

DATE OF DETERMINATION	11 October 2023
DATE OF PANEL DECISION	10 October 2023
PANEL MEMBERS	Annelise Tuor (Chair), Penelope Holloway, Karl Saleh and Khal Asfour
APOLOGIES	Glennis James
DECLARATIONS OF INTEREST	The former Chair has made a decision in line with item 5.2 of the Panel Operating Procedures, that Charlie Ishac has a perceived conflict of interest having previously been employed by the project planning consultants.

Papers circulated electronically on 18 September 2023 and determination of the application deferred at the Panel meeting on 25 September for further information on relocation of stormwater pipe. A supplementary report and documents were circulated 6 October 2023.

MATTER DETERMINED

PPSSSH-122 – Canterbury-Bankstown – DA-741/2022 at 149 Orchard Road, Chester Hill – four attached warehouse and distribution buildings (as described in Schedule 1).

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings listed at item 8 in Schedule 1.

Development application

The Panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel determined to approve the application for the reasons outlined below:

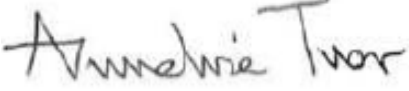



- The council officer's assessment report and supplementary report have considered the relevant matters under section 4.15 of the *Environmental Planning and Assessment Act 1979*.
- The proposed development is a permissible development with consent within the IN1 General Industrial Zone and is consistent with the relevant zone objectives. It complies with the applicable State Environmental Planning Policies and satisfies the relevant provisions of the Bankstown Local Environmental Plan 2015 and the Bankstown Development Control Plan 2015.
- The proposed development appropriately responds to the site, is compatible with the development within the surrounding area and does not result in unreasonable impacts on residential amenity.
- No community concerns were raised to the proposed development.

CONDITIONS

The Development Application was approved subject to the final conditions dated 9 October, 2023 attached to the Decision and Statement of Reasons as Schedule 2.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel notes that no written submissions were made during public exhibition and therefore no issues of concern were raised.

PANEL MEMBERS	
 Annelise Tuor (Chair)	 Khal Asfour
 Penelope Holloway	 Karl Saleh

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSSH-122 – Canterbury-Bankstown – DA-741/2022
2	PROPOSED DEVELOPMENT	Demolition of existing structures, removal of site vegetation and retention of 6 trees, construction of 4 attached warehouse and distribution buildings for 24 hours, 7 days a week operation, ancillary office spaces, awnings, associated site preparation works, vehicular and pedestrian access, car parking and landscaping, 2 pylon signs and associated business identification signage
3	STREET ADDRESS	Lot 81 DP 1282378, No. 149 Orchard Road, Chester Hill NSW 2162
4	APPLICANT/OWNER	Dexus Wholesale Management Limited Tung Hui Chung, Tong Hong Chung and Chung Enterprise Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> Biodiversity Conservation Act 2016 State Environmental Planning Policy (Biodiversity and Conservation) 2021 State Environmental Planning Policy (Industry and Employment) 2021 State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 Bankstown Local Environmental Plan 2015 (BLEP 2015) Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Bankstown Development Control Plan 2015 Planning agreements: Nil Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i> Coastal zone management plan: Nil The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality The suitability of the site for the development Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Council Assessment Report: 25 September 2023 Supplementary Council Assessment Report: 6 October 2023 Written submissions during public exhibition: nil
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing: 6 December 2022 <ul style="list-style-type: none"> <u>Panel members</u>: Helen Lochhead (Chair), Stuart McDonald, Heather Warton and Bilal El-Hayak <u>Applicant representatives</u>: Lydia Gabriel <u>Council assessment staff</u>: Stephen Arnold, Christopher Phu and Ian Woodward <u>Department staff</u>: Leanne Harris and Sharon Edwards Briefing: 6 March 2023 <ul style="list-style-type: none"> <u>Panel members</u>: Annelise Tuor (Chair), Penelope Holloway, Glennis James and Charlie Ishac

		<ul style="list-style-type: none"> ○ <u>Council assessment staff</u>: Stephen Arnold, Christopher Phu, George Gouvatsos, Cassandra Gibbons, Priscilla Prakash and Ian Woodward ○ <u>Department staff</u>: Sung Pak and Timothy Cook <ul style="list-style-type: none"> ● Briefing: 29 August 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Annelise Tuor (Chair), Penelope Holloway, Glennis James and Karl Saleh ○ <u>Council assessment staff</u>: Stephen Arnold, Christopher Phu, Daniel Bushby, Abdel Albaba and Ian Woodward ○ <u>Applicant representatives</u>: Paul Neilsen, Asher Richardson, Mark Wilson and Lorenzo Lun ○ <u>Department staff</u>: Lillian Charlesworth and Lisa Foley ● Determination briefing - deferred: 25 September 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Annelise Tuor (Chair), Penelope Holloway, Glennis James, Karl Saleh and Khal Asfour. ○ <u>Council assessment staff</u>: Stephen Arnold, Christopher Phu and Ian Woodward ○ <u>Department staff</u>: Lillian Charlesworth and Lisa Foley ○ <u>Applicant representatives</u>: Paul Neilsen, Asher Richardson and Lorenzo Lun ● Briefing: 9 October 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Annelise Tuor (Chair), Penelope Holloway, Karl Saleh and Khal Asfour (Glennis James – apology) ○ <u>Council assessment staff</u>: Stephen Arnold, Christopher Phu, Hooman Khakzad and Abdel Albaba ○ <u>Department staff</u>: Lillian Charlesworth and Lisa Foley ○ <u>Applicant representatives</u>: Paul Neilsen and Asher Richardson
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Final conditions dated 9 October 2023 are attached as Schedule 2 to the Decision and Statement of Reasons.

SCHEDULE 2 – 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	Revision	Prepared By
DA-002	Site Plan	01.09.2023	U	Concept (y) Architecture
DA-004	Roof Plan	10.07.2023	C	Concept (y) Architecture
DA-005	Demolition Plan	30.06.2022	A	Concept (y) Architecture
DA-006	Signage and Racking Plan	10.07.2023	G	Concept (y) Architecture
DA100	Office Plans (Office 1)	07.07.2023	E	Concept (y) Architecture
DA101	Office Plans (Office 2)	07.07.2023	E	Concept (y) Architecture
DA102	Office Plans (Office 3)	07.07.2023	E	Concept (y) Architecture
DA103	Office Plans (Office 4)	07.07.2023	E	Concept (y) Architecture
DA-200	Indicative Section (Warehouse 1-4)	06.09.2023	B	Concept (y) Architecture
DA-201	Elevations (Warehouse 1-4)	06.06.2023	E	Concept (y) Architecture
DA-202	Office Elevations (Warehouse 1)	06.06.2023	E	Concept (y) Architecture
DA-203	Office Elevations (Warehouse 2-3)	06.06.2023	D	Concept (y) Architecture
DA-204	Office Elevations (Warehouse 4)	06.06.2023	D	Concept (y) Architecture

DA-205	Tenant Signage Elevations	23.03.2023	A	Concept (y) Architecture
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- 1.2. Before the issue of a construction certificate, the principal certifier must ensure the approved construction certificate plans (and specifications) detail the following required amendments to the approved plans and supporting documentation stamped by Council.
 - a. The Site Plan as referenced in the table in Condition 1.1 of this development consent shall be amended to notate the easement as shown in the approved civil drawing No. CO14242.02-DA, dated 29/09/2023, Revision B, prepared by Costin Roe Consulting
 - b. The estate entry pylon sign along Orchard Road shall be amended to achieve a maximum width of 2m and a maximum height of 4m.
 - c. The front fence along Orchard Road shall be amended to achieve a maximum height of 1.8m above the natural ground level.
- 1.3. This development consent prevails over any previous development consent to the extent of any inconsistency in relation to contamination works.
- 1.4. A separate application shall be submitted to Council before the erection of any additional signage unless the proposed signage is "exempt development" in accordance with relevant legislation.
- 1.5. The acoustic report submitted in support of this application, prepared by Acoustic Dynamics, titled *"Operational Noise Emission Assessment, 149 Orchard Road, Chester Hill, NSW"*, reference number: 5571R001.JC.220912, dated 12 September 2022 and recommendations in section 5 forms part of the development consent.
- 1.6. 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.
- 1.7. Large vehicles are to not enter or exit the site via Orchard Road. The access from Orchard Road is restricted to only small vehicles for staff and visitors.
- 1.8. Any large vehicles longer than 12.5m are not permitted to turn left when exiting the site via Miller Road access. A 'no left turn' signage for large vehicle exceeding 12.5m in length shall be installed along the Miller Road driveway access.

The Miller Road driveway access shall be designed in accordance with AS 2890.2 with a raised median island separating the entry and exit.

2. Conditions relating to the Landowner's responsibility for Channel and Pipe Management within Registered Easement

2.1. Sites located adjacent to Council's drainage easement and/or sites affected by flooding shall comply with the following:

- a. A Work As Executed Plan prepared by a registered surveyor, together with certification from a qualified professional Civil Engineer of the capacity and adequacy of the constructed floodway/flow path shall be obtained before issue of the certificate of occupation or occupation of the site.
- b. The Work As Executed information shall be shown on a copy of the approved plans and shall include construction information relating to the following:
 1. All relevant natural ground and finish ground levels within the flow path/floodway and relevant surrounding levels.
 2. Determination and the extent of the 1 in 100-year water surface level in the floodway / flow path.

The above information together with the Engineer's certification shall be submitted to Council for information before issue of an occupation certificate.

A Restriction as to User under the provision of Section 88E of the *Conveyancing Act 1919* shall be registered on the title of the subject property, requiring that:

- i. "A flow path for overland stormwater runoff / floodway, from upstream properties and Council's Public Road shall be maintained within Council's drainage easement and constructed stormwater channels boundaries."
- ii. "No trees or shrubs shall be planted within Council's drainage easement and constructed floodway, unless approved by Council in the landscape plan dated 01.06.2023 issue H."
- iii. "Changes to approved levels and/or the construction of walls and landscaping within Council's drainage easement/constructed floodway boundaries is not permitted unless approved by Council".
- iv. "Any fencing constructed across the floodway or overland flow path shall be maintained to allow for the free passage of surface flow of stormwater to the satisfaction of Council".
- v. The landowner shall assume full responsibility for the care, control, and maintenance of the overland channels and the flood storage areas located within the subject property. This responsibility shall encompass all aspects of maintenance, repair, and access, consistent with the terms of any relevant laws, regulations, and standards.
- vi. The landowner shall, at their own expense, ensure that the overland channels and flood storage areas remains in good working condition, free from obstructions, and compliant with all applicable safety and environmental standards.
- vii. The Council reserves the right to access and inspect the easement pipe, subject to reasonable notice, for the purpose of ensuring compliance with this condition and the registered easement.
- viii. The landowner shall provide Council representatives with safe and unobstructed access to the overland channels, flood storage area and pipe located within the easement at all reasonable times.
- ix. The landowner shall maintain comprehensive records of all maintenance and repair activities related to the overland channels and flood storage areas, including dates, descriptions of work performed, and invoices. These records shall be made available to Council upon request.

- x. The landowner shall indemnify and hold harmless the Council, its officers, employees, and agents from any claims, damages, liabilities, costs, or expenses arising from or related to the condition, maintenance, or repair of the overland channels, flood storage areas and pipe located within the easement.
- xi. In the event of a breach of this condition, the Council may take such actions as it deems necessary, including enforcement proceedings, to ensure compliance with this condition and the terms of any registered Easement.

Note: The location of the “Flowpath/floodway” shall be shown on the film plan of subdivision where subdivision is proposed. Where subdivision is not proposed the location of the flow path/floodway shall be included on a site plan attached to the Section 88E instrument.

- a. Canterbury-Bankstown City Council shall be empowered to release, vary or modify such Restriction.

The Restriction and Positive Covenant shall be submitted for registration on title following satisfactory construction and certification of the overland flow path / floodway system and before issue of the occupation certificate or occupation of the site. Evidence of such registration shall be submitted to Council

3. Conditions imposed by Transport for NSW

- 3.1. The layout of the proposed car parking areas associated with the subject development (including, driveways, grades, turn paths, sight distance requirements in relation to landscaping and/or fencing, aisle widths, aisle lengths, and parking bay dimensions) should be in accordance with AS 2890.1-2004, AS2890.6-2022 and AS 2890.2-2018 for heavy vehicle usage.
- 3.2. The developer shall be responsible for all public utility adjustment/relocation works, necessitated by the above work and as required by the various public utility authorities and/or their agents.
- 3.3. All vehicles are to enter and leave the site in a forward direction and be wholly contained on site before being required to stop.
- 3.4. 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.

4. Conditions to be Satisfied Before the Issue of a Construction Certificate.

- 4.1. Development Contributions of \$337,700.00 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.

- 4.2. 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.
- 4.3. 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 at https://longservice.force.com/bci/s/levy-calculator](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>.
- 4.4. 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.
- 4.5. 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 for Sydney Water's Guidelines for building over or next to assets, visit 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 requires conditions that must be satisfied by the PCA, or the appropriate plans must be stamped by a Water Servicing Coordinator.

- 4.6. 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.

- 4.7. If amendments are required that are inconsistent with the approved development, 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.

- 4.8. 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:

1. Council's development control plan,
2. the guidelines set out in the NSW Department of Housing manual 'Managing Urban Stormwater: Soils and Construction Certificate' (the Blue Book), and
3. 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.

- 4.9. The premises must be ventilated in accordance with the Building Code of Australia and AS1668.1 and 2 – 'The Use of Ventilation and Air- Conditioning in Buildings – Mechanical Ventilation in Buildings'.

Details of any mechanical ventilation and/or air-conditioning system complying with AS1668.1 and 2 – 'The Use of Ventilation and Air- Conditioning in Buildings – Mechanical Ventilation in Buildings', the Building Code of Australia and relevant Australian Standards must be prepared by a suitably qualified person and certified in accordance with Clause A2.2 (a) (iii) of the Building Code of Australia, to the satisfaction of the certifier before the issue of a construction certificate.

- 4.10. Before the issue of a construction certificate, the mechanical exhaust systems and/or shafts must be designed to allow for the discharge of effluent air above roof level and must be designed with capacity to accommodate exhaust ducts and mechanical ventilation systems for all commercial tenancies proposed with the potential to become a food premises in future. Systems must be designed in accordance with AS1668.2 – 'The Use of Ventilation and Air-conditioning in Buildings – Mechanical Ventilation in Buildings', and AS1668.1 – 'The Use of

4.11. 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.

4.12. 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. Two heavy Duty VFC at the property boundary one along Orchard Road, and one along Miller Road.
- b. Reconstruction and diversion of Council trunk drainage pipes and diversion pits as per the approved plan CO14242.02-DA, dated by 29/09/2023, Revision B, prepared by Costin Roe Consulting. The proposed pipe sizes shall not be reduced.
- c. Removal of all redundant 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.

4.13. 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:

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.

- 4.14. 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.

Council requires that the stormwater runoff from within the development site shall be collected and controlled in accordance with the approved stormwater and flood management system as documented in the Costin Roe Consulting Stormwater Management Plan (Ref: CO14242.02-03c.rpt dated 4 September 2023), and the Flood Impact Risk Assessment Report by GRC Hydro (REF: 220040 dated 5 September 2023). The developer shall engage a suitably qualified engineer to prepare a final stormwater drainage and stormwater management system plan to be generally in accordance with the concept plan in the table below, and in accordance with the requirements contained in Council's Bankstown Development Engineering Standards. The Engineer shall certify that the design and plans comply with Council's Bankstown Development Engineering Standards and the relevant Australian Standards.

The report listed above shall be amended to reflect the following:

- a. The pipe layout shall be as per plan number CO14242.02-DA, dated by 29/09/2023, Revision B, prepared by Costin Roe Consulting.
- b. All pit with diversion pipes shall have in situ concrete at all bends to direct runoff to the pit outlet pipe.

- c. The north western flood storage area shall have multiple maintenance access openings to allow for access maintenance and inspection.
- 4.15. Sites located adjacent to Council's drainage easement and/or sites affected by flooding shall comply with the following:
- a. No footings or permanent structural loading items shall be proposed within the new proposed easements over the diverted pipes.
 - b. Where structures are located above the zone of influence of Council's pipe, concrete pier and beam type footings shall be provided for all structures adjacent to Council's proposed stormwater pipe and easement in accordance with the requirements contained in Council's Bankstown Development Engineering Standards. Plans and details prepared by a qualified practising structural engineer, with details suitable for construction in accordance with the above Policy shall be incorporated into the details for approval of the construction certificate. A copy of the approved details together with a report prepared by a registered surveyor showing location, size and depth of the stormwater system, shall be sent to Council for recordkeeping.
 - c. All floor coverings over the new easements shall be asphaltic concrete.
 - d. full depth construction joints shall be provided along the easement boundaries, in accordance with the requirements contained in Council's Bankstown Development Engineering Standards / Canterbury Development Control Plan 2012 Part B5. Details suitable for construction prepared by a qualified professional civil engineer shall be submitted to the principal before the issue of the construction certificate. A copy of the approved details shall be submitted to Council for recordkeeping.
- 4.16. The minimum finished floor level shall not be less than RL 23.50m AHD for all industrial units finished floor levels.
- 4.17. 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.

Furthermore, for internal driveways with a gradient exceeding 10% (1 in 10), longitudinal profiles of all vehicular driveways and ramps shall be submitted for approval by the certifier before the issue of the construction certificate. The maximum grade of the driveway/ramp shall not exceed 25% and shall comply with AS 2890 parking series. The profile shall be drawn at a reduction ratio of 1 to 25 vertical and horizontal and shall be related to the datum used for the issue of the footway design levels and shall also show the road centre line levels, Council issued footway design levels and gutter levels. Council's Car Clearance Profile in Council's Development Engineering Standards, (Plan No. S 006) shall be used to design the profile.

- 4.18. 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.

- 4.19. 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 construction 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.

- 4.20. 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.
- 4.21. Sight triangles are to be marked on relevant plans, being provided at the intersection of the driveway and the property boundary in accordance with AS 2890.1: 'Figure 3.3 – Minimum Sight Lines for Pedestrian Safety'. A splay extending 2 metres from the driveway edge along the front boundary and 2.5 metres from the boundary along the driveway shall be provided to give clear sight lines of pedestrians from vehicles exiting the site and is to be kept clear of any obstacles. Any structures, plantings or fencing within these triangles is to be a maximum height of 600mm to ensure sight lines are kept clear of any obstacles. This shall be illustrated on plans submitted with the construction certificate.
- 4.22. Before the issue of a construction certificate, a Site Water Management plan shall be submitted to Council for review and endorsement. The Site Water Management plan must be prepared in accordance with Part B4 of the Bankstown DCP 2015.
- 4.23. Before the issue of a construction certificate, an Energy Performance Report, prepared by a suitably qualified energy consultant, shall be submitted to Council for review and endorsement. The Energy Performance Report must be prepared in accordance with Part B4 of the Bankstown DCP 2015.
- 4.24. 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.
- 4.25. 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*.
- 4.26. The certifier must not issue a construction certificate unless provided with detailed plans that form part of the construction certificate for the waste management areas that comply with the following requirements as well as the requirements of Council's "Waste Management Guide for New Developments":
 - a. Floors must be constructed of concrete at least 75mm thick and graded and drained to a Sydney Water approved drainage fitting;
 - b. Floors must be finished so as to be non-slip with a smooth and even surface;

- c. A designated room or enclosure and is to have a roof, with a minimum 2.1m unobstructed room height. A minimum 2.7m unobstructed room height is required if bin lifting equipment is required;
- d. Must be compatible with the overall design of the development;
- e. Walls must be constructed of solid impervious material;
- f. Ceilings must be finished with a smooth faced non-absorbent material capable of being cleaned;
- g. Walls, ceiling and floors must be finished in a light colour;
- h. An adequate supply of hot and cold water mixed through a centralised mixing valve with hose cock is to service the room;
- i. A self-closing door openable from within the room;
- j. Must be constructed to prevent the entry of birds and vermin;
- k. Be provided with adequate light and ventilation. Light source must be through controlled light switches located both outside and inside the room;
- l. Any doorways must be 2 metres wide and open outwards; and
- m. Designed to fit the following bin allocations:

4.27. Before the issue of any construction certificate, the certifier must receive written confirmation from Council, that Council has been provided to its satisfaction with the following:

- a. Detailed plans showing that the waste storage rooms identified on stamped plans will be capable of being accessed from the designed access roadway by a Heavy Rigid Vehicle (HRV) in accordance with AS2890.2, and that a loading area is available for the vehicle when collecting waste that meets the following requirements:
 - i. Within 5 metres of all waste storage rooms or temporary holding area;
 - ii. A separate parking area for the collection vehicle; and
 - iii. Include an extra 2 metres at the rear of the vehicle loading area.
- b. Certification from a suitably qualified engineer that the route of travel, loading area and entry and exit points will be constructed so as to support the following loading requirements:
 - i. Heavy Rigid Vehicle can enter and exit the site in a forward position;
 - ii. 30 tonne waste collection vehicles;
 - iii. Turning circle of 25 metres;
 - iv. Length of 12 metres;
 - v. Clearance height of 4.5 metres

4.28. A detailed landscape plan prepared by a qualified landscape architect or qualified landscape designer must be approved by the certifier before the issue of a construction certificate. The landscape plan must be prepared in accordance with Bankstown DCP 2015 and must include the following features, notations and specifications:

- a. The location of existing and proposed structures on the subject property/properties, including existing and proposed trees, impermeable areas, landscaped areas, deep soil zones, fixed furniture, shade structures, lighting, and other features,
- b. Details of earthworks and soil depths, including mounding and retaining walls and planted boxes,
- c. The location, number, pot size and type of chosen plant species. Details of planting procedures and long-term maintenance (if any), and
- d. One 75ltr (minimum) major canopy tree shall be planted within the front setback to the development, and
- e. Details of drainage and watering systems (if any).

4.29. 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.

4.30. Prior to the issue of a Construction Certificate relating to any building works, the site is to be remediated in accordance with:

- i. The Remedial Action Plan, prepared by Dexus Property Group Pty Ltd dated 8 March 2023, reference: RAP_149 Orchard Rd_Feb 2023_PS131192-SYD-REP-Rev2_FINAL;
- ii. *State Environmental Planning Policy No. 55 - Remediation of Land*;
- iii. The guidelines in force under the *Contamination Land Management Act 1997*; and
- iv. The Site Audit advice prepared by Senversa Pty Ltd, titled Site Audit 149 Orchard Road, Chester Hill IAA#6: WSP Remediation Action Plan (final V2) – March 2023, Reference: S19787_LET06_30March2023

The applicant must engage an appropriately qualified and experienced environmental consultant to supervise all aspects of site remediation and validation.

Any variations to the approved remedial action plan must be submitted to and approved in writing by an NSW EPA Accredited Site Auditor prior to the continuing of such work.

4.31. Prior to issue of the construction certificate the proponent must submit a detailed validation report to Council.

The validation report must be prepared in accordance with:

- I. 'Managing Land Contamination: Planning Guidelines (Department of Urban Affairs and Planning and NSW EPA, 1998);
- II. Relevant EPA Guidelines, noting the guidelines for 'Consultants Reporting of Contaminated Land 2020 and
- III. National Environmental Protection (Assessment of Site Contamination) Measure 1999 (as amended 2013).

The validation report must be prepared or reviewed and approved by an appropriately qualified environmental consultant.

The validation report must verify that the land is suitable for the proposed use(s), and that the remediation and validation of the site has been undertaken in accordance with the Remedial Action Plan prepared Dexus Property Group Pty Ltd titled, "*Remediation Action Plan, 149 Orchard Road, Chester Hill, NSW*, dated 17 March 2023, reference: RAP_149 Orchard Rd_Feb 2023_PS131192-SYD-REP-Rev2_FINAL;

5. Conditions to be Satisfied Before Construction.

5.1. The demolition of all structures on the property must be undertaken in accordance with all the following:

1. Written notice must be issued to adjoining residents and neighbouring (industrial) properties a minimum of seven (7) days before the commencement of demolition advising of the commencement date,
2. Written notice must be issued to Council for inspection a minimum of (7) days before the commencement of demolition. Written notice must include the date when demolition work will commence and details of the name, address, contact telephone number and licence number of the demolition contractor,
3. Inspections being undertaken by Council including:
 1. A pre-commencement demolition inspection when all site works required as part of this Determination Notice are installed on the site and before demolition work commencing, and
 2. A final demolition inspection when the demolition work has been completed to ensure that the site is left in a satisfactory manner, in accordance with the conditions of this Determination Notice,
4. Payment of an inspection fee at Council's current rate must be paid before inspection. Council requires 48 hours' notice to carry out an inspection,
5. A sign must be erected at the front of the property showing the name of the licenced demolition contractor, the licence number and a telephone number on which that person can be contact outside of working hours,
6. All demolition work must be carried out in accordance with Australian Standard 2601 – 'The Demolition of Structures',
7. Where asbestos containing materials are to be removed, demolition must be carried out by contractors who have a current SafeWork NSW licence in asbestos removal,
8. An asbestos clearance certificate issued under the *Work Health and Safety Act 2011* must be submitted to Council after the completion of demolition work,
9. Hazardous and intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of SafeWork NSW and the NSW Environment Protection Authority,
10. Demolition procedures must maximise the reuse and recycling of demolished materials to reduce the environmental impacts of waste disposal,
11. Adhere to the requirements stipulated in the approved Waste Management Plan, and
12. Demolition may only be carried out between 7.00 am and 5.00 pm on Monday to Saturday and no building work/s is to be carried out at any time on a Sunday or a public holiday.

A copy of the final demolition inspection report must be submitted to the principal certifier before the commencement of any building work.

- 5.2. 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.

- 5.3. 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.

- 5.4. 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.
- 5.5. 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.
- 5.6. 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).
- 5.7. 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.
- 5.8. A sign must be erected in a prominent position on any site on which building work or demolition work is being carried out:
- 1. showing the name, address and telephone number of the principal certifier for the work, and
 - 2. 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
 - 3. 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.

- 5.9. Before demolition, the entire site (including any structures) is to be assessed for hazardous materials, especially asbestos. A Hazardous Materials (HAZMAT) Report is to be prepared by a Type "A" inspection body accredited by NATA.

All recommendations in the above-mentioned report are to be implemented and a clearance certificate issued by an appropriately qualified occupational hygienist is to be submitted to Council before the commencement of demolition works.

- 5.10. 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.

6. Conditions to be Satisfied During Construction.

- 6.1. 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.
- 6.2. Building work must be carried out in accordance with the requirements of the Building Code of Australia (BCA).
- 6.3. The construction and fixing of the signage is to be carried out in accordance with details prepared by a suitably qualified practising structural engineer, in accordance with the structural provisions of the Building Code of Australia (BCA).
- 6.4. Building work or demolition work may only be carried out between 7.00 am and 6.00 pm on Monday to Friday, or between 8.00 am and 1.00 pm on Saturdays, and no construction is to be carried out at any time on a Sunday or a public holiday.
- 6.5. While building work is being carried out and where no noise and vibration management plan is approved under this consent, the consent holder is to ensure that any noise caused by demolition, vegetation removal or construction does not exceed an LAeq (15 min) of 5dB(A) above background noise, when measured at any lot boundary of the property where the construction is being carried out.
- 6.6. While building work is being carried out, a registered surveyor is to measure and mark the positions of the following and provide them to the principal certifier —
1. All footings/ foundations
 2. At other stages of construction – any marks that are required by the principal certifier.
- 6.7. 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.

- 6.8. 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.
- 6.9. Works on downstream properties is to be carried out in accordance with the following:
- a. The owners of the adjacent property shall be given at least seven (7) days' notice in writing of intention to commence work within their property, together with particulars of the proposed work.
 - b. Where drainage excavation works extend below the level of the base of the footings of buildings the consent holder shall, at his own expense: -
 - i. Preserve and protect such building from damage; and
 - ii. If necessary, underpin and support such buildings.
 - c. Restoration of drainage works in on adjacent property shall be to the satisfaction of the owners of the property/these properties.
- 6.10. 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.
- 6.11. While building work is being carried out, the consent holder must pay 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).
- 6.12. Any fill imported onto the site must be virgin excavated natural material or excavated natural material, classified as such in accordance the 'Waste Classification Guidelines' (NSW EPA, 2014) or excavated natural material meeting the requirements of the Excavated Natural Material Exemption (NSW EPA, 2014).

Certificates verifying that imported fill is virgin excavated natural material or excavated natural material must be provided to Council prior to the issue of an Occupation Certificate.

All imported fill must be compatible with the existing soil characteristics of the site.

- 6.13. 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.

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.

- 6.14. All excavations must be kept free from the accumulation of water. Prior approval must be sought from Council to discharge any water into the Council's stormwater drainage system. Other options for the disposal of water include disposal to sewer with prior approval from Sydney Water, or off-site disposal by a liquid waste transporter for treatment/disposal to an appropriate waste treatment/processing facility.

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.

- 6.15. 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.

- 6.16. 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 —

1. Protect and support the building, structure or work from possible damage from the excavation, and
2. 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.

- 6.17. 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.

- 6.18. 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.

- 6.19. 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.

- 6.20. 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.
- 6.21. 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.
- 6.22. 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.
- 6.23. 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.
- 6.24. 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.
- 6.25. The following tree/s shall be retained and protected from removal and damage for the duration of the development:

- As Per Arboricultural Impact Assessment & Tree Protection Plan. Appendix B
- 1 x *Ficus microcarpa* var *hilli* within the primary frontage on Orchard Road
- 5 x *Corymbia maculate* along the north-east boundary adjoining Orchard Road

* TPZ and SRZ in metres measured from the centre of the trunk of the tree.

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.
- The stormwater line and associated pits are to be located no closer than 3 metres from the retained trees. Alternatively, the stormwater line is to be installed by careful digging using hand tools or horizontal boring and passing the pipe beneath existing tree roots within 3 metre radius of the retained tree. No tree roots greater than 45mm in diameter are to be severed.
- Exploratory excavation should be undertaken using non-destructive means (hydro set at 1000psi or hand tools) to a depth of at least 800mm. The exploratory excavation should be supervised by the Project Arborist who will 'map' the location of the roots and determine,

based on this assessment, whether Tree 45 can be retained or needs to be removed. Should the exploratory mapping suggest that Tree 45 is required to be removed, the removal of Tree 45 is approved by Council subject to owners' consent being obtained.

- 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 –

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.

- 6.26. 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.
- 6.27. 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.
- 6.28. 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.

7. Conditions to be Satisfied Before Occupation.

- 7.1. The occupation or use of the building must not commence unless an occupation certificate has been issued.
- 7.2. Registration of the drainage easements in accordance with the approved plans shall be commenced before the issue of any occupation certificate.
- 7.3. A Loading Management Plan must be submitted to and approved by the principal certifier before the issue of an occupation certificate.

The plan should identify how the loading area will be managed and used by all building tenants including retail and residential use such as for removal vehicles, bulky good deliveries and similar.

The plan must include, but is not limited to, management of deliveries to ensure there is no requirement for any service vehicles to wait on public streets to enter the site.

The plan shall be managed either by a schedule showing all tenants when they can use the area, or by a register managed on site to allow tenants to reserve a time period for their deliveries. Once approved, this management plan will need to be provided to all tenants and external users of the loading area.

- 7.4. Eighty-two (82) 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.
- 7.5. 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.
- 7.6. Before the issue of an occupation certificate, the holder of this consent is to plant replacement trees on the site as follows:
 - As per Landscape Plan. (Issue G, as dated 1.04.2023)
 - Tree species used are not to include conifers, Casuarinaceae, palms or any of the exempted species listed under clause 3.4 of Canterbury Development Control Plan 2012 Part B3 – Tree Management Order.
 - The tree/s shall have a container size not less than 75 litres, shall comply with NATSPEC Specifying Trees: a guide to assessment of tree quality (2003) or Australian Standard AS 2303 – 2015 Tree stock for landscape use
 - The tree/s shall be planted no closer than 3.5 metres from the wall of any approved buildings on the property.
 - The tree/s shall be planted so that future growth is not in conflict with overhead electricity wires.
 - The tree/s shall be maintained for the life of the development.
- 7.7. 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'.
- 7.8. 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.

- 7.9. 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.
- 7.10. 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.
- 7.11. 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).
- 7.12. 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.
- 7.13. 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.
- 7.14. Before the issue of any occupation certificate, an agreement must be entered into with Council on terms satisfactory to Council for the collection of waste.
- 7.15. Before the issue of an occupation certificate, the principal certifier must ensure all refuse, spoil and material unsuitable for use on-site is removed from the site and disposed of in accordance with the approved waste management plan. Written evidence of the removal must be supplied to the satisfaction of the principal certifier.
- Before the issue of a final occupation certificate, the consent holder must ensure the temporary storage of any waste is carried out in accordance with the approved waste management plan to the principal certifier's satisfaction.
- 7.16. 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.
- 7.17. 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'.

7.18. An Emergency Response Management Plan shall be prepared and submitted to Council's satisfaction. The Plan shall include the following:

- a. List of chemicals and maximum quantities to be stored at the site;
- b. 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.

7.19. Where the Validation Report identifies the need for the implementation of an ongoing environmental management plan, the plan must be submitted to Council and the Principal Certifying Authority. The ongoing environmental management plan must be prepared in accordance with:

- i. NSW Contaminated Land Planning Guidelines;
- ii. Relevant EPA endorsed guidelines; and
- iii. *National Environmental Protection (Assessment of Site Contamination) Measure 1999* (as amended 2013).

The ongoing environmental management plan must be prepared or reviewed and approved by a suitably qualified environmental consultant.

The ongoing environmental management plan must be submitted to, and approved by, Council prior to the issue of an Occupation Certificate.

The ongoing environmental management plan must describe the nature and location of the contamination and prescribe how the contaminants will be managed/monitored and the responsible parties for this management/monitoring in the long-term.

The ongoing environmental management plan must specifically outline the construction details, and the requirements of management and monitoring of the containment cell to ensure it is maintained appropriately, its integrity remains intact, and to avoid migration of contamination. The ongoing environmental management plan must also include a contingency plan if the systems fail.

7.20. The acoustic report submitted in support of this application, prepared by Acoustic Dynamics, titled "Operational Noise Emission Assessment, 149 Orchard Road, Chester Hill, NSW, reference number: 571R001.JC.220912, dated 12 September 2022 and recommendations in section 5 forms part of the development consent.

8. Conditions of Use.

8.1. The hours of operation of the use are 24 hours per day, 7 days per week.

8.2. All loading and unloading operations associated with servicing the site must be carried out within the confines of the site, at all times and must not obstruct other properties/units or the public way.

At all times the service vehicle docks, car parking spaces and access driveways must be kept clear of goods and must not be used for storage purposes, including garbage storage.

- 8.3. The approved car parking spaces, driveways and manoeuvring areas are to be used for employees and visitors' vehicles only and not for the storage of new or used materials, finished goods or commercial vehicles.
- 8.4. The flood storage area within the site as constructed shall not be altered and shall be maintained in good working order to the satisfaction of Council.
- 8.5. During occupation and ongoing use of the building, the consent holder must ensure all wastewater and stormwater treatment devices (including drainage systems, sumps and traps, and flood storage area) are regularly maintained, to remain effective and in accordance with any positive covenant (if applicable).
- 8.6. Any system using traffic light signals must maintain a green signal to entering vehicles at the point of entry and must maintain a red signal when an exiting vehicle is detected upon the ramp or driveway. This is to ensure that vehicles entering the site do not have to wait at the top of the ramp, and vehicles wishing to exit the site must wait for entering vehicle in the basement at the waiting bay.
- 8.7. All vehicles associated with the development are to enter and exit the site in a forward direction.
- 8.8. The requirements of the submitted Waste Management Plan shall be complied with at all times that the approved development is being carried out.
- 8.9. The consent holder shall enter into a commercial contract for the collection of wastes and recycling. A copy of the commercial waste and recycling contract shall be lodged with Council and invoices should be available for inspection at any time.
- 8.10. All commercial uses must engage and utilise the services of a private waste collection service and must have written evidence on site of a valid and current contract with a licenced waste collector for waste and recycling collection disposal.
- 8.11. 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 shall be removed and disposed of by an authorised waste removal contractor. A copy of the waste removal agreement and receipts shall be made available to Council on request.
- 8.12. No waste storage containers are to be located or placed outside the approved waste storage area at any time except for collection purposes.
- 8.13. The consent holder shall ensure that all activities within the premises comply with the relevant sections of the *Protection of the Environment Operations Act 1997* and Regulations and the NSW Environment Protection Authority Industrial Noise Policy (2000).
- 8.14. The approved landscaping and external work must be maintained post occupation and must not be altered or changed without Council approval or unless the altered work is carried out in accordance with the relevant provisions of the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

- 8.15. Instructions concerning procedures to be adopted in the event of an emergency are to be clearly displayed on the premises for both public and staff information at all times.
- 8.16. Any retailing undertaken on the premises must be ancillary to the main industrial use of the premises. The retailing sales area shall be restricted to a maximum of 15% of the total floor area as indicated on the approved plan.
- 8.17. The operation of the premises must comply with the relevant sections of the *Protection of the Environment Operations Act 1997* and the Noise Policy for Industry (2017) and shall not give rise to “offensive noise” as defined under the provisions of the *Protection of the Environment Operations Act 1997*.
- 8.18. The use of the premises and the operation of plant and equipment must not give rise to the transmission of a vibration nuisance or damage to other premises as defined in the ‘Assessing Vibration: A Technical Guideline’ (NSW Department of Environment and Conservation, 2006).
- 8.19. Any lighting of the premises must be installed in accordance with AS 4282-1997, ‘Control of the obtrusive effects of outdoor lighting’, so as to avoid annoyance to the occupants of adjoining premises or glare to motorists on nearby roads. Flashing, moving or intermittent lights or signs are prohibited. The intensity, colour or hours of illumination of the lights must be varied at Council’s discretion if Council considers there to be adverse effects on the amenity of the area.
- 8.20. The 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.
- 8.21. 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 shall be removed and disposed of by an authorised waste removal contractor. A copy of the waste removal agreement and receipts shall be made available to Council on request.
- 8.22. No mobile food vending vehicles or temporary food premises are permitted to operate at the premises without prior written consent from Council.