

## ATTACHMENT A: RECOMMENDED CONDITIONS OF CONSENT

These consent conditions have been imposed after taking into account the matters for consideration in determining a development application pursuant to s4.15 and in accordance with s4.17 of the *Environmental Planning & Assessment Act 1979*.

### 1. Approved Development.

- 1.1. Development must be carried out in accordance with the following approved plans (stamped by Council) except where the conditions of this consent expressly require otherwise.

Plan Number	Plan Name	Dated	Issue	Prepared By
DA-001	Site & Roof Plan	19.06.23	5	LOFTEX
DA-101	Ground Floor Plan	19.06.23	5	LOFTEX
DA-102	Ground Mezzanine Floor Plan	19.06.23	5	LOFTEX
DA-103	Level 1 Floor Plan	19.06.23	5	LOFTEX
DA-104	Level 1 Mezzanine Floor Plan	19.06.23	5	LOFTEX
DA-501	Elevation – North & South	19.06.23	5	LOFTEX
DA-502	Elevations – East & West	19.06.23	5	LOFTEX
DA-551	Sections	19.06.23	5	LOFTEX
LPDA 23 – 02 PG 1	Hardscape Plan	22.06.23	K	CONZEPT
LPDA 23 – 02 PG 2	Landscape Plan - GF	22.06.23	K	CONZEPT
LPDA 23 – 02 PG 3	Detail Plan 1	22.06.23	K	CONZEPT
LPDA 23 – 02 PG 4	Detail Plan 2	22.06.23	K	CONZEPT
LPDA 23 – 02 PG 5	Landscape Plan L1	22.06.23	K	CONZEPT
LPDA 23 – 02 PG 6	Specification & Details	22.06.23	K	CONZEPT
LPDA 23 – 02 PG 7	Details 2	22.06.23	K	CONZEPT

The recommendations contained within the following supporting documentation are to form part of this determination notice except where the conditions of this consent expressly require otherwise.

- a. The review of the Site Audit Statement submitted in support of this application by Ramboll Australia Pty Ltd, titled, "RE: *Review of previous Site Audit Statement (GN 221-07) for compliance with current legislation, 10 Nelson Short Street, Potts Hill NSW (Revision 1)*", on 7 February 2023, Ref: 318001525 forms part of this Development Consent.
- b. The acoustic report submitted in support of the development application prepared by Plus White Noise Acoustics, titled '10 Nelson Short Street, Potts Hill, Noise Impact Assessment' dated 27 June 2022, Report Number: 220267 Version: Issue 1, forms part of the development consent.
- c. The updated Environmental Management Plan (EMP) as required by condition 2.5 (below) forms part of this Development Consent.
- d. The submitted report titles, 'Arboricultural Impact Assessment & Tree Protection Plan', - 10 Nelson Short Street Potts Hills, dated 30<sup>th</sup> June 2022, prepared by The Ents Tree Consultancy, forms part of this application.

In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail. In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

- 1.2. Before the issue of a construction certificate, the certifier must ensure the approved construction certificate plans (and specifications) detail the following required amendments to the approved plans (stamped by Council) and supporting documentation:
  - a. All metal cladding on the proposed development shall be non-reflective material.
  - b. The cladding treatment identified as 'MC01' and 'MC02' shall be continued to the ground level along the frontage of Brunner Road (as marked in red on the approved southern elevation).
  - c. The cladding treatment labelled as 'MC02' on the facade of units 16/51 and 'MC01' on the facade of units 17/50 shall be extended to the ground level to frame the proposed entryway along Nelson Short Street (as marked in red on the approved western elevation).
  - d. The selected materials of 'MC01' on the facade of units 26/43 and 'MC02' on the facade of units 24/42 along Brunner Road shall be swapped to ensure consistent colouring along this frontage (as marked in red on the approved southern elevation plan).
  - e. The signage pillars marked along the frontage to Nelson Short Street shall be deleted from the approved plans (as marked in red). No consent is granted for signage.
  - f. The gabion retaining wall is not approved under this application and shall be deleted from all construction certificate documentation.

- 1.3. No approval is granted or implied for the use of the building. Separate Development Consent for the use of the commercial/industrial floor space is required before occupation. All future development applications for the use must include an acoustic assessment (as per this consent).
- 1.4. No signage is approved under this application. A separate application shall be submitted to Council before the erection of any signage unless the proposed signage is "exempt development" in accordance with relevant legislation.
- 1.5. The all trees noted in the Arboricultural Impact Assessment & Tree Protection Plan - Appendix 2 shall be retained and protected from removal and damage for the duration of the development:

Tree protection measures shall comply with Australian Standard AS4970-2009 Protection of trees on development sites, together with the following conditions:

- The tree/s to be retained and protected together with their relevant Tree Protection Zone (TPZ) and Structural Root Zone (SRZ) shall be marked on all demolition and construction drawings.
- All contractors and workers on site shall be briefed on the tree protection and management procedures in place as part of their site induction. A written record of the induction process is to be kept on site.
- A designated Tree Protection Zone shall be created on site by erecting a tree protection fence at 5 metre radius from the trunk of the *Jacaranda mimosifolia* (jacaranda). The fence is to be constructed of chain wire mesh 1.80 metres high supported by steel posts. The fence is to be installed prior to demolition / construction, shall not be removed or altered, and is to remain in place for the duration of the site works;
- The applicant will display in a prominent location on the tree protection fence a durable, weather resistant sign of a similar design, layout and type size as per Appendix C, Australian Standard AS4970-2009 Protection of trees on development sites clearly showing:
  - a. The Development Consent number;
  - b. The name and contact phone number of the site manager;
  - c. The purpose of the protection zone;
  - d. The penalties for disregarding the protection zone;
- No vehicular access, excavations for construction or installation of services shall be carried out within the fenced Tree Protection Zone.
- All utility services, pipes, stormwater lines and pits shall be located outside the fenced Tree Protection Zone.
- Building materials, chemical storage, site sheds, wash out areas, and similar shall not be located within the fenced Tree Protection Zone.
- Trees marked for retention must not be damaged or used to display signage, or as fence or cable supports for any reason.
- If tree roots are exposed during approved works, roots with a diameter less than 25mm are to be pruned cleanly using sharp hand tools and not

torn or ripped by machinery. Tree roots greater than 25mm in diameter are to be assessed by a qualified arborist - minimum Australian Qualification Framework (AQF) Level 4 or equivalent – before any pruning work is undertaken. If necessary, changes in design or relocation of works may be required.

- No ripping or rotary hoeing within the Tree Protection Zone of trees to be retained is permitted.
- Any approved excavation within the Tree Protection Zone of protected trees must be carried out by hand under the care and control of a qualified arborist - minimum Australian Qualification Framework (AQF) Level 4 or equivalent - to avoid unnecessary damage to tree roots.
- In exceptional circumstances, the tree protection fencing may be temporarily relocated to allow site access for construction purposes subject to the prior approval of the project arborist, the installation of ground protection measures as detailed below, and following the clearly identified tagging of all protected trees, provided such fencing is immediately replaced on completion of the works. No damage to root systems or soil compaction will be accepted during such works.
- If the approving authority consents to materials, machinery or access over specifically nominated areas of the tree protection zone, the roots and surface soil within this area shall be mulched to a minimum depth of 100mm of hardwood wood chip overlaid with rumble boards, steel plates, or similar. This ground protection measure must be maintained for the duration of the site works.
- The trees are to be watered during dry spells, i.e. two to three weeks without adequate rainfall. The root zone should be thoroughly watered and then left to drain. A temporary/permanent irrigation system is to be installed on site where works longer than one month in duration are expected and when appropriate shall be part of the landscaping works.
- Any pruning works shall be carried out by a qualified arborist and shall comply with Australian Standard AS4373-2007 Pruning of Amenity Trees, the Amenity Tree Industry – Code of Practice, 1998 (Workcover, NSW), and Guide to Managing Risks of Tree Trimming and Removal Work (Safe Work Australia 2016).

All other vegetation not specifically identified above, and protected by Councils Tree Management Order, is to be retained and protected from Construction damage and pruning. The Tree Management Order protects trees over 5m in height.

## **2. Conditions to be Satisfied Before the Issue of a Construction Certificate.**

- 2.1. Development Contributions of \$330,644.65 must be paid for this development before the issue of any construction certificate. The contributions are levied and applied under the Canterbury Bankstown Local Infrastructure Contributions Plan 2022 and Section 7.12 of the *Environmental Planning and Assessment Act 1979*. The contributions will be used to provide, extend or augment public amenities or public services.

Indexing of the contribution amount to be paid: The development contribution payable will be adjusted, at the time of payment, to reflect Consumer Price Index increases which have occurred since the “Consent to operate from date” which appears on the front page of this Determination Notice.

No construction certificate is to be issued and no construction is to commence until payment of development contributions. The contribution must be paid to Council before the issue of any construction certificate. Construction of the development may NOT commence until the development contributions are paid.

A copy of the development contributions plan is available for inspection on Council's website and at Council's Administration offices in Bankstown and Campsie.

NOTE: Development contribution amounts are non-refundable if you don't proceed with your development.

- 2.2. All fees, levies, bonds and/or contributions as required by this Determination Notice must be paid to the relevant authority/entity before the issue of a construction certificate.
- 2.3. Before the issue of the relevant construction certificate, payment of the long service levy is required, under the *Building and Construction industry Long Service Payments Act 1986*, section 34. Evidence of the payment is to be provided to the Certifier. Payment can be calculated using the [Levy Portal Calculator](https://longservice.force.com/bci/s/levy-calculator) at <https://longservice.force.com/bci/s/levy-calculator>. Payment must be made via the [Long Service Levy Portal](https://www.longservice.nsw.gov.au) at <https://www.longservice.nsw.gov.au>.
- 2.4. Before the issue of the relevant construction certificate, a suitably qualified engineer must review the plans which relate to parking facilities and provide written evidence, to the certifier's satisfaction, that it complies with the relevant parts of AS 2890 – ‘Parking Facilities - Off-Street Carparking’ and Council's development control plan.
- 2.5. The Environmental Management Plan (EMP) must be updated and submitted to Council (Environmental Health Team) to reflect the approved plans. The EMP must be reviewed and accepted by a NSW EPA Accredited Site Auditor prior to the issuing of the Construction Certificate and will form part of the Development Consent.
- 2.6. The Council approved plans, including demolition plans, must be submitted to Sydney Water for assessment. This will determine if the proposed structure(s) will affect any Sydney Water infrastructure or if there are additional requirements. Building plan approvals can be submitted online via Sydney Water Tap in™.

Refer to [www.sydneywater.com.au/tapin](http://www.sydneywater.com.au/tapin) for Sydney Water's Guidelines for building over or next to assets, visit [www.sydneywater.com.au](http://www.sydneywater.com.au) 'Plumbing, building & developing' then 'Building Plan Approvals' or call 13000 TAPIN™.

Sydney Water must issue either a Building Plan Assessment letter which states that the application is approved, or the appropriate plans must be stamped by a Water Servicing Coordinator.

- 2.7. The building must comply with the Category 1 fire safety provisions as are applicable to the building's proposed use.

Note: The obligation to comply with the Category 1 fire safety provisions may require building work to be carried out even though none is proposed or required in relation to this Determination Notice.

- 2.8. The building must be designed and constructed to provide access and facilities for people with a physical disability in accordance with the Building Code of Australia.

If, in complying with this condition, amendments to the development are required, the design changes must be submitted to and approved by Council through a modification application before a construction certificate being issued.

- 2.9. Before the issue of a construction certificate, the consent holder is to ensure that an erosion and sediment control plan is prepared in accordance with the following documents before it is provided to and approved by the certifier:

- a. Council's development control plan,
- b. the guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the Blue Book), and
- c. the 'Do it Right On-Site, Soil and Water Management for the Construction Industry' (Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust).

The consent holder must ensure the erosion and sediment control plan is kept onsite at all times during site works and construction.

- 2.10. Where Council approved cut or fill exceeds 200mm and stable batter of 1 vertical to 3 horizontal maximum grade cannot be achieved, then a masonry or other proprietary material retaining wall, intended and suitable for that purpose, shall be constructed within the development site. Note, filling of the site needs specific approval from Council.

- a. The retaining wall shall be located so that it will not impede or obstruct the natural flow of stormwater. Retaining walls exceeding 600mm in height shall be designed by an appropriately qualified person as defined in the Building and Development Certifiers Regulation 2020. Plans and details prepared and signed by an appropriately qualified person as defined in the Building and Development Certifiers Regulation 2020 are to be submitted to the certifier before the issue of the construction certificate.
- b. All works associated with the construction of the wall, including backfilling and drainage, is to be located wholly within the allotment boundaries.

2.12 The consent holder shall apply for a Work Permit and obtain approval from Council, for any of the following applicable engineering works in front of the site, at their own expense:

- a. Three heavy Duty industrial VFC of varying widths as approved at the property boundary with Nelson Short Street,
- b. Drainage connection to Council drainage system if existing internal pipe does not exist,
- c. Removal of all driveway surfaces, reinstatement of laybacks to kerb and gutter and reshaping of the footway, all associated with redundant VFCs,
- d. Repair of any damage to the public road including the footway occurring during building works, and
- e. Reinstatement of the footway reserve and adjustment or relocation of existing public utility services to match the footway design levels as proposed on the approved Work Permit. Adjustment or relocation to any public utility services shall be carried out to the requirements of the public utility authority.

**Note:** Council is required to prepare a site survey and design in order to determine the necessary information. The consent holder should make application and payment for the Work Permit at least twenty-one (21) days before the information being required and before the issue of the construction certificate. The Work Permit must be approved before any works commencing within the Council Road Reserve or on Council's assets.

2.11. As any works within, or use of, the footway or public road for construction purposes requires separate Council approval under Section 138 of the *Roads Act 1993* and/or Section 68 of the *Local Government Act 1993*, Council requires the consent holder to obtain a Works Permit and or a Roadway / Footpath Building Occupation Permit before the issue of any construction certificate for this development being issued where one or more of the following will occur, within, on or over the public footway or public road:

**A PRIVATE CERTIFIER CANNOT ISSUE THESE PERMITS**

## WORKS REQUIRING A 'WORKS PERMIT'

- a. Dig up, disturb, or clear the surface of a public footway or public road,
- b. Remove or interfere with a structure or tree (or any other vegetation) on a public footway or public road,
- c. Connect a road (whether public or private) to a classified road,
- d. Undertake footway, paving, vehicular crossing (driveway), landscaping or stormwater drainage works within a public footway or public road,
- e. Install utilities in, under or over a public road,
- f. Pump water into a public footway or public road from any land adjoining the public road,
- g. Erect a structure or carry out a work in, on or over a public road,
- h. Require a work zone on the public road for the unloading and or loading of vehicles,
- i. Pump concrete from within a public road,
- j. Stand a mobile crane within a public road,
- k. Store waste and recycling containers, skips, bins and/or building materials on any part of the public road,
- l. The work is greater than \$25,000, and
- m. Demolition is proposed.

The consent holder shall construct all works approved within the public road and footway under the supervision and to the satisfaction of Council and shall arrange for necessary inspections by Council whilst the work is in progress.

The consent holder shall ensure that the person or company carrying out the work will carry public liability insurance to a minimum value of twenty million dollars and shall provide proof of the policy to Council, before commencing any work approved by the Work Permit including the Road Opening Permit. The policy must remain valid for the duration of the works.

2.12. Finished surface levels of all internal works and at the street boundary, including driveways, landscaping and drainage structures, must be as shown on relevant construction certificate plans. The levels at the street boundary must be consistent with the Street Boundary Alignment Levels issued by Council.

2.13. Stormwater drainage from the development shall be designed so as to comply with Council's Bankstown Development Engineering Standards and the requirements of the BASIX Certificate. A final detailed stormwater drainage design shall be prepared by an appropriately qualified person as defined in the Building and Development Certifiers Regulation 2020 in accordance with the above requirements and shall generally be in accordance with the approved concept stormwater plan as shown in the table below. The final plan shall be certified by an appropriately qualified person as defined in the Building and Development Certifiers Regulation



2020 that it complies with Council's Bankstown Development Engineering Standards, the BASIX Certificate and the relevant Australian Standards.

Report	Reference	Date	Prepared By
Stormwater management report	301350901	16-09-2022 Revision 005	Stantec

The above shall be amended to reflect the following:

- a. The stormwater management report shall be amended to reflect the current approved plans as per Condition 1.1 of this consent.
- b. Provision for additional drainage along the front setback for the units fronting Nelson Short Street.
- c. The hard surface areas draining to the OSD tank shall not be reduced in size.

2.14. The design, layout, signage, line marking, lighting and physical controls of all off-street parking facilities must comply with the minimum requirements of Australian Standard AS/NZS 2890.1 Parking facilities Part 1: Off-street car parking, AS/NZS 2890.2 Parking facilities Part 2: Off-street commercial vehicle facilities and AS/NZS 2890.6 Parking facilities Part 6: Off-street parking for people with disabilities. The details must be submitted to and approved by the certifier before a construction certificate being issued.

All carparking facilities parking bays and grades shall be checked and certified by a suitably qualified engineer.

2.15. An all-weather pavement shall be designed to withstand the anticipated wheel loads for all areas subjected to vehicular movements. Internal pavements specification prepared and certified by a qualified professional Civil Engineer to comply with the relevant Australian Standards, shall be submitted to the certifier for approval before the issue of a construction certificate.

2.16. Where a car park is accessed by a security gate, that gate must be located at least 6 metres within the site from the property boundary with the street.

2.17. Before the issue of any construction certificate for this development, the consent holder must obtain approval from Council's Traffic Section for a Site, Pedestrian and Traffic Management Plan (SPTMP). This Plan must address the measures that will be implemented for pedestrian safety and traffic management as specified below.

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

This plan shall include details of the following:

- a. Proposed ingress and egress points for vehicles to and from the construction site;
- b. Proposed protection of pedestrians, adjacent to the constructions site;

- c. Proposed pedestrian management whilst vehicles are entering/exiting the construction site;
- d. Proposed method of loading and unloading excavation machines, building material, construction materials and waste containers during the construction period;
- e. Proposed traffic control measures such as advanced warning signs, barricades, warning lights, after hours contact numbers etc. are required to be displayed and shall be in accordance with Council's and the NSW Roads and Maritime Services requirements and AS1742.3.
- f. Proposed route for transportation of bulk and excavation materials to and from the development site.

The route for transportation to and from the development site of bulk construction and excavation materials shall be by the shortest practical route to the nearest "State Road", with every effort to avoid school zones on public roads. . Alternate longer routes will only be considered in order to bypass school zones during school zone hours. If school zones cannot be avoided **no heavy construction vehicle movements are to arrive or depart the site during signposted school zone periods 8:00am - 9:30am and 2:30pm - 4:00pm on school days.** The consent holder shall nominate the routes for approval by Council before commencement of any work on the site. All vehicles are to enter the on-street Works Zone adjacent to the site in a forward direction. U-turn and right-turn movements into the site, are generally not permitted.

An Agreement to Council's satisfaction, signed by the consent holder/owner specifying the approved route and acknowledging responsibility to pay Council for damages to public property adjacent to the site and for local roads along the transportation routes shall be lodged with Council before release of any Construction Certificate. All damage must be rectified upon completion of work.

Damage will be rectified as required by Council to remove unsafe conditions. All damage must be rectified upon completion of work to the satisfaction of Council.

The approved Site, Pedestrian and Traffic Management Plan is to be implemented before the commencement of any works on the construction site.

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

Note: Approval by Council of a SPTMP may take up to six (6) months. Accordingly, it is recommended the application to Council be submitted well in advance of the need for a construction certificate.

2.18. Before the issue of a construction certificate, the consent holder must ensure a Construction Site Management Plan (CSMP) is prepared before it is provided to and approved by the Certifier. The plan must include the following matters:

- a. location and materials for protective fencing and hoardings to the perimeter on the site;
- b. provisions for public safety;
- c. pedestrian and vehicular site access points and construction activity zones;
- d. details of construction traffic management, including proposed truck movements to and from the site and estimated frequency of those movements, and measures to preserve pedestrian safety in the vicinity of the site;
- e. protective measures for on-site tree preservation (including in accordance with AS 4970 Protection of trees on development sites and Council's DCP, if applicable) and trees in adjoining public domain (if applicable);
- f. details of any bulk earthworks to be carried out;
- g. location of site storage areas and sheds;
- h. equipment used to carry out all works;
- i. a garbage container with a tight-fitting lid;
- j. dust, noise and vibration control measures; and
- k. location of temporary toilets.

The consent holder must ensure a copy of the approved construction site management plan is kept on-site at all times during construction.

2.19. The route for transportation to and from the development site of bulk and excavation materials shall generally be by the shortest possible route to the nearest "regional road", with every effort to avoid school zones on public roads. The consent holder shall nominate the route for approval by Council before commencement of any work on the site. An "Agreement" to Council's satisfaction, signed by consent holder specifying the approved route and acknowledging responsibility to pay Council for damages to public property adjacent to the site shall be lodged with Council before release of any construction certificate. All damage must be rectified before the issue of any occupation certificate.

2.20. Before the issue of a construction certificate, the consent holder is to ensure that a waste management plan is prepared in accordance with the EPA's Waste Classification Guidelines and Council's Waste Management Development Control Plan before it is provided to and approved by the certifier.

2.21. The construction certificate plans shall include details of the waste bin storage area. The bin storage area shall not be visible from the street. The bin storage area shall be located within the building or screened from the street by dense landscaping.

- 2.22. The use and operation of the premises must be designed so as to not cause the emission of any odours that, by reason of its level, nature, character or quality is likely to be harmful to or interfere unreasonably with the comfort or repose of person who is outside the premises.

There are to be no emissions or discharges from the premises which will give rise to an offence under the *Protection of the Environment Operations Act 1997* and Regulations.

Emission control equipment must be provided in the mechanical exhaust system serving the appliances, to effectively minimise the emission of odours, vapours and oils. Details of the proposed emission control equipment must be provided in the relevant plans and specifications for the construction certificate for the subject works.

Details demonstrating compliance with the requirements of this condition are to be submitted to the satisfaction of the certifier before the issue of any construction certificate.

- 2.23. A Trade Waste Agreement shall be obtained from Sydney Water before the discharge of trade wastewater to the sewer system. Wastewater treatment equipment is to be bunded and where systems are placed outside, they are to be roofed to ensure that no rainwater can enter the bund. All wastewater treatment devices shall be regularly maintained in order to remain effective. All solid and liquid wastes collected from the device must be disposed of in accordance with the *Protection of the Environment Operations Act 1997*.

- 2.24. Landscaping shall be installed in accordance with the approved landscape plan.

- 2.25. Approval in accordance with Council's Tree Management Order (TMO) is granted to lop or remove only those trees identified to be lopped or removed on the approved plans. If not indicated on the approved plans, separate approval must be obtained to prune or remove trees on adjoining properties or other trees located on the site. A person(s) who contravenes or causes or permits the TMO to be breached shall be guilty of an offence and liable for prosecution.

### **3. Conditions to be Satisfied Before Construction.**

- 3.1. A construction certificate is required for the erection of a building in accordance with this Determination Notice.

This Determination Notice does not authorise building work until a principal certifier has been appointed as the principal certifier for the work by (or with the approval of) the consent holder.

The following requirements apply before the commencement of building work in accordance with this Determination Notice:

- a. the principal certifier has, no later than two (2) days before the building work commences, notified the Consent Authority and the Council (if the council is not the Consent Authority) of their appointment as the principal certifier,
  - b. the principal certifier has, no later than two (2) days before the building work commences, notified the consent holder of any inspections that are required to be carried out in respect of the building work,
  - c. the person carrying out the building work has notified the principal certifier that the person will carry out the building work as an owner-builder, if that is the case,
  - d. the consent holder, 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 certifier of the appointment, and
    - iii. unless that person is the principal contractor, notified the principal contractor of any inspections that are required to be carried out in respect of the building work,
  - e. the consent holder has given at least a 2-day notice to the Council, and the principal certifier if not the Council, of the person's intention to commence the erection of the building.
- 3.2. A Section 73 Compliance Certificate under the *Sydney Water Act 1994* must be obtained from Sydney Water. It is recommended that the consent holder apply early for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design. Application can be made through an authorised Water Servicing Coordinator. For help either visit [www.sydneywater.com.au](http://www.sydneywater.com.au) > Plumbing, building and developing > Developing > Section 73 Compliance Certificates, or telephone 13 20 92.
- 3.3. A fence must be erected around the area of the development site, except where an existing 1.8 metres high boundary fence is in good condition and can secure the area. Any new fencing must be temporary and at least 1.8 metres high. All fencing must be maintained throughout the construction period to ensure that the work area is secured.

Where the work is located within 3.6m of a public place, then a Type A or Type B hoarding must be constructed appropriate to the work proposed. An application for a Work Permit for such hoarding must be submitted to Council for approval before the commencement of building work/s.

- 3.4. Before the commencement of any site or building work, the principal certifier must ensure the adjoining building owner(s) is provided with a copy

of the dilapidation report for their property(ies) no less than 14 days before the commencement of any site or building works.

- 3.5. Before the commencement of work, the consent holder must provide a temporary on-site toilet if access to existing toilets on site is not adequate/available. Temporary on-site toilet facilities must be installed and be adequately maintained throughout the construction period.
- 3.6. Before the commencement of any site or building work, the principal certifier must be satisfied the erosion and sediment controls in the erosion and sediment control plan, (as approved by the principal certifier) are in place until the site is rectified (at least 70% ground cover achieved over any bare ground on site).
- 3.7. Council's warning sign for Soil and Water Management must be displayed throughout the construction period at the most prominent point of the site, visible to both the street and site.
- 3.8. A sign must be erected in a prominent position on any site on which building work or demolition work is being carried out:
  - a. showing the name, address and telephone number of the principal certifier for the work, and
  - b. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - c. stating that unauthorised entry to the work site is prohibited.

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

**Note:** This does not apply in relation to building work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

- 3.9. Before the commencement of any site or building work, the principal certifier must ensure the measures for tree protection detailed in the construction site management plan are in place.

#### **4. Conditions to be Satisfied During Construction.**

- 4.1. While building work is being carried out, any such work must not continue after each critical stage inspection unless the principal certifier is satisfied the work may proceed in accordance with this consent and the relevant construction certificate.
- 4.2. Building work must be carried out in accordance with the requirements of the Building Code of Australia (BCA).

- 4.3. The principal certifier must ensure that building work, demolition or vegetation removal is only carried out between:
- 7.00 am and 5.00 pm on Monday to Saturday.
  - No construction is to be carried out at any time on a Sunday or a public holiday.

The principal certifier must ensure building work, demolition or vegetation removal is not carried out on Sundays and public holidays, except where there is an emergency.

Unless otherwise approved within a construction site management plan, construction vehicles, machinery, goods or materials must not be delivered to the site outside the approved hours of site works.

- 4.4. All civil and hydraulic engineering works on site must be carried out in accordance with Council's Bankstown Development Engineering Standards. All Civil and Hydraulic engineering works associated with Council's assets and infrastructure must be carried out in accordance with Council's Work Permit requirements and to Council's satisfaction.
- 4.5. The stormwater drainage system shall be constructed in accordance with Council's Bankstown Development Engineering Standards and the engineering plans and details approved by the principal certifier. Should the consent holder encounter any existing, live, underground stormwater drainage pipes, which carry flow from upstream properties, then they must maintain the stormwater flow and re-route the stormwater pipes around the subject building or structures at their own expense.
- 4.6. A suitably qualified Professional Civil or Structural Engineer shall be engaged by the developer to carry out inspections relating to construction of internal driveways and parking areas. The work shall be carried out in accordance with the approved plans and specifications and certification from the Civil or Structural Engineer is to be provided upon completion.
- 4.7. While site work is being carried out, any costs incurred as a result of the approved removal, relocation or reconstruction of infrastructure (including ramps, footpaths, kerb and gutter, light poles, kerb inlet pits, service provider pits, street trees or any other infrastructure in the street footpath area) must be paid as directed by the consent authority.
- 4.8. All excavations and backfilling must be executed safely and in accordance with the relevant Australian Standards.

If the development involves an excavation that extends below the level of the base of the footings of a building, structure or work (including any structure or work within a road or rail corridor) on adjoining land, the consent holder must, at their own expense:

- a. Protect and support the building, structure or work from possible damage from the excavation, and
- b. Where necessary, underpin the building, structure or work to prevent any such damage.

This consent condition does not apply if the consent holder owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

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

- 4.9. If the development involves an excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land (including any structure or work within a road or rail corridor), the consent holder must, at their own expense —

- a. Protect and support the building, structure or work from possible damage from the excavation, and
- b. Where necessary, underpin the building, structure or work to prevent any such damage.

This condition does not apply if the consent holder owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

- 4.10. If soil conditions require it, retaining walls or other approved methods of preventing movement of the soil must be provided, and adequate provisions must be made for drainage. Should it be required, separate approval must be obtained for retaining walls.

- 4.11. In the instance works cause the generation of odours or uncovering of unexpected contaminants works are to immediately cease, Council is to be notified and a suitably qualified environmental consultant appointed to further assess the site. The exposed material/excavation is to be evaluated by the supervising environmental consultant and an appropriate response determined in consultation with the applicant, which is agreed to by Council.

Council may also request that an NSW EPA Accredited Site Auditor is involved to assist with the assessment of any unexpected finds, review any contamination information and prepare a site audit report and site audit statement. The applicant must adhere to any additional conditions which may be imposed by the NSW EPA Accredited Site Auditor.

- 4.12. While building work, demolition or vegetation removal is being carried out, the principal certifier must be satisfied all waste management is undertaken in accordance with the approved waste management plan.



Upon disposal of waste, the consent holder is to compile and provide records of the disposal to the principal certifier, detailing the following:

- The contact details of the person(s) who removed the waste
- The waste carrier vehicle registration
- The date and time of waste collection
- A description of the waste (type of waste and estimated quantity) and whether the waste is expected to be reused, recycled or go to landfill
- The address of the disposal location(s) where the waste was taken
- The corresponding tip docket/receipt from the site(s) to which the waste is transferred, noting date and time of delivery, description (type and quantity) of waste.

**Note:** If waste has been removed from the site under an EPA Resource Recovery Order or Exemption, the consent holder is to maintain all records in relation to that Order or Exemption and provide the records to the principal certifier and Council.

4.13. The requirements of the submitted Waste Management Plan shall be complied with at all times that work is being carried out. Without limiting the foregoing, compliance shall include the following:

- a. The disposal of any demolition and construction waste must be undertaken in accordance with the requirements of the *Protection of Environment Operations Act 1997*; and
- b. All waste on site is to be stored, handled and disposed of in such a manner as to not create air pollution, offensive noise or pollution of land and water as defined by the *Protection of Environment Operations Act 1997*; and
- c. Generation, storage, treatment and disposal of hazardous waste is conducted in accordance with the relevant waste legislation administered by the EPA and relevant Occupational Health and Safety legislation administered by WorkCover NSW; and
- d. All waste generated (including excavated materials) which cannot be reused or recycled must be transported to a facility which can lawfully accept it; and
- e. Records are required regarding the details and location of the disposal of all demolition and construction waste (including excavated material), description of waste and are to be kept on site as evidences of lawful disposal. Records are to include receipts and weighbridge dockets which verify material types and volumes, time and date of disposal, waste vehicle rego, and confirmation of the waste disposal facility. Records/ details are also to be kept of person removing the waste; and
- f. All materials and resources that are to be stored on site during construction works are contained on the site; and

- g. The provisions of the *Protection of Environment Operations Act 1997* must be complied with when placing/stock piling loose material, disposal of concrete waste or activities which have potential to pollute drains and water courses; and
- h. The storage of waste and recycling containers must be within the boundaries of the development site at all times. Public footways and roads must not be used for the storage of any waste and must be kept clear of obstructions during all construction works.

4.14. There must not be any stockpiling of building spoil, materials, or storage of equipment on the public road during the construction period. The footway and the road reserve must always be maintained in a safe condition. No work can be carried out on the public road, including the footway, unless a Work Permit authorised by Council has been obtained.

4.15. All soils and material(s), liquid and solid, to be removed from the site must be analysed and classified by an appropriately qualified and experienced environmental consultant, in accordance with the *Protection of the Environment Operations (Waste) Regulation 2014* and related guidelines, in particular the 'Waste Classification Guidelines' (NSW EPA, 2014), prior to off-site disposal.

The waste classification report, including the results of testing, must be compiled, or reviewed and approved by an appropriately qualified and certified consultant, and must be submitted to and approved by the Principal Certifying Authority before off-site disposal. A copy of the waste classification report must be submitted to Council prior to issuing of an Occupation Certificate.

4.16. All waste material(s) must be disposed of at an appropriately licensed waste facility for the specific waste. Receipts for the disposal of the waste must be submitted to Council prior to issuing of an Occupation Certificate

4.17. While vegetation removal, demolition and/or building work is being carried out, the consent holder must ensure the measures required by the approved construction site management plan and the erosion and sediment control plan are implemented at all times.

The consent holder must ensure a copy of these approved plans is kept on site at all times and made available to Council officers upon request.

4.18. While site or building work is being carried out, the consent holder must maintain all required tree protection measures in good condition in accordance with the construction site management plan required under this consent, the relevant requirements of AS 4970 – 'Protection of trees on development sites' and any arborist's report approved under this consent. This includes maintaining adequate soil grades and ensuring all machinery, builders refuse, spoil and materials remain outside tree protection zones.

- 4.19. Should a noise issue (relating to the development) not previously identified arise (through complaint or otherwise), the owner/ occupier must, upon request by Council, employ the services of a qualified acoustic consultant who has not previously been involved with the development to undertake a post-occupation assessment of the development and complete an acoustic report with recommendations to rectify the noise issue. A copy of this acoustic assessment report must be submitted to Council for approval and from there noise attenuation works must be implemented. Submission of the acoustic report must be within 30 days from the date requested by Council.
- 4.20. All work carried out on or around protected trees during demolition, clearing and construction shall comply with Australian Standard AS 4373 – ‘Pruning of amenity trees’ and Australian Standard AS 4970 – ‘Protection of trees on development sites’. Any site specific conditions relating to tree protection shall take precedence over this requirement.
- 4.21. If any trees to be retained and protected are threatened by demolition, building or other site works through accidental omission or unforeseen circumstances, the approving authority is to be notified immediately in writing before such work is continued so that this issue can be resolved.
- 4.22. All work carried out on or around protected trees during demolition, clearing and construction shall comply with Australian Standard AS4373-2007 Pruning of amenity trees and Australian Standard AS4970-2009 Protection of trees on development sites. Site specific conditions relating to tree protection shall take precedence over this requirement.
- 4.23. While demolition or building work is being carried out, all such works must cease immediately if a relic or Aboriginal object is unexpectedly discovered. The consent holder must notify the Heritage Council of NSW in respect of a relic and notify the Secretary of the Department of Planning, Industry and Environment and the Heritage Council of NSW in respect of an Aboriginal object. Building work may recommence at a time confirmed by either the Heritage Council of NSW or the Secretary of the Department of Planning, Industry and Environment.

In this condition:

- “relic” means any deposit, artefact, object or material evidence that:
  - a. relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and
  - b. is of State or local heritage significance; and
- “Aboriginal object” means any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains.

## **5. Conditions to be Satisfied Before Occupation.**

- 5.1. The occupation of the building must not commence unless an occupation certificate has been issued.
- 5.2. No approval is granted or implied for the use of the industrial units. Separate development consent is to be obtained for the use of these premises.
- 5.3. All future use of the site must be consistent with the endorsed acoustic report.
- 5.4. One hundred and fifty-four (154) off-street car parking spaces shall be provided and maintained for the use of visitor and employees to the premises in accordance with the submitted plans. Such spaces are to be sealed and line marked and maintained for the lifetime of the development.
- 5.5. A report as prepared by a registered surveyor must be submitted to the principal certifier verifying that the reduced level (RL) of the finished floor level at each level, the height of external walls, the maximum reduced level (RL) of roof structures / roof eaves overhangs and the external wall setbacks to the property boundaries all conform with the approved plans.
- 5.6. Before the issue of an occupation certificate, a registered surveyor must submit documentation to the principal certifier which demonstrates that:
  - a. no existing survey mark(s) have been removed, damaged, destroyed, obliterated or defaced, or
  - b. the consent holder has re-established any survey mark(s) that were damaged, destroyed, obliterated or defaced in accordance with the Surveyor General's Direction No. 11 – 'Preservation of Survey Infrastructure'.
- 5.7. Before the issue of the relevant occupation certificate, the principal certifier must ensure any adjustment or augmentation of any public utility services including gas, water, sewer, electricity, street lighting and telecommunications, required as a result of the development, is completed to the satisfaction of the relevant authority.

Before the issue of the occupation certificate, the principal certifier must request written confirmation from the relevant authority that the relevant services have been completed.
- 5.8. Before the issue of the relevant occupation certificate, works-as-executed plans, any compliance certificates and any other evidence confirming the following completed works must be submitted to the satisfaction of the principal certifier:

- a. All stormwater drainage systems and storage systems, and
  - b. The following matters that council requires to be documented in accordance with the Councils relevant Development Control Plan.
  - c. A copy of the plans must be provided to council with the occupation certificate.
- 5.9. The Section 73 compliance certificate under the *Sydney Water Act 1994* must be submitted to the principal certifier before the issue of an occupation certificate.
- 5.10. Landscape is to be installed in accordance with the approved landscape plans.
- 5.11. Before issue of an occupation certificate and following the completion, installation, and testing of all the mechanical ventilation systems, a Mechanical Ventilation Certificate of Completion and Performance in accordance with Clause A2.2 (a) (iii) of the Building Code of Australia, must be submitted to the principal certifier.
- 5.12. An occupation certificate must not be issued until all conditions relating to demolition, building and subdivision works have been satisfied and Council has issued a Work Permit Compliance Certificate (where applicable).
- 5.13. Before the issue of an occupation certificate, the consent holder must ensure any public infrastructure damaged as a result of the carrying out of building works (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concreting vehicles) is fully repaired to the written satisfaction of Council, and at no cost to Council.
- 5.14. The future operation of the development must not adversely affect the amenity of the neighbourhood or interfere unreasonably with the comfort or repose of a person who is outside the premises by reason of the emission or discharge of noise, fumes, vapour, odour, steam, soot, ash, dust, waste water, waste products, grit, oil or other harmful products.
- 5.15. The following signs must be provided and maintained within the site at the point(s) of vehicle egress:
- a. Compelling drivers to stop before proceeding onto the public way
  - b. Compelling drivers to "*Give Way to Pedestrians*" before crossing the footway; or compelling drivers to "*Give Way to Pedestrians and Bicycles*" before crossing a footway on an existing or identified shared path route.
- 5.16. Before the issue of an occupation certificate, the principal certifier must be satisfied that all landscape and tree-works, including pruning in accordance with AS 4373 – 'Pruning of amenity trees and the removal of all noxious

weed species', have been completed in accordance with the approved plans and any relevant conditions of this consent.

- 5.17. The building must be readily identified from the street with the allocated property numbers.
- 5.18. A copy of the waste classification report must be submitted to Council prior to issuing of an Occupation Certificate.
- 5.19. The developer shall register, on the title of the subject property, a Restriction on the Use of Land and Positive Covenant, in accordance with the standard terms for "Registration of OSD on title", as outlined in Council's Bankstown Development Engineering Standards and in accordance with the appropriate provisions of the Conveyancing Act 1919.

The surveyor shall show the location of the "On-Site Stormwater Detention System" on an A4 size site plan attached to the Section 88E Instrument to be registered, on the title of the subject property, before the issue of the Final Occupation Certificate. Alternatively, where subdivision is proposed, the developer shall register, on the title of the subject property, a Restriction on the Use of Land and Positive Covenant, in accordance with the standard terms for "Registration of OSD on title", as outlined in Council's Bankstown Development Engineering Standards and in accordance with the appropriate provisions of the Conveyancing Act. The surveyor shall show the location of the "On-Site Stormwater Detention System" on the plan of subdivision. The developer shall submit evidence of the final registration of the Restriction and Positive Covenant on the title of the property, to Council.

- 5.20. All waste generated on the site is to be stored, handled and disposed of in such a manner as to not create offensive odour, offensive noise or pollution of land and/or water as defined under the *Protection of the Environment Operations Act 1997*. All waste generated must be removed and disposed of by an authorised waste removal contractor. A copy of the waste removal agreement and receipts must be made available to Council on request
- 5.21. Any lighting on the site shall be designed so as not to cause nuisance to other residences in the area or to motorists on nearby public roads and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with the Interim Australian Standard AS 4282 – 'The Control of the Obtrusive Effects of Outdoor Lighting'.
- 5.22. No mobile food vending vehicles or temporary food premises are permitted to operate at the premises without prior written consent from Council.
- 5.23. An Emergency Response Management Plan shall be prepared and submitted to the certifier. The Plan shall include the following:
- List of chemicals and maximum quantities to be stored at the site;
  - Identification of potentially hazardous situations;

- c. Procedure for incident reporting;
- d. Details of spill stations and signage;
- e. Containment and clean-up facilities and procedures; and
- f. The roles of all staff in the plan and details of staff training.