work associated with this Development Consent;

(b) Details of the appointment of a Principal Certifying Authority (either Canada Bay Council or another Accredited Certifier)

(c) Details of the name, address and licence details of the Builder.

*(Reason: Statutory Requirement)*

1. **DAPCB07 - Principal Certifying Authority (PCA) Sign**

**Prior to commencement of any work**, signage must be erected in a prominent position on the work site identifying:

 The Principal Certifying Authority (PCA) by showing the name, address and telephone number of the PCA;

 The Principal Contractor by showing the Principal Contractor's name, address and telephone number (outside of work hours) for that person.

 The sign must state that unauthorised entry to the work site is prohibited.

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

This clause does not apply to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

*(Reason: Statutory Requirement)*

1. **DAPCB10 - Notice of Requirements from Sydney Water**

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through Sydney Water or an authorised Water Servicing Coordinator (WSC). An assessment will be made to determine the availability of water and sewer services, which may require extension, adjustment or connection to Sydney Water mains. Please refer to Sydney Water's website atwww.sydneywater.com.au/section 73 or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.

Following application, Sydney Water will assess the development and if required will issue a “Notice of Requirements” letter detailing all requirements that must be met. Please apply early as building of water and services can be time consuming and may impact on other parts of your development such as building, driveway or landscape design.

The Notice of Requirements must be submitted to the Accredited Certifier **before the commencement of works.** A Section 73 Compliance Certificate must be obtained before the issue of an Occupation Certificate.

(*Reason: To comply with statutory requirements)*

**Conditions which must be satisfied during any development work**

1. **DADWA02 - Construction Hours**

No construction or any other work related activities shall be carried out on the site outside the hours of 7.00 am to 5.00 pm Mondays to Saturdays. No work to occur on Sundays and public holidays.

Where the development involves the use of jackhammers/ rock breakers and the like or other heavy machinery, such equipment may only be used between the hours of 7.00 am - 5.00 pm Monday to Friday only.

*(Reason: Safety and amenity)*

1. **DADWB06 - Site requirements during demolition and construction**

All of the following are to be satisfied/complied with during demolition, construction and any other site works:

(a) All demolition is to be carried out in accordance with Australian Standards AS 2601-2001.

(b) Demolition must be carried out by a registered demolition contractor.

(c) A single entrance is permitted to service the site for demolition and construction. The footway and nature strip at the service entrance must be planked out with close boarded, hardwood timber footpath protection pads. The pad shall cover the entire width of the footpath opening for the full width of the fence.

(d) No blasting is to be carried out at any time during construction of the building.

(e) Care must be taken during demolition/ excavation/ building/ construction to prevent any damage to adjoining buildings.

(f) Adjoining owner property rights and the need for owner's permission must be observed at all times, including the entering onto land for the purpose of undertaking works.

(g) Any demolition and excess construction materials are to be recycled wherever practicable.

(h) The disposal of construction and demolition waste must be in accordance with the requirements of the Protection of the Environment Operations Act 1997.

(i) All waste 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. All excavated material should be removed from the site in the approved manner and be disposed of lawfully to a tip or other authorised disposal area.

(j) Section 143 of the Protection of the Environment Operations Act 1997 requires waste to be transported to a place which can lawfully accept it. All non-recyclable demolition materials are to be disposed of at an approved waste disposal depot in accordance with legislation.

(k) All materials on site or being delivered to the site are to generally be contained within the site. The requirements of the Protection of the Environment Operations Act 1997 must be complied with when placing/stockpiling loose material, disposing of concrete waste, or other activities likely to pollute drains or water courses.

(l) Details as to the method and location of disposal of demolition materials (weight dockets, receipts etc.) should be kept on site as evidence of approved methods of disposal and recycling.

(m) Any materials stored on site must be stored out of view or in such a manner so as not to cause unsightliness when viewed from nearby lands or roadways.

(n) Public footways and roadways adjacent to the site must be fully maintained and cleared of obstructions during construction unless prior separate approval from Council is obtained including payment of relevant fees.

(o) Building operations such as brick cutting, washing tools or paint brushes, and mixing mortar not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.

(p) All site waters during excavation and construction must be contained on site in an approved manner to avoid pollutants entering into waterways or Council's stormwater drainage system.

*(Reason: To ensure that demolition, building and any other site works are undertaken in accordance with relevant legislation and policy and in a manner which will be non-disruptive to the local area.)*

1. **DADWF01 - Noise - Construction**

All works carried out on site during construction/ demolition/ excavation/ earthworks shall comply with the NSW Protection of the Environment Operations Act 1997, the Department of Environment and Climate Changes' Interim construction noise guideline' and AS 2436-2010 - ‘Guide to noise and vibration control on construction, demolition and maintenance sites’ for the control of construction noise which specifies that:

 Construction period of 4 weeks and under - The L90 level measured over a period of not less than 15 minutes when the construction site is operating must not exceed the background level by more than 20 dB(A) at the boundary.

 Construction period greater than 4 weeks but not exceeding 26 weeks - The L90 level measured over a period of not less than 15 minutes when the construction site is operating must not exceed the background level by more than 10 dB(A) at the boundary.

 Construction period exceeding 26 weeks - The L90 level measured over a period of not less than 15 minutes when the construction site is operating must not exceed the background level by more than 5 dB(A) at the boundary.

Should complaints of a noise nuisance be substantiated, Council may require the acoustic treatment of the premises to ensure compliance with the NSW Department of Environment and Climate Changes ‘Interim construction noise guideline’ and AS 2436-2010 - ‘Guide to noise and vibration control on construction, demolition and maintenance sites’ for the control of construction noise. A further acoustic assessment & report will be required to be provided to Council assessing the premises in working order.

*(Reason: Noise Attenuation)*

1. **DADWF02 - Noise - Plant**

All works carried out on site during construction/demolition/excavation or earthworks shall comply with the NSW Protection of the Environment Operations Act 1997. Approved and effective silencing measures shall be provided and maintained on all power-operated plant used on site if required.

*(Reason: Safety and Amenity)*

1. **DADWG02 - Protection of Public Places**

If the work involved in the demolition or construction of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or building involves the closure of a public place, a hoarding or fence shall be erected. Hoardings shall be erected to comply with the requirements of WorkCover and the Principal Certifying Authority.

*(Reason: Safety)*

1. **DADWH01 - Compliance with Building Code of Australia**

All building work must be carried out in accordance with the provisions of the Building Code of Australia. Note: Applicants who have lodged an objection and who have been granted exemption under clause 187(6) & 188(4) of the *Environmental Planning and Assessment Regulation 2000*, must comply with the Building Code of Australia in all other respects.

*(Reason: Prescribed statutory control)*

1. **DADWH02 - Critical Stage Inspections - General**

Critical stage inspections must be called for by the Principal Contractor or Owner Builder as required by the Principal Certifying Authority (PCA), any PCA Service Agreement, the Act and the Regulation.

Work must not proceed beyond each critical stage until the PCA is satisfied that work is proceeding in accordance with this consent, the Construction Certificate(s) and the Act. 'Critical Stage Inspections' means the inspections prescribed by the Regulations for the purposes of section 6.5 of the Act or as required by the PCA and any PCA Service Agreement.

**Note 1**: The PCA may require additional inspections beyond mandatory critical stage inspections in order that the PCA be satisfied that work is proceeding in accordance with this consent.

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

*(Reason: Statutory requirement)*

1. **DADWH06 - Inspection Records & Compliance Certificates**

The PCA or accredited certifier undertaking each of the inspections must make a **record** **of each inspection** in accordance with Clause 162B of the Environmental Planning and Assessment Regulations 2000 and, if the person is not the PCA, forward a copy to the PCA.

A copy of any **compliance certificates** issued in respect of the building work and any documents referred to in the certificate must be provided to Council within two (2) days of the certificate being issued.

A compliance certificate must be issued where:

(a) Either:

(i) Council is appointed the PCA; or

(ii) Council is the PCA but agrees to an accredited certifier undertaking certain inspection/s, and

(b) The PCA or accredited certifier is of the opinion that the stage of work he or she has inspected is satisfactory.

*(Reason: Statutory Requirement*)

**Conditions which must be satisfied prior to the issue of any Occupation Certificate relating to the use of the building or part**

1. **DAOCB02 - Strata Subdivision Approval**

This approval does not include approval to strata subdivide the subject property. Should strata subdivision of the property be sought, a **separate development application** must be submitted to Council for approval **prior to occupation and/or use of the building/s**.

*(Reason: Information)*

1. **DAOCD01 - Occupation Certificate (section 6.9 of the Act)**

A person must not commence occupation or use (*or change of use where an existing building*) of the whole or any part of a new building (within the meaning of section 6.10 of the *Act*) unless an Occupation Certificate has been issued.

The Principal Certifying Authority is required to be satisfied, amongst other things, that:

 All required inspections (including each applicable mandatory critical stage inspection) have been carried out; and

 Any preconditions to the issue of the certificate required by a development consent have been met.

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

*(Reason: Statutory requirement)*

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

1. **DASCA05 - Section 73 Certificate from Sydney Water**

A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained before the issue of the Subdivision Certificate. Application must be made through Sydney Water or an authorised Water Servicing Coordinator (WSC). Please refer to Sydney Water's website atwww.sydneywater.com.au/section 73 or call 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water**.**

The original of the Section 73 Certificate must be presented to the Accredited Certifier **prior to the issue of Subdivision Certificate.**

Please note: Council will require a copy of the Section 73 Certificate in addition to sighting the original before issuing the Subdivision Certificate.

*(Reason: To comply with statutory requirements)*

1. **DASCA06 - Commencement of Subdivision Works & Appointment of PCA**

Subdivision work in accordance with a consent **must not commence until**:

(a) **A Construction Certificate has been issued**;

(b) The person having the benefit of the development consent has appointed the Principal Certifying Authority (PCA); and

(c) The PCA (if not Council) has, no later than two (2) days before the subdivision work commences, notified the Council (or other consent authority where applicable) of the PCA's appointment.

(d) The person having the benefit of the consent has given at least two (2) day's notice to the Council of the person's intention to commence the subdivision work.

*(Reason: Statutory Requirements)*

**Conditions which must be satisfied prior to the issue of a Final Occupation Certificate**

1. **DAFOA01 - Fire Safety Certificate**

A final Fire Safety Certificate shall be obtained in accordance with Part 9, Division 4 of the Environmental Planning and Assessment (Amendment) Regulation 2000, **prior to the issue of the Final Occupation Certificate** for the building.

A copy of the Fire Safety Certificate and fire safety schedule shall be:-

1. Forwarded to City of Canada Bay Council;

2. Forwarded to the Commissioner of the New South Wales Fire Brigade; and

3. Prominently displayed in the building.

*(Reason: Fire safety)*

1. **DAFOA02 - Certificate of Test of Mechanical Ventilation**

On the satisfactory completion of work and **prior to the issue of an Occupation Certificate**, a Certificate of Test of Mechanical Ventilation shall be supplied to the Principal Certifying Authority from an approved mechanical ventilation engineer.

*(Reason: To ensure compliance with approved plans)*

**Conditions which must be satisfied during the ongoing use of the development**

1. **DAOUB01 - Annual Fire Safety Statement**

Pursuant to Part 9, Division 5 of the Environmental Planning and Assessment Regulation (as amended) the owner of the building shall furnish Council with an Annual Fire Safety Statement from a competent person so as to certify the essential fire safety measures in the building. The Annual Fire Safety Statement shall be within 12 months of the issue of the fire safety certificate, and then on an annual basis.

A copy of the Fire Safety Statement obtained and Fire Safety Schedule shall also be:-

1. Forwarded to the Commissioner of the New South Wales Fire Brigade; and

2. Prominently displayed in the building

*(Reason: Fire safety)*

1. **DAOUC05 - Microbial Control**

Where installed, the installation and ongoing operation of the water cooling systems, evaporative coolers and hot/warm water systems within the premises shall be undertaken in accordance with the relevant provisions of:

 Public Health Act 2010 and Public Health Regulation 2012

 Australian Standard AS/NZS 3666 - Air Handling and Water Systems of Buildings - Microbial Control, Parts 1, 2 & 3 of 2011; and

 2004 NSW Health Code of Best Practice for the Control of Legionnaires Disease.

*(Reason: Health and safety)*

1. **DAOUC17 - Noise Complaints Relating to Use or Equipment**

Following occupation of the Child Care Centre/installation of the pool pump/installation of the air conditioning unit *(delete whichever scenario is not applicable)*, should substantiated complaints or breaches of noise regulations occur, a suitably qualified acoustic consultant shall be engaged, with the Council and the operator/owner of the premises agreeing on the acoustical consultant, to measure noise emanating from the building/premises and to recommend appropriate action. The reasonable cost of such appointment shall be borne by the operator/owner and any works recommended by the acoustic consultant shall also be borne by the operator/owner and carried out within a time frame set by Council.

*(Reason: Amenity and Noise Control)*

1. **Sydney Trains Requirements**

The Applicant/Developer shall provide an updated version of the following documents based on the development as modified, confirming there will be no impact to the rail corridor, in compliance with ASA Standard Airspace and External Developments:

1. Structural Report

2. Rail Impact Assessment Report

3. Any other documentation previously reviewed by Sydney Trains that has been revised/updated as a result of the amendments.

This information is to be provided to Sydney Trains for review, comment, and written endorsement. The Principal Certifying Authority is not to issue any Construction Certificate or modified Construction Certificate, and is not to permit the commencement of works, (whichever occurs first) until confirmation has been received from Sydney Trains that these documents are satisfactory and whether these documents prevail over any previously issued Sydney Trains written endorsements.

*(Reason: Protection of rail assets and users)*

1. **CASA Requirements**

The buildings shall be obstacle lit by medium intensity steady red lighting during the hours of darkness at the highest point of the building. Obstacle lights are to be arranged as per section 9.31 of the Part 139 (Aerodrome) Manual of Standards (MOS).

Obstacle lighting shall be monitored at all times and Bankstown Airport alerted immediately upon any outage.

*(Reason: Aircraft Safety)*

**Advisory Notes**

1. **DAANN02 - 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.

1. **DAANN04 - Lapsing of Consent**

In accordance with Section 4.53 of the Environmental Planning and Assessment Act 1979 (as amended), this Development Consent lapses five (5) years after the date from which it operates unless building, engineering or construction work has physically commenced. **A Construction Certificate must be obtained and the works commenced in accordance with the approved plans and specifications within five (5) years from the date of this Development Consent.**

1. **DAANN06 - Process for Modification**

The plans and/or conditions of this Consent are binding and may only be modified upon written request to Council under Section 4.55 of the Environmental Planning and Assessment Act, 1979 (as amended). The request shall be accompanied by the appropriate fee and application form. You are not to commence any action, works, contractual negotiations, or the like, on the requested modification unless and until the written authorisation of Council is received by way of an amended consent.

1. **DAANN07 - Review of Determination**

In accordance with the provisions of Section 8.2 of the Environmental Planning and Assessment Act 1979 (as amended) the applicant can request Council to review this determination. The request must be made and determined within legislated time period. A fee, as prescribed under Council's current Management Plan - Fees and Charges, is payable for such a review.

1. **DAANN08 – Right of Appeal**

Section 8.7 and 8.10 of the Environmental Planning and Assessment Act 1979 (as amended), gives the applicant the right to appeal to the Land and Environment Court. Section 97 does not apply to the determination of a development application for State significant development or local designated development that has been the subject of a Commission of Inquiry.

1. **DAANN10 - Skips on Council Footpath**

The applicant must apply to Council's Customer Services Centre and pay the respective minimum ten (10) day application fees and deposit, should a mini-skip type or larger builder’s waste container be required to be left on Council’s footpath, nature strip or roadway for the removal of any builder’s waste etc. These fees must be paid prior to the container’s placement. In the event of the container being removed within the ten day period, and the Council being notified, a pro-rata refund will be made. If the container is to remain at the site for longer than ten days, a further fee must be paid before the ten day period expires. No consultation is necessary if placing the container within the property to which this application is related. However, caution should be exercised in placing the bin to ensure no damage occurs to Council property.

1. **DAANN11 - WorkCover Requirements**

*The Work Health and Safety Act 2011* and subordinate regulations, codes of practice and guidelines control and regulate the development industry.

Further information can be obtained from WorkCover NSW's website at http://www.workcover.nsw.gov.au/newlegislation2012/your-industry/construction/Pages/default.aspx or through their head office: WorkCover NSW, 92-100 Donnison Street, GOSFORD 2250 Postal address: WorkCover NSW, Locked Bag 2906, LISAROW 2252, Phone (02) 4321 5000, Fax (02) 4325 4145.