

Council's Responses to the Applicant's Proposed Changes to the Conditions of Consent

Condition Number	Description	Applicant's Proposal	Council's Responses
1	Compliance with Plans and Docs.	<i>Documentation references needing replacement: "Fire Engineering Report prepared by INCODE Solutions, dated 20 July 2022" To be replaced with: "Memo: Preliminary Fire Engineering Advice prepared by INCODE Solutions, dated 20 July 2022" "Waste Management Plan as prepared by Dickens Solutions, dated August 2022." To be replaced with: "Waste Management Plan as prepared by Dickens Solutions, dated November 2022." "Traffic Impact Assessment Report as prepared by Traffwise Consultants, Version 8, dated 31 March 2022." To be replaced with: "Traffic Impact Assessment Report as prepared by Traffwise Consultants, Version 10, dated 20 November 2022." Documentation references to be added: Civil Plans: C-4.20 Howatt Street Functional Layout Plan. Revision D. "Arboricultural Impact Assessment Report by Allied Tree Consultancy, dated June 2021."</i>	Council agrees to the proposed changes involving updated documents.
2	S7.11 Contribution - \$1,279,327	<i>Our calculation for Contributions on Stage 1: Contribution payable based on Indexation No. 31, effective on 18 January 2023: \$1,750,957 Credit for existing social housing on the site based on Indexation No. 31, effective on 18 January 2023: \$1,950,329 Net: \$199,327 in credit. A separate condition should be considered referencing the VPA to determine these contribution amounts.</i>	<p>Advise from Councils contributions office has reviewed the existing credits on the site and considers it appropriate that the credit required to be imposed is distributed across each respective stage. In this regard, the condition has been amended to reflect these changes;</p> <p>Section 7.11 Contributions</p> <p>Prior to the issue of a Construction Certificate, a receipt for the payment to Fairfield City Council of Section 7.11 contributions (pursuant to the Environmental Planning and Assessment Act 1979) for works detailed in the administration sheet attached to this consent shall be submitted to the Certifier.</p> <p>The total contribution to be paid to Council (as applicable at the date of this consent) is \$699,310.00</p> <p>The contribution amount payable will be adjusted at the date of payment to account for changes in infrastructure costs in line with</p>

			<p>the Australian Bureau of Statistics, Producer Price Index – Building Construction (New South Wales) and will be adjusted on a quarterly basis.</p> <p>Council may allow for deferred payment of the monetary contribution in accordance with the provisions set out in the Direct (Section 7.11) Development Contributions Plan 2011. If approval to allow deferred payment is sought, such approval must be sought and obtained from Council prior to the issue of a Construction Certificate for the development. Council may refuse to allow deferred payment of the monetary contribution in its absolute discretion.</p> <p>Refer to the Direct (Section 7.11) Development Contributions Plan 2011 for more information.</p>
4I	Soil depth in C.O.S. on levels 3&8 – min. 1m	<p><i>this condition currently reads that all soil within landscaped areas of Level 3 & 8 areas are to be min. 1m which is not appropriate.</i></p> <p><i>Suggested wording:</i></p> <p><i>“i. The soil depth within the landscaped areas in the communal open space on levels 3 and 8 must be a minimum of those soil depths outlined in the Apartment Design Guidelines Section 4P.</i></p>	Council agrees to the proposed recommended condition
4J	Trees no. 62-65 must be removed and replaced with suitable sizes and species.	<p><i>This condition does not provide approval to the trees proposed for removal in the Allied Tree Consultancy Report. Suggested wording: “4. J. In addition to the proposed treatment of site trees outlined in ‘Arboricultural Impact Assessment Report by Allied Tree Consultancy, dated June 2021’, trees labelled as No. 62, 63, 64 & 65 on the architectural plans must be removed and replaced with a suitable size and species within an appropriate area on site.”</i></p>	Awaiting further advice from Council Tree Preservation Officer.
11	Ongoing maintenance of the awning in accordance with the Awnings Maintenance Plan	<p><i>No awnings maintenance plan</i></p> <p><i>Proposed to delete or edit</i></p>	An Awnings Maintenance Plan has been prepared and attached to this report which shall be complied with during the life of the development.
12	Compensation to the Council for the removal of any street trees.	<p><i>This masterplan project proposes to delete those trees required to be removed for development and replanting a complete new street tree scheme.</i></p> <p><i>Proposed to delete condition</i></p>	Council agrees with the changes as requested by the applicant. Accordingly, this condition has been deleted.

		<i>given all street trees will be replaced by applicant and recommendations as outlined in Arboricultural Impact Assessment Report by Allied Tree Consultancy, dated June 2021', are to be adopted.</i>	
13	A 5-year Landscape Management Plan must be submitted to the Certifier.	<i>Propose to change: "issue of Construction Certificate", with "issue of Occupation Certificate"</i>	Council agrees to the proposed changes.
19	An Acoustic Assessment Report (Development Near Rail Corridors and Busy Roads) must be provided to the Principal Certifying Authority and the Council. All recommendations must be incorporated in the construction drawings and docs	<i>The proposed building is over 100m from rail line and therefore not applicable as the trigger for this requirement is 25m when referencing 'SEPP (Transport and Infrastructure) 2021'. Also, the last sentence of the condition is incomplete. Propose to delete condition.</i>	This condition has been imposed by Sydney Trains as part of the referral requirements of the application. Council is not in a position to agree to its deletion.
20	An Electrolysis Risk Report must be submitted to the Principal Certifying Authority. All recommendations must be incorporated in the construction drawings and docs.	<i>Condition not applicable given the distance from rail line. Propose to delete condition</i>	This condition has been imposed by Sydney Trains as part of the referral requirements of the application. Council is not in a position to agree to its deletion.
21	Sydney Trains confirms that its requirements/conditions on Craneage and Other Aerial Operations have been satisfied and are showing on plans if required.	<i>The proposed building is over 100m from rail line and therefore not applicable as the trigger for this requirement is 25m when referencing 'SEPP (Transport and Infrastructure) 2021'. Propose to delete condition</i>	This condition has been imposed by Sydney Trains as part of the referral requirements of the application. Council is not in a position to agree to its deletion.
44	Excavation and Backfilling must be carried out safely and in accordance with professional standards.	<i>Edit condition Saturday work hours be amended to 7:00am – 5:00pm This is standard in other LGAs</i>	The hours imposed in the condition of consent is consistent with the hours set out in the Department of Environment and Climate Change's Interim Construction Noise Guidelines and therefore considered appropriate. Given that the site is surrounded by residential development, any additional hours should be supported by an Acoustic assessment. It is recommended that the condition remain unchanged.
46	When Demolition/Building and Other Works are undertaken:	<i>Edit condition Saturday work hours be amended to 7:00am – 5:00pm This is standard in other LGAs</i>	The hours imposed in the condition of consent is consistent with the hours set out in the Department of Environment and Climate Change's Interim

	<ul style="list-style-type: none"> - Trade waste service must be provided - Plant equipment, fencing, materials, etc. must not be placed on public footpaths/roads - Work hours: Mon-Fri 07-18:00, Sat 08-13:00, no work on Sun and Public Holidays 		Construction Noise Guidelines and therefore considered appropriate. Given that that site is surrounded by residential development, any additional hours should be supported by an Acoustic assessment. It is recommended that the condition remain unchanged.
47	<p>Method of Stormwater Drainage:</p> <ul style="list-style-type: none"> - Must be diverted to the Council's channel at the rear of the site. o Drainage lines across the footpath and street outlets, if required, must be installed/constructed as per the Council's standards/specifications. - Roof guttering system must be operational as soon as the roof is clad - Surface of stormwater shall not be directed or cause nuisances to adjoining properties 	<p><i>Clarity of condition required: "The stormwater drainage generated from the development shall be directed to Council's channel at the rear of the site."</i></p> <p><i>Potential replacement wording: "The stormwater drainage generated from the development shall be directed to Council's existing stormwater network."</i></p>	Council agrees with the changes as requested by the applicant.
49	Tree Preservation Order must be complied with.	<p><i>Further to the point raised in Condition 4 regarding the approval to remove trees as outlined in arborist report.</i></p> <p><i>Suggested wording:</i></p> <p><i>You are not permitted to ringbark, cut down, top, lop, remove, wilfully injure or destroy a tree outside of those approved in Condition 4.j. of this consent and those listed in the Arboricultural Impact Assessment Report by Allied Tree Consultancy, dated June 2021.</i></p> <p><i>For any other tree not listed, you must have obtained prior written consent from Council. Fines may be imposed if you contravene Council's Tree Preservation Order</i></p>	Council agrees with the changes as requested by the applicant.
51	<p>Maintenance of the Construction Site</p> <ul style="list-style-type: none"> - Adequately maintained so as not to be prejudicial to the surrounding neighbourhood 	<p><i>This condition would require permanent fencing if we don't commence within 3 months of receipt of DA. Suggested wording: Once site works has formally commenced and during the construction and any dormant period, the applicant must ensure that the construction and/or</i></p>	Council agrees with the changes as requested by the applicant.

	<p>- If the site remains dormant for more than 3 months, permanent security fencing/hoarding/scaffolding and visual shielding should be installed and maintained</p> <p>- Alert signages must be displayed in prominent positions</p>	<p><i>development site is adequately maintained, as not to be prejudicial to the surrounding neighbourhood. In the event that the construction/development site remains dormant for a period in excess of three (3) months after construction has commenced, permanent security fencing, hoarding or scaffolding, as defined in the relevant Australian Standard and incorporating visual shielding shall be provided and maintained to the satisfaction of Council until the completion of the development or as applicable.</i></p>	
55	<p>Carparking – Residential</p> <p>– Total 119 spaces</p> <p>- 16 for social units</p> <p>- 105 for private units</p> <p>- 7 for visitors</p>	<p><i>Agree on the total of 119 spaces. 112 for residential use and 7 for visitors. The traffic report breakdown proposed is: - 32 social housing spaces, - 80 private spaces, - 7 visitor spaces. However, this may be subject to change and the SEPP requirements listed in the traffic report provides this flexibility of use. Therefore, proposed to amend parking condition to align with the development proposal: - 112 residential spaces, - 7 visitor spaces.</i></p>	<p>Council agrees with the changes as requested by the applicant.</p>
60	<p>Use of Building Not Approved. A separate development consent is required for the use of the ground floor information and education facility.</p>	<p><i>Applicant is seeking approval of the use, being information and education facility. Understood that further consent is required for fit out of the premises. Suggested wording: "Separate development consent is required for the building fit out and improvement of the ground floor information and education facility. The information and education facility shall comply with the Fairfield Local Environmental Plan 2013 definition as follows: information and education facility means a building or place used for providing information or education to visitors, and the exhibition or display of items, and includes an art gallery, museum, library, visitor information centre and the like."</i></p>	<p>No information on the use of the ground floor Information and education facility (such as hours of operation, number of staff etc.) was provided in the application. Accordingly, a separate assessment is required to be undertaken for this use prior to any Development Consent being granted for the use.</p> <p>It is recommended that the condition remain unchanged.</p>
62	<p>The Number of Social Housing Units should comply with the 30:70 social to private tenure mix set out in the Future Directions Policy. i.e., 34 in stage 1 and 66 in stage 2. Total of 100.</p>	<p><i>Delete condition.</i></p> <p><i>Council does not have the delegation under EP&A Act to compel this tenure mix and Stage 2 is irrelevant to this Consent.</i></p>	<p>Council considers it appropriate and necessary that this condition is imposed to ensure that the development complies with the 30:70 social to private tenure mix set out in the Future Directions for Social Housing in NSW (Future Directions). It is recommended that the condition remain as proposed and subject to the following suggested amendments;</p> <p><i>The revitalisation of the site located at Lot 37, DP 138481, No. 2 Kamira Avenue, Villawood shall comply with the 30:70 social to private tenure mix set out in the</i></p>

			<p><i>Future Directions for Social Housing in NSW (Future Directions) Policy. Accordingly, a total of thirty four (34) social housing units shall be provided in the subject development as part of and a total of one hundred (100) units be provided in both Stages 1 and 2 of the redevelopment of the site.</i></p>
67	Compliance with Food Act 2003	<p><i>Condition is not applicable. Propose to delete condition.</i></p>	<p>This condition applies to the ancillary café within the information and education facility. Given that this use is subject of a separate development assessment and approval, this condition can be removed from this consent.</p> <p>Accordingly, Council agrees to the applicant request to delete this condition.</p>
68	Grease Arrestor	<p><i>Condition is not applicable. Propose to delete condition.</i></p>	<p>This condition applies to the ancillary café within the information and education facility. Given that this use is subject of a separate development assessment and approval, this condition can be removed from this consent.</p> <p>Accordingly, Council agrees to the applicant request to delete this condition.</p>
74	Clothes Drying Facilities	<p><i>Condition is poorly worded and mandating clothes dryers in social housing units where tenants may not use them is not practical. Not all tenants can afford their operation.</i></p> <p><i>Also condition 53 covers the screening of clothes drying facilities.</i></p> <p><i>Propose to delete condition.</i></p> <p><i>It's agreed that a clothes drying solution should be provided for all units.</i></p> <p><i>Suggested wording:</i></p> <p><i>"Individual clothes drying facilities shall be provided to each unit."</i></p> <p><i>Condition 53 covers the screening of clothes drying facilities.</i></p>	<p>Council agrees to amend the condition as requested by the applicant. However subject to the following wording;</p> <p>The following shall be complies with at all times:</p> <ol style="list-style-type: none"> <i>Individual clothes drying facilities shall be provided to each unit within the balcony (i.e. within a drying cupboard) and shall be fully screened from public view. Under no circumstances shall are any clothing, curtains, rugs, mops or the like, are to be placed to be be or visible from any public place (i.e. from any window, railing or higher than the balcony balustrade).</i> <i>Clothes dryers are to be provided within the laundry of each unit, excluding the social housing units.</i>

			Based on the above recommended changed to Condition 74, it is recommended that Condition 53 be deleted.
75	Air-con Unit Approval. A separate DA should be lodged for any air-con unit that does not meet the requirements of the Council's City-Wide DCP and ADG.	<p><i>A development application for an individual air-conditioning unit is not practical.</i></p> <p><i>Air conditioner locations are included on the architectural plans.</i></p> <p><i>Propose to delete condition</i></p>	<p>The updated plans indicate the provision of A/C units on the balconies of the privately owned apartments. Furthermore, there are clothes lines located over the AC units which may have practical implications.</p> <p>It is considered that the existing arrangement is impractical and the plans do not indicate the dimensions of the air conditioning units. Accordingly, it is unclear how much area within the POS is lost as a result of the A/C units, particularly for the smaller balconies to the one bedroom units.</p> <p>The applicant has not demonstrated that the POS areas are still usable and have sufficient room for essential furniture and access and circulation with the placement of the A/C units. In this regard, the condition is recommended to remain until such time that full and proper details are provided demonstrating compliance with the ADGs.</p> <p>It is noted that the social housing units do not propose air conditioning units. It is therefore recommended that a condition be imposed that all social housing units be provided with ceiling fans within the living areas, as follows;</p> <p><i>Ceiling Fans</i></p> <p><i>The living areas to all the social housing units shall be provided with ceiling fans.</i></p>
77	Excess soil is not allowed to enter, be spread, or stockpiled within the rail corridor and its easements, and must be adequately managed/disposed of	<p><i>Condition is not applicable.</i></p> <p><i>Propose to delete condition.</i></p>	This condition has been imposed by Sydney Trains as part of the referral requirements of the application. Council is not in a position to agree to its deletion.

78	Drainage Disposed. All drainage from the development should not be discharged into the rail corridor unless prior approval has been obtained from Sydney Trains	<i>Delete condition. Redundant condition as the development is not able to drain into the rail corridor. The project will only discharge into Council's existing stormwater network</i>	This condition has been imposed by Sydney Trains as part of the referral requirements of the application. Council is not in a position to agree to its deletion.
80	Communication with Sydney Trains. The Applicant should have a representative who is available on a 7-day-a-week basis to liaise with Sydney Trains and oversees the carrying out of the Applicant's obligations under the conditions of this consent and in accordance with correspondence issued by Sydney Trains.	<i>The proposed building is over 100m from rail line and therefore not applicable as the trigger for this requirement is 25m when referencing 'SEPP (Transport and Infrastructure) 2021'</i>	This condition has been imposed by Sydney Trains as part of the referral requirements of the application. Council is not in a position to agree to its deletion.
81	During Demolition, Excavation & Construction Works, the applicant must consult in good faith with Sydney Trains in relation to the carrying out of the development works.	<i>The proposed building is over 100m from rail line and therefore not applicable as the trigger for this requirement is 25m when referencing 'SEPP (Transport and Infrastructure) 2021'.</i>	This condition has been imposed by Sydney Trains as part of the referral requirements of the application. Council is not in a position to agree to its deletion.
82	The Applicant should forward all requests and/or documentation to the relevant Sydney Trains External Interface Management team should a condition of consent requires consultation with Sydney Trains. West_interface@transport.nsw.gov.au	<i>The proposed building is over 100m from rail line and therefore not applicable as the trigger for this requirement is 25m when referencing 'SEPP (Transport and Infrastructure) 2021'.</i>	This condition has been imposed by Sydney Trains as part of the referral requirements of the application. Council is not in a position to agree to its deletion.
NEW	Waste Room Door	As a result of comments received by Councils Waste Officer in response to the Applicant further information, the following additional condition is recommended to be imposed on the conditions of consent.	<i>Waste Room Door An alternative door arrangement for the door blocking the vehicle path on the ground floor shall be implemented into the plans prior to the issue of the Construction Certificate.</i>
NEW	Compliance with the VPA	It is recommended that a further condition be imposed that prior to the occupation of	<i>Compliance with the VPA</i>

		the development, all commitments as set out in the VPA have been completed.	<i>All commitments within the VPA in respect of the redevelopment of the subject site of LOT 37, DP 138481, No. 2 Kamira Ave, Villawood shall be satisfied prior to the issue of an Occupation Certificate.</i>
New	Public Domain Plan	A further review of the draft conditions identified the absence of a condition in relation to the proposed public domain works. In this regard, a new condition has been added to address this matter.	<p><i>Public Domain Plan</i></p> <p><i>Prior to the issue of a Construction Certificate, detailed plans shall be submitted to and approved by the Manager of Development Planning of Fairfield City Council for the following:</i></p> <ul style="list-style-type: none"> <i>• Upgrading of the pedestrian footpath area, including street tree planting and landscape mass planting areas, along the length of the site's front boundary on Villawood Place and Villawood Road out to the back of kerb. The pavement upgrade, street tree planting and mass planting works must be approved by Council and reflect the high quality pavement character already in use at the Centre.</i> <i>• Upgrading the secondary pedestrian footpath area along the rear of the site adjacent to the public carpark out to the back of kerb. The works must be approved by Council and reflect the character of similar secondary treatments in use at the Centre</i> <i>• Detailed plans of the awning which includes the installation of under awning lighting along the length of the cantilevered awning of the building frontage in Villawood Place and Villawood Road. The lighting shall meet Australian standards and be part of the awning infrastructure.</i>
Proposed amendment to Condition 8	Construction Certificate Engineering Approval – Section 138	Councils Development Engineer has reviewed condition number 8 and has identified some anomalies, and as such, amended the condition to address this matter.	<p>Construction Certificate Engineering Approval – Section 138 Council Approval</p> <p>Prior to the issue of a Building Construction Certificate, an Engineering Approval – Section 138 Council Approval shall be submitted to the Certifier for the</p>

			<p>construction of footpath and Stormwater Connection to Council pipe in accordance with approved plans and specifications at no cost to Council.</p> <p>For the issue of a Section 138 Approval, five (5) copies of plans and specifications giving full details of the design and construction shall be submitted with the application.</p> <p>Prior to release of the Building Construction Certificate, the applicant shall lodge with Council, a bank guarantee or a cash bond to the cost of all works required under this consent to be carried out within the road reserve or on land under the control of Council. The value of the bank guarantee or the cash bond will be determined by Council upon approval of the detailed engineering drawings.</p>
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