

## STAGE 1 COMPLYING DEVELOPMENT CERTIFICATE 190035/01/01

Issued under the Environmental Planning and Assessment Act 1979 Section 4.28 (6)

### APPLICANT DETAILS

Applicant: Ross Macpherson, c/- Anita Crowe  
 Address: PO Box 380, Newport NSW 2106  
 Phone: 0410 544 257 – Anita Crowe

### OWNER DETAILS

Name of the person having benefit of the development consent: Macpherson Property and Management  
 Address: PO Box 380, Newport NSW 2106  
 Phone: 02 9997 8105

### COMPLYING DEVELOPMENT CONSENT

Determination of CDC Application: Approved  
 Complying Development Certificate Number: 190035/01/01  
 Certifying Authority: Accredited Certifier Peter Antcliffe  
 Relevant Planning Instrument: State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 – Part 5 Commercial and Industrial Alterations Code  
 Date of Application: 04 December, 2019  
 Date of Determination: 15/01/2020  
 Date of Lapse: 15/01/2025 (5 years from issue)

### DEVELOPMENT DETAILS

Address of Development: 11-17 Wilmette Place, Mona Vale NSW 2103  
 Lot/DP: Lot 131 DP 708044, Lot 17 DP 707610  
 Land Use Zone: IN2: Light Industrial  
 BCA Classification/s: Class 5 and 7b  
 Scope of Building Works Covered by this Certificate: Internal Alterations to an existing industrial building  
 Value of Construction (incl. GST) \$450,000.00  
 Plans and Specifications Accompanying CDC Application: Refer Schedule 1: Appendix of Supporting Documents  
 Conditions: Refer Schedule 2: Conditions imposed by the EP&A Regulations 2000 and SEPP (Exempt and Complying Development Codes) 2008  
 Fire Safety Schedule: Refer Schedule 3: Fire Safety Schedule attached

### DETAILS OF ANY NEW ALTERNATIVE SOLUTION REPORT/S Pursuant to Clause 134 and Clause 130(2A) of the EP&A Regulations 2000

Title of the report: Fire Engineering Report  
 Date the report was made: 6 November 2019  
 Reference number and version number of the report: Report No.: S19151 Revision FER 2.0  
 Name of the competent fire safety practitioner who prepared the report or on whose behalf the report was prepared: Prepared by: Lei Wang and Mark McDaid of MCD Fire Engineering  
 The accreditation number of that practitioner: C10 – BPB3165 and BPB2165  
 Other Alternative Solution Report/s relating to the entire building: Refer Schedule 3: Fire Safety Schedule attached

### DETAILS OF ANY FIRE SAFETY SYSTEMS EXEMPT FROM COMPLIANCE WITH THE BCA Pursuant to Clause 134 and Clause 164B of the EP&A Regulations 2000

Exemption/s: To not upgrade the existing Automatic Fire suppression system (sprinklers) to the current standards  
 Grounds for the exemption/s: The operational performance of the system will not be diminished  
 Name of the competent fire safety practitioner who has endorsed the non-compliance/s: Glen Hughes and Steven Trevor of Flamesafe Fire Protection

**CERTIFYING AUTHORITY**

Accredited Certifier:	Peter Antcliffe
Accreditation Body:	Building Professionals Board
Registration Number:	BPB0009

*I, Peter Antcliffe, as the certifying authority, state that the proposed development is a complying development, and, (if carried out as specified in this certificate), will comply with all development standards applicable to the development and with such other requirements prescribed by the Environmental Planning and Assessment Regulation 2000 concerning the issue of this certificate.*

**Signed:**



Peter Antcliffe  
**Accredited Certifier**

**Dated:** 15 January, 2020

## SCHEDULE 1: APPENDIX OF SUPPORTING DOCUMENTS

### 1. STATUTORY DOCUMENTS:

Completed Complying Development Certificate and PCA Appointment Application Form:	<i>Date received: 04/12/2019</i>
Condition requiring payment of Section 7.11 / 7.12 (formerly known as S94/S94A) Contributions – Clause 136K of the EP&A Regulations:	<i>It has been determined by this office that the payment of Section 7.12 Contributions is not applicable.</i>

### 2. LICENSED CONTRACTOR DETAILS:

Principal Contractor:	<i>Buildline Constructions Pty Ltd</i>
Licence No.:	<i>190419c</i>

### 3. BCA & ESSENTIAL FIRE SAFETY MEASURES:

Fire Engineering Report	<i>Report No.: S19151 Revision FER 2.0, Prepared by: Lei Wang and Mark McDaid of MCD Fire Engineering, dated 6/11/2019</i>
Annual Fire Safety Statement:	<i>AFSS prepared by: Glen Hughes of Flamesafe, dated 6/09/2019</i>

### 4. FEES, LEVIES, BONDS, CONTRIBUTIONS:

Long Service Levy:	<i>Receipt No.: 407336, issued by Northern Beaches Council, dated 4/12/2019</i>
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### 5. APPROVED ARCHITECTURAL PLANS AND SPECIFICATIONS:

Architectural Drawings prepared by:	<i>Drawings prepared by Nordon - Jago Architects</i>
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Drawing Number	Revision	Date
EX.002, EX.005, WD.001, WD.002, WD.006	F	22/11/19
EX.003, EX.004, EX.007, EX.008, WD.003, WD.005	G	22/11/19
	D	22/11/19
WD.004	E	22/11/19

- 6. ENDORSED FIRE SERVICES PLANS AND SPECIFICATIONS** Pursuant to Clause 136AA of the EP & A Regulation 2000:
- *The Certifying Authority is satisfied that the person responsible for preparing the referenced fire services plans and specifications is a Competent Fire Safety Practitioner.*
  - *The Certifying Authority endorses that each of the referenced plans and specifications correctly identifies both the performance requirements and the deemed-to-satisfy provisions of the Building Code of Australia*

Fire Services Drawings prepared by:	<i>Drawings prepared by Flame Safe Fire Protection</i>
Fire Services Design Statement	<i>Design Statement provided by: Glen Hughes of Flame Safe Fire protection, dated 20/12/2019</i>
Clause 164B Exemption letter	<i>Provided by Glen Hughes and Steven Trevor of Flamesafe Fire Protection, dated 20/12/2019</i>

Drawing Number	Revision	Date
FS03, FHR01, FS01, FS02, FS03	A	20/12/2019

### 7. HYDRAULIC DESIGN STATEMENT:

Hydraulic Design Statement	<i>Design Statement provided by: S.Lambert of Plumbing concepts, dated 15/12/2019</i>
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### 8. ELECTRICAL DESIGN STATEMENT:

Electrical Design Statement	<i>Design Statement provided by: Matthew Deauchar of Pm Electric Pty Ltd</i>
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**9. MECHANICAL DESIGN STATEMENT:**


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Mechanical Design Statement

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*Design Statement provided by: Peter Mitchell of Cool Temp Services, dated 15/12/2019*


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**10. STRUCTURAL DESIGN STATEMENT:**


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Structural Design Statement

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*Design Statement provided by: Ray J. Kusturin of H & H Consulting Engineers Pty Ltd, dated 18/12/2019*


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**11. OTHER SUPPORTING DOCUMENTS:**


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Waste Management Plan

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*Details provided by Peter Inkpen, dated 14/01/2020*

Cost Summary Report

*Prepared by Peter Inkpen, dated 13/01/2020.*

Survey

*Provided by LTS Lockley, reference no. 42195DT, sheets 6 and 7, dated 20/07/2015*


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## SCHEDULE 2: CONDITIONS IMPOSED BY THE EP&A REGULATIONS 2000 AND SEPP (EXEMPT AND COMPLYING DEVELOPMENT CODES) 2008

### CONDITION REQUIRING PAYMENT OF S7.11 / 7.12 CONTRIBUTIONS TO COUNCIL IN ACCORDANCE WITH CONTRIBUTION PLAN

As required under the Council's contributions plan, this condition is imposed requiring that applicable contributions are paid to Council in accordance with that contributions plan. This requirement is pursuant to Clause 136K of the EP&A regulations (see clause below). Furthermore, it is a requirement that S7.11/S7.12 payment is made and receipted by Council, prior to any works commencing in relation to this development, pursuant to clause 136L of the EP&A Regulation (see clause below).

In this case - the contributions payable to Council are as follows:

- \$0

Please note the following provisions in clause 25J of the EP&A Regulations – Section 7.12 levy - determination of proposed cost of development:

1. *The proposed cost of carrying out development is to be determined by the consent authority, for the purpose of a section 7.12 levy, by adding up all the costs and expenses that have been or are to be incurred by the applicant in carrying out the development, including the following:*
  - a. *if the development involves the erection of a building, or the carrying out of engineering construction work—the costs of or incidental to erecting the building, or carrying out the work, including the costs (if any) of and incidental to demolition, excavation and site preparation, decontamination or remediation,*
  - b. *if the development involves a change of use of land—the costs of or incidental to doing anything necessary to enable the use of the land to be changed,*
  - c. *if the development involves the subdivision of land—the costs of or incidental to preparing, executing and registering the plan of subdivision and any related covenants, easements or other rights.*
2. *For the purpose of determining the proposed cost of carrying out development, a consent authority may have regard to an estimate of the proposed cost of carrying out the development prepared by a person, or a person of a class, approved by the consent authority to provide such estimates.*
3. *The following costs and expenses are not to be included in any estimate or determination of the proposed cost of carrying out development:*
  - a. *the cost of the land on which the development is to be carried out,*
  - b. *the costs of any repairs to any building or works on the land that are to be retained in connection with the development,*
  - c. *the costs associated with marketing or financing the development (including interest on any loans),*
  - d. *the costs associated with legal work carried out or to be carried out in connection with the development,*
  - e. *project management costs associated with the development,*

Northern Beaches Section 7.12 Contributions Plan 2019 9

#### 2.5 What development is exempted?

This plan DOES NOT apply to the following types of developments:

- Development applications and Complying Development Certificates where the proposed cost of carrying out development is up to and including \$100,000.
- **Internal fitout works only (no enlargement or expansion of floorspace).**
- Development for the purpose of the adaptive re-use of an item of environmental heritage.
- Local infrastructure identified in this plan to be carried out by or on behalf of any public authority including the Council (e.g. if a community facility includes commercial/retail floorspace then the commercial/retail floorspace of the development will, based on that component's cost of works, be subject to the levy).
- Social housing and community housing provided by an organisation registered as a social housing provider with the NSW Government. Applicants must demonstrate they meet these criteria within the application.
- Development for the purposes of any form of seniors' housing defined in State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 that is provided by a social housing provider registered with the NSW Government. Applicants must demonstrate they meet these criteria within the application.
- Development for public purposes that is provided by a charity registered with the Australian Taxation Office (ATO).
- Development exempted from contributions under section 7.17 of the EP&A Act<sup>9</sup> by way of a direction made by the Minister for Planning. Directions that are in force may be viewed on the Department of Planning and Environment's website.

#### 2.6 What Local Infrastructure will be provided under this plan?

The local infrastructure to be provided by contributions received under this plan includes but is not limited to:

- Social infrastructure and open space facilities including playgrounds, sports grounds, synthetic sports surface conversions, reserves, trails, youth and community facility.
- Traffic/active transport facilities and public domain facilities including footpaths, kerb and gutter works, end of trip facilities, commercial centre upgrades (with paving, street tree planting, public art and street lighting).

Local infrastructure identified in the works schedule will be delivered from 2020/21.

The costs of administering this plan will also be met by contributions imposed under this plan.

A summary of the costs of local infrastructure to be met by development approved under this plan is shown in Table 1. The administration costs amount to 1.5% of these infrastructure costs (based on the IPART Local Infrastructure Benchmark Costs Report).

More details on the demand for local infrastructure, the relationship of the local infrastructure with the expected development, and the specific facilities to be provided are included in Part 3 and Appendix A of this plan.

<sup>9</sup> or the corresponding section 94E of the EP&A Act that existed immediately before the commencement of the Environmental Planning and Assessment Amendment Act 2017.

- f. *the cost of building insurance in respect of the development,*
  - g. *the costs of fittings and furnishings, including any refitting or refurbishing, associated with the development (except where the development involves an enlargement, expansion or intensification of a current use of land),*
  - h. *the costs of commercial stock inventory,*
  - i. *any taxes, levies or charges (other than GST) paid or payable in connection with the development by or under any law,*
  - j. *the costs of enabling access by disabled persons in respect of the development,*
  - k. *the costs of energy and water efficiency measures associated with the development,*
  - l. *the cost of any development that is provided as affordable housing,*
  - m. *the costs of any development that is the adaptive reuse of a heritage item.*
4. *The proposed cost of carrying out development may be adjusted before payment, in accordance with a contributions plan, to reflect quarterly or annual variations to readily accessible index figures adopted by the plan (such as a Consumer Price Index) between the date the proposed cost was determined by the consent authority and the date the levy is required to be paid.*

## ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION 2000 – CONDITIONS OF COMPLYING DEVELOPMENT CERTIFICATE

### 136AA CONDITION RELATING TO FIRE SAFETY SYSTEMS IN CLASS 2–9 BUILDINGS

- (1) A complying development certificate for building work involving the installation, extension or modification of any relevant fire safety system in a class 2, 3, 4, 5, 6, 7, 8 or 9 building, as defined in the *Building Code of Australia*, must be issued subject to the condition required by this clause.
- (2) The condition required by this clause is that the building work involving the installation, modification or extension of the relevant fire safety system cannot commence unless:
  - (a) plans have been submitted to the principal certifying authority that show:
    - i. in the case of building work involving the installation of the relevant fire safety system—the layout, extent and location of key components of the relevant fire safety system, or
    - ii. in the case of building work involving the modification or extension of the relevant fire safety system—the layout, extent and location of any new or modified components of the relevant fire safety system, and
  - (b) specifications have been submitted to the principal certifying authority that:
    - i. describe the basis for design, installation and construction of the relevant fire safety system, and
    - ii. identify the provisions of the Building Code of Australia upon which the design of the system is based, and
  - (c) those plans and specifications:
    - i. (i) have been certified by a compliance certificate referred to in section 6.4 (e) of the Act as complying with the relevant provisions of the Building Code of Australia, or
    - ii. (ii) unless they are subject to an exemption under clause 164B, have been endorsed by a competent fire safety practitioner as complying with the relevant provisions of the Building Code of Australia, and
  - (d) if those plans and specifications were submitted before the complying development certificate was issued—each of them was endorsed by the certifying authority with a statement that the certifying authority is satisfied that it correctly identifies both the performance requirements and the deemed-to-satisfy provisions of the Building Code of Australia, and

- (e) (e) if those plans and specifications were not submitted before the complying development certificate was issued—each of them was endorsed by the principal certifying authority with a statement that the principal certifying authority is satisfied that it correctly identifies both the performance requirements and the deemed-to-satisfy provisions of the Building Code of Australia.
- (3) In this clause:
 

**Relevant fire safety system** means any of the following:

  - (a) a hydraulic fire safety system within the meaning of clause 165,
  - (b) a fire detection and alarm system,
  - (c) a mechanical ducted smoke control system.

### 136A COMPLIANCE WITH BUILDING CODE OF AUSTRALIA AND INSURANCE REQUIREMENTS UNDER THE HOME BUILDING ACT 1989

(cf clauses 78 and 78A of EP&A Regulation 1994)

- (1) A complying development certificate for development that involves any building work must be issued subject to the following conditions:
  - (a) that the work must be carried out in accordance with the requirements of the *Building Code of Australia*,
  - (b) in the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance must be entered into and be in force before any building work authorised to be carried out by the certificate commences.
- (1A) A complying development certificate for a temporary structure that is used as an entertainment venue must be issued subject to the condition that the temporary structure must comply with Part B1 and NSW Part H102 of Volume One of the *Building Code of Australia* (as in force on the date the application for the relevant complying development certificate is made).
- (2) This clause does not limit any other conditions to which a complying development certificate may be subject, as referred to in section 4.28 (6) (a) of the Act.
- (3) This clause does not apply:
  - (a) to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4), or
  - (b) to the erection of a temporary building, other than a temporary structure that is used as an entertainment venue.



- (4) In this clause, a reference to the *Building Code of Australia* is a reference to that Code as in force on the date the application for the relevant complying development certificate is made.

**Note:** There are no relevant provisions in the *Building Code of Australia* in respect of temporary structures that are not entertainment venues.

### 136AB NOTICE TO NEIGHBOURS

- (1) A complying development certificate for development on land that is in a category 1 local government area and that is not in a residential release area and that involves:
- (a) a new building, or
  - (b) an addition to an existing building, or
  - (c) the demolition of a building,

must be issued subject to a condition that the person having the benefit of the complying development certificate must give at least 7 days' notice in writing of the person's intention to commence the work authorised by the certificate to the occupier of each dwelling that is located on a lot that has a boundary within 20 metres of the boundary of the lot on which the work is to be carried out.

- (2) A complying development certificate for development on land that is in a category 2 local government area or a residential release area and that involves:
- (a) a new building, or
  - (b) an addition to an existing building, or
  - (c) the demolition of a building,

must be issued subject to a condition that the person having the benefit of the complying development certificate must give at least 2 days' notice in writing of the person's intention to commence the work authorised by the certificate to the occupier of each dwelling that is located on a lot that has a boundary within 20 metres of the boundary of the lot on which the work is to be carried out.

- (3) In this clause:

**category 1 local government area** means any of the local government areas of Ashfield, City of Auburn, City of Bankstown, City of Blacktown, City of Blue Mountains, City of Botany Bay, Burwood, Camden, City of Campbelltown, Canada Bay, City of Canterbury, City of Fairfield, City of Hawkesbury, City of Holroyd, Hornsby, Hunter's Hill, City of Hurstville, City of Kogarah, Ku-ring-gai, Lane Cove, Leichhardt, City of Liverpool, Manly, Marrickville, Mosman, North Sydney, City of Parramatta, City of Penrith, Pittwater, City of Randwick, City of Rockdale, City of Ryde, Strathfield, Sutherland Shire, City of Sydney, The Hills Shire, Warringah, Waverley, City of Willoughby, Wingecarribee, Wollondilly or Woollahra.

**category 2 local government area** means any local government area that is not a category 1 local government area.

**residential release area** means any land within:

- (a) an urban release area identified within a local environmental plan that adopts the applicable mandatory provisions of the Standard Instrument, or
- (b) a land release area identified under the *Eurobodalla Local Environmental Plan 2012*, or
- (c) any land subject to *State Environmental Planning Policy (Sydney Region Growth Centres) 2006*, or
- (d) any area included in Parts 6, 26, 27, 28 and 29 of Schedule 3 to *State Environmental Planning Policy (Major Development) 2005*.

### 136B ERECTION OF SIGNS

- (1) A complying development certificate for development that involves any building work, subdivision work or demolition work must be issued subject to a condition that the requirements of subclauses (2) and (3) are complied with.
- (2) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
  - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - (c) stating that unauthorised entry to the site is prohibited.
- (3) Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (4) This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building, that does not affect the external walls of the building.
- (5) This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the Act, to comply with the technical provisions of the State's building laws.
- (6) This clause applies to a complying development certificate issued before 1 July 2004 only if the building work, subdivision work or demolition work involved had not been commenced by that date.

**Note:** Principal certifying authorities and principal contractors must also ensure that signs required by this clause are erected and maintained (see clause 227A which currently imposes a maximum penalty of \$1,100).

### 136C NOTIFICATION OF HOME BUILDING ACT 1989 REQUIREMENTS

- (1) A complying development certificate for development that involves any residential building work within the meaning of the *Home Building Act 1989* must be issued subject to a condition that the work is carried out in accordance with the requirements of this clause.



- (2) Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:
  - (a) in the case of work for which a principal contractor is required to be appointed:
    - (i) the name and licence number of the principal contractor, and
    - (ii) the name of the insurer by which the work is insured under Part 6 of that Act,
  - (b) in the case of work to be done by an owner-builder:
    - (i) the name of the owner-builder, and
    - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- (3) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.
- (4) This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the Act, to comply with the technical provisions of the State's building laws.

### 136D FULFILMENT OF BASIX COMMITMENTS

- (1) This clause applies to the following development:
  - (a) BASIX affected development,
  - (b) any BASIX optional development in relation to which a person has made an application for a complying development certificate that has been accompanied by a BASIX certificate or BASIX certificates (despite there being no obligation under clause 4A of Schedule 1 for it to be so accompanied).
- (2) A complying development certificate for development to which this clause applies must be issued subject to a condition that the commitments listed in each relevant BASIX certificate for the development must be fulfilled.

### 136E DEVELOPMENT INVOLVING BONDED ASBESTOS MATERIAL AND FRIABLE ASBESTOS MATERIAL

- (1) A complying development certificate for development that involves building work or demolition work must be issued subject to the following conditions:
  - (a) work involving bonded asbestos removal work (of an area of more than 10 square metres) or friable asbestos removal work must be undertaken by a person who carries on a business of such

- removal work in accordance with a licence under clause 458 of the *Work Health and Safety Regulation 2011*,
- (b) the person having the benefit of the complying development certificate must provide the principal certifying authority with a copy of a signed contract with such a person before any development pursuant to the complying development certificate commences,
- (c) any such contract must indicate whether any bonded asbestos material or friable asbestos material will be removed, and if so, must specify the landfill site (that may lawfully receive asbestos) to which the bonded asbestos material or friable asbestos material is to be delivered,
- (d) if the contract indicates that bonded asbestos material or friable asbestos material will be removed to a specified landfill site, the person having the benefit of the complying development certificate must give the principal certifying authority a copy of a receipt from the operator of the landfill site stating that all the asbestos material referred to in the contract has been received by the operator.
- (2) This clause applies only to a complying development certificate issued after the commencement of this clause.
- (3) In this clause,
  - “**bonded asbestos material**”,
  - “**bonded asbestos removal work**”,
  - “**friable asbestos material**” and
  - “**friable asbestos removal work**” have the same meanings as in clause 317 of the *Occupational Health and Safety Regulation 2001*.

**Note 1:** Under clause 317 removal work refers to work in which the bonded asbestos material or friable asbestos material is removed, repaired or disturbed.

**Note 2:** The effect of subclause (1) (a) is that the development will be a workplace to which the *Occupational Health and Safety Regulation 2001* applies while removal work involving bonded asbestos material or friable asbestos material is being undertaken.

**Note 3:** Information on the removal and disposal of asbestos to landfill sites licensed to accept this waste is available from the Department of Environment, Climate Change and Water.

**Note 4:** Demolition undertaken in relation to complying development under the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* must be carried out in accordance with Australian Standard AS 2601—2001, *Demolition of structures*.

### 136H CONDITION RELATING TO SHORING AND ADEQUACY OF ADJOINING PROPERTY

- (1) A complying development certificate for development must be issued subject to a condition

that 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 person having the benefit of the certificate must at the person's 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.
- (2) The condition referred to in subclause (1) does not apply if the person having the benefit of the complying development certificate owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

### **136I TRAFFIC GENERATING DEVELOPMENT**

If an application for a complying development certificate is required to be accompanied by a certificate of Roads and Maritime Services as referred to in clause 4 (1) (j) or (k) of Schedule 1, the complying development certificate must be issued subject to a condition that any requirements specified in the certificate of Roads and Maritime Services must be complied with.

### **136J DEVELOPMENT ON CONTAMINATED LAND**

- (1) If an application for a complying development certificate is required to be accompanied by a statement of a qualified person as referred to in clause 4 (1) (l) of Schedule 1, the complying development certificate must be issued subject to a condition that any requirements specified in the statement must be complied with.
- (2) Subclause (1) does not apply to complying development carried out under the complying development provisions of *State Environmental Planning Policy (Three Ports) 2013* in the Lease Area within the meaning of clause 4 of that Policy.

### **136K WHEN COMPLYING DEVELOPMENT CERTIFICATES MUST BE SUBJECT TO SECTION 4.28 (9) CONDITION**

- (1) This clause applies if a council's contributions plan provides for the payment of a monetary section 7.11 contribution or section 7.12 levy in relation to development for a particular purpose (whether or not it is classed as complying development under the contributions plan).
- (2) The certifying authority must issue the relevant complying development certificate authorising development for that purpose subject to a condition requiring payment of such contribution or levy, as required by section 4.28 (9) of the Act.

- (3) Subclause (2) applies despite any provision to the contrary in the council's contributions plan.

### **136L CONTRIBUTIONS AND LEVIES PAYABLE UNDER SECTION 4.28 (9) MUST BE PAID BEFORE WORK COMMENCES**

- (1) A complying development certificate issued subject to a condition required by Section 4.28 (9) of the Act must be issued subject to a condition that the contribution or levy must be paid before any work authorised by the certificate commences.
- (2) Subclause (1) applies despite any provision to the contrary in the council's contributions plan.

### **136M CONDITION RELATING TO PAYMENT OF SECURITY**

- (1) This clause applies to a complying development certificate authorising the carrying out of development if:
  - (a) the development is demolition of a work or building, erection of a new building or an addition to an existing building and the estimated cost of the development (as specified in the application for the certificate) is \$25,000 or more, and
  - (b) the development is to be carried out on land adjacent to a public road, and
  - (c) at the time the application for the certificate is made, there is specified on the website of the council for the area in which the development is to be carried out an amount of security determined by the council that must be paid in relation to:
    - (i) development of the same type or description, or
    - (ii) development carried out in the same circumstances, or
    - (iii) development carried out on land of the same size or description.
- (2) A complying development certificate to which this clause applies must be issued subject to a condition that the amount of security referred to in subclause (1) is to be provided, in accordance with this clause, to the council before any building work or subdivision work authorised by the certificate commences.
- (3) The security may be provided, at the applicant's choice, by way of:
  - (a) deposit with the council, or
  - (b) a guarantee satisfactory to the council.
- (4) The funds realised from a security may be paid out to meet the cost of making good any damage caused to any property of the council as a consequence of doing anything (or not doing anything) authorised or required by the complying development certificate, including the cost of any

inspection to determine whether damage has been caused.

- (5) Any balance of the funds realised from a security remaining after meeting the costs referred to in subclause (4) is to be refunded to, or at the direction of, the person who provided the security.

#### **136N PRINCIPAL CERTIFYING AUTHORITY TO BE SATISFIED THAT PRECONDITIONS MET BEFORE COMMENCEMENT OF WORK**

- (1) This clause applies to building work or subdivision work that is the subject of a complying development certificate.
- (2) A principal certifying authority for building work or subdivision work to be carried out on a site, and over which the principal certifying authority has control, is required to be satisfied that any preconditions in relation to the work and required to be met before the work commences have been met before the work commences.

### **STATE ENVIRONMENTAL PLANNING POLICY (EXEMPT AND COMPLYING DEVELOPMENT CODES) 2008**

#### **SCHEDULE 8 - CONDITIONS APPLYING TO COMPLYING DEVELOPMENT CERTIFICATES UNDER THE COMMERCIAL AND INDUSTRIAL ALTERATIONS CODE AND THE COMMERCIAL AND INDUSTRIAL (NEW BUILDINGS AND ADDITIONS) CODE (Clauses 5.25 and 5A.31)**

**Note 1:** Complying development under the Commercial and Industrial Alterations Code and the Commercial and Industrial (New Buildings and Additions) Code must comply with the requirements of the Act, the *Environmental Planning and Assessment Regulation 2000* and the conditions listed in this Schedule.

**Note 2:** Division 2A of Part 7 of the *Environmental Planning and Assessment Regulation 2000* specifies conditions to which certain complying development certificates are subject.

**Note 3:** In addition to the requirements specified for development under this Policy, adjoining owners' property rights, applicable common law and other legislative requirements for approvals, licences, permits and authorities still apply.

**Note 4:** If the development is in the proximity of infrastructure (including water, stormwater or sewer mains, electricity power lines and telecommunications facilities), the relevant infrastructure authority should be contacted before commencing the development.

**Note 5:** Under Section 4.29 of the *Environmental Planning and Assessment Act 1979*, a complying development certificate lapses 5 years after the date endorsed on the certificate, unless the development has physically commenced on the land during that period.

#### **PART 1 CONDITIONS APPLYING BEFORE WORKS COMMENCE**

##### **1 Protection of adjoining areas**

A temporary hoarding or temporary construction site fence must be erected between the work site and adjoining lands before the works begin and must be kept in place until after the completion of the works if the works:

- (a) could cause a danger, obstruction or inconvenience to pedestrian or vehicular traffic, or
- (b) could cause damage to adjoining lands by falling objects, or
- (c) involve the enclosure of a public place or part of a public place.

**Note:** Clauses 2.67 and 2.68 of this Policy specify which scaffolding, hoardings and temporary construction site fences are exempt development and state the applicable standards for that development.

##### **2 Toilet facilities**

- (1) Toilet facilities must be available or provided at the work site before works begin, and must be maintained until the works are completed, at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.
- (2) Each toilet must:

- (a) be a standard flushing toilet connected to a public sewer, or
- (b) have an on-site effluent disposal system approved under the *Local Government Act 1993*, or
- (c) be a temporary chemical closet approved under the *Local Government Act 1993*.

##### **3 Waste management**

- (1) A waste management plan for the work must be submitted to the principal certifying authority at least 2 days before work commences on the site
- (2) The waste management plan must:
  - (a) identify all waste (including excavation, demolition and construction waste materials) that will be generated by the work on the site, and
  - (b) identify the quantity of waste material in tonnes and cubic metres to be:
    - (i) reused on-site, and
    - (ii) recycled on-site and off-site, and
    - (iii) disposed of off-site, and
  - (c) if waste materials are to be reused or recycled on-site—specify how the waste material will be reused or recycled on-site, and
  - (d) if waste materials are to be disposed of or recycled off-site—specify the contractor who

will be transporting the materials and the waste facility or recycling outlet to which the materials will be taken.

- (3) A garbage receptacle must be provided at the work site before works begin and must be maintained until the works are completed.
- (4) The garbage receptacle must have a tight fitting lid and be suitable for the reception of food scraps and papers.

#### 4 Adjoining wall dilapidation report

- (1) Before commencing any demolition or excavation works, the person having the benefit of the complying development certificate must obtain a dilapidation report on any part of a building that is within 2m of the works.
- (2) If the person preparing the report is denied access to the building for the purpose of an inspection, the report may be prepared from an external inspection.

#### 5 Run-off and erosion controls

Run-off and erosion controls must be implemented to prevent soil erosion, water pollution or the discharge of loose sediment on the surrounding land by:

- (a) diverting uncontaminated run-off around cleared or disturbed areas, and
- (b) erecting a silt fence and providing any other necessary sediment control measures that will prevent debris escaping into drainage systems, waterways or adjoining properties, and
- (c) preventing the tracking of sediment by vehicles onto roads, and
- (d) stockpiling top soil, excavated materials, construction and landscaping supplies and debris within the lot.

### PART 2 - CONDITIONS APPLYING DURING THE WORKS

**Note:** The *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Operations (Noise Control) Regulation 2008* contain provisions relating to noise.

#### 6 Standard hours for construction

Construction 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.

#### 7 Works outside standard hours for construction

- (1) Work may be carried out outside the standard hours for construction if the work only generates noise that is:
  - (a) no louder than 5 dB(A) above the rating background level at any adjoining residence in accordance with the *Interim Construction Noise Guideline (ISBN 978 1 74232 217 9)* published by the Department of Environment and Climate Change NSW in July 2009, and

- (b) no louder than the noise management levels specified in Table 3 of that guideline at other sensitive receivers.

- (2) Work may be carried out outside the standard hours for construction:
  - (a) for the delivery of materials—if prior approval has been obtained from the NSW Police Force or any other relevant public authority, or
  - (b) in an emergency, to avoid the loss of lives or property or to prevent environmental harm.

#### 8 Compliance with plans

Works must be carried out in accordance with the plans and specifications to which the complying development certificate relates.

#### 9 Demolition

Any demolition must be carried out in accordance with AS 2601—2001, *The demolition of structures*.

#### 10 Maintenance of site

- (1) All materials and equipment must be stored wholly within the work site unless an approval to store them elsewhere is held.
- (2) Waste materials (including excavation, demolition and construction waste materials) must be managed on the site and then disposed of at a waste management facility.
- (3) Copies of receipts stating the following must be given to the principal certifying authority:
  - (a) the place to which waste materials were transported,
  - (b) the name of the contractor transporting the materials
  - (c) the quantity of materials transported off-site and recycled or disposed of.
- (4) Any run-off and erosion control measures required must be maintained within their operating capacity until the completion of the works to prevent debris escaping from the site into drainage systems, waterways, adjoining properties and roads.
- (5) During construction:
  - (a) all vehicles entering or leaving the site must have their loads covered, and
  - (b) all vehicles, before leaving the site, must be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads.
- (6) At the completion of the works, the work site must be left clear of waste and debris.

#### 11 Earthworks, retaining walls and structural support

- (1) Any earthworks (including any structural support or other related structure for the purposes of the development):
  - (a) must not cause a danger to life or property or damage to any adjoining building or structure on the lot or to any building or structure on any adjoining lot, and



- (b) must not redirect the flow of any surface or ground water or cause sediment to be transported onto an adjoining property, and
  - (c) that is fill brought to the site—must contain only virgin excavated natural material (VENM) as defined in Part 3 of Schedule 1 to the *Protection of the Environment Operations Act 1997*, and
  - (d) that is excavated soil to be removed from the site—must be disposed of in accordance with any requirements under the *Protection of the Environment Operations (Waste) Regulation 2005*.
- (2) Any excavation must be carried out in accordance with *Excavation Work: Code of Practice (ISBN 978-0-642-785442 [PDF] and ISBN 978-0-642-785459 [DOCX])*, published in July 2012 by Safe Work Australia.

## 12 Drainage connections

- (1) If the work is the erection of, or an alteration or addition to, a building, the roof stormwater drainage system must be installed and connected to the drainage system before the roof is installed.
- (2) Any approval that is required for connection to the drainage system under the *Local Government Act 1993* must be held before the connection is carried out.

## 13 Archaeology discovered during excavation

If any object having interest due to its age or association with the past is uncovered during the course of the work:

- (a) all work must stop immediately in that area, and
- (b) the Office of Environment and Heritage must be advised of the discovery.

**Note:** Depending on the significance of the object uncovered, an archaeological assessment and excavation permit under the *Heritage Act 1997* may be required before further the work can continue.

## 14 Aboriginal objects discovered during excavation

If any Aboriginal object (including evidence of habitation or remains) is discovered during the course of the work:

- (a) all excavation or disturbance of the area must stop immediately in that area, and
- (b) the Office of Environment and Heritage must be advised of the discovery in accordance with section 89A of the *National Parks and Wildlife Act 1974*.

**Note:** If an Aboriginal object is discovered, an Aboriginal heritage impact permit may be required under the *National Parks and Wildlife Act 1974*.

## 15 When a survey certificate is required

- (1) If any part of the work is the erection of a new building, or an alteration or addition to an existing building, that is located less than 3m from the lot boundary, a survey certificate must be given to the principal certifying authority:

- (a) before any form work below the ground floor slab is completed, or
  - (b) if there is no such form work—before the concrete is poured for the ground floor slab.
- (2) The survey certificate must be prepared by a registered land surveyor and show the location of the work relative to the boundaries of the site.

## PART 3 - CONDITIONS APPLYING BEFORE THE ISSUE OF AN OCCUPATION CERTIFICATE

### 16 Vehicular access

If the work involves the construction of a vehicular access point, the access point must be completed before the occupation certificate for the work on the site is obtained.

### 17 Utility services

- (1) If the work requires alteration to, or the relocation of, utility services on, or adjacent to, the lot on which the work is carried out, the work is not complete until all such works are carried out.
- (2) If the work will be the subject of a notice of requirements for water supply or sewerage services (or both) by a water utility or an entity authorised by the utility, the work must be satisfactorily completed before the occupation certificate is issued.
- (3) If the work will be the subject of a compliance certificate under section 73 of the *Sydney Water Act 1994*, the work must be satisfactorily completed before the occupation certificate is issued.

### 18 Mechanical ventilation systems

If the work includes a mechanical ventilation system that is a “**regulated system**” within the meaning of the *Public Health Act 2010*, the system must be notified as required by the *Public Health Regulation 2012*, before an occupation certificate (whether interim or final) for the work is issued.

### 19 Food businesses

If the work relates to a “**food business**” within the meaning of the *Food Act 2003*, the food business must be notified as required by that Act, or licensed as required by the *Food Regulation 2010*, before an occupation certificate (whether interim or final) for the work is issued.

### 20 Premises where skin penetration procedures are carried out

If the work relates to premises at which a “**skin penetration procedure**”, within the meaning of the *Public Health Act 2010*, will be carried out, the premises must be notified as required by Part 4 of the *Public Health Regulation 2012* before an occupation certificate (whether interim or final) for the work is issued.

## PART 4 - OPERATIONAL REQUIREMENTS

### 21 Hours of operation

- (1) If there are existing conditions on a development consent applying to hours of operation, the

development must not be operated outside the hours specified in those conditions.

- (2) If there are no existing conditions on a development consent applying to hours of operation, the development must not be operated outside the following hours:
  - (a) if the development involves a new use as bulky goods premises or other commercial premises—7.00 am to 10.00 pm Monday to Saturday and 7.00 am to 8.00 pm on a Sunday or a public holiday,
  - (b) if the development involves a new use as something other than a bulky goods premises or other commercial premises and adjoins or is opposite a residential lot within a residential zone or Zone RU5 Village—7.00 am to 7.00 pm Monday to Saturday and no operation on a Sunday or a public holiday,
  - (c) in any other case not referred to in paragraph (a) or (b)—7.00 am to 7.00 pm Monday to Saturday and 9.00 am to 6.00 pm on a Sunday or a public holiday.

- (b) must be used solely for vehicular access and for the parking of vehicles associated with the use of the premises.

## 25 Landscaped area (planting and maintenance)

- (1) Any tree or shrub that fails to establish within 2 years of the initial planting date must be replaced with the same species of tree or shrub.
- (2) All landscaped areas on the site must be maintained on an on-going basis.

## 22 Noise

- (1) The development must comply with the requirements for industrial premises contained in the Noise Policy.
- (2) Noise emitted by the development:
  - (a) must not exceed an L A (15 min) of 5dB(A) above background noise when measured at any lot boundary of the property where the development is being carried out, and
  - (b) must not cause the relevant amenity criteria in Table 2.1 in the Noise Policy to be exceeded.
- (3) In this clause, “**the Noise Policy**” means the document entitled *NSW Industrial Noise Policy (ISBN 0 7313 2715 2)* published in January 2000 by the Environment Protection Authority.

## 23 Lighting

- (1) All new external lighting must:
  - (a) comply with *AS 4282–1997 Control of the obtrusive effects of outdoor lighting*, and
  - (b) be mounted, screened and directed in a way that it does not create a nuisance or light spill on to buildings on adjoining lots or public places.
- (2) Lighting at vehicle access points to the development must be provided in accordance with *AS/NZS 1158 Set:2010 Lighting for roads and public spaces Set*.

## 24 Unobstructed driveways and parking areas

- (1) All driveways and parking areas must be unobstructed at all times.
- (2) Driveways and car spaces:
  - (a) must not be used for the manufacture, storage or display of goods, materials or any other equipment, and