



Standard Conditions for State Significant Development

*Key Sites Projects
August 2018*

August 2018

© Crown Copyright, State of NSW through its Department of Planning and Environment 2018

Disclaimer

While every reasonable effort has been made to ensure this document is correct at time of printing, the State of NSW, its agents and employees, disclaim any and all liability to any person in respect of anything or the consequences of anything done or omitted to be done in reliance or upon the whole or any part of this document.

Copyright notice

In keeping with the NSW Government's commitment to encourage the availability of information, you are welcome to reproduce the material that appears in Indicative Standard Conditions for State Significant Development. This material is licensed under the Creative Commons Attribution 4.0 International (CC BY 4.0). You are required to comply with the terms of CC BY 4.0 and the requirements of the Department of Planning and Environment. More information can be found at: <http://www.planning.nsw.gov.au/Copyright-and-Disclaimer>.

Contents

Defined Terms	4
Administrative Conditions	6
1. Obligation to Minimise Harm to the Environment	6
2. Terms of Consent	6
3. Limits of Consent	7
4. Notification of Commencement	7
5. Surrender of Existing Consents or Approvals	7
6. Evidence of Consultation	8
7. Protection of Public Infrastructure	8
8. Demolition	8
9. Structural Adequacy	9
10. Compliance	9
11. Planning Agreement	9
12. Operation of Plant and Equipment	9
13. Community Consultative Committee	9
14. Community Communication Strategy	10
15. Easements	11
16. External Walls and Cladding	11
17. Applicability of Guidelines	11
Environmental Management	12
1. Revision of Strategies, Plans and Programs	12
Reporting and Auditing	13
1. Incident Notification, Reporting and Response	13
2. Non-Compliance Notification	14
3. Compliance Reporting	14
4. Independent Audit	14
5. Monitoring and Environmental Audits	15
6. Access to Information	15

Defined Terms

Applicant	[Applicant name] or any other person carrying out any development to which this consent applies.
Conditions of this consent	The conditions contained in Schedule/s [xx] of this document.
Construction	All physical work to enable operation including but not limited to [insert] but excluding the following: [insert].
Council	[insert relevant Council]
Demolition	The deconstruction and removal of buildings, sheds and other structures on the site.
Development	The development described in the EIS and Response to Submissions, including the works and activities comprising [insert the relevant phases for the development ie construction, etc], as modified by the conditions of this consent.
EIS	The Environmental Impact Statement titled [xxx], prepared by [xxx] dated [xxx], submitted with the application for consent for the development, including any additional information provided by the Applicant in support of the application.
Environment	Includes all aspects of the surroundings of humans, whether affecting any human as an individual or in his or her social groupings.
Feasible	Means what is possible and practical in the circumstances.
Incident	An occurrence or set of circumstances that causes, or threatens to cause, material harm and which may or may not be, or cause, a non-compliance. <div style="background-color: #0070C0; color: white; padding: 2px;"> <p>Note: “material harm” is defined in this consent.</p> </div>
Management and mitigation measures	The management and mitigation measures set out in Appendix [x].
Material harm	Is harm that: <ul style="list-style-type: none"> a) involves actual or potential harm to the health or safety of human beings or to the environment that is not trivial; or b) results in actual or potential loss or property damage of an amount, or amounts in aggregate, exceeding \$10,000, (such loss includes the reasonable costs and expenses that would be incurred in taking all

reasonable and practicable measures to prevent, mitigate or make good harm to the environment).

Modification Assessments	The document assessing the environmental impact of a proposed modification of this consent and any other information submitted with the following modification applications made under the EP&A Act: [insert modification number and date]; [insert modification number and date]; etc.
Non-compliance	An occurrence, set of circumstances or development that is a breach of this consent.
Operation	The carrying out of the approved purpose of the development upon completion of construction.
PA	Means a planning agreement within the meaning of the term in section 7.4 of the EP&A Act.
Planning Secretary	Planning Secretary under the EP&A Act, or nominee.
Reasonable	Means applying judgement in arriving at a decision, taking into account: mitigation, benefits, costs of mitigation versus benefits provided, community views, and the nature and extent of potential improvements.
Rehabilitation	The restoration of land disturbed by the development to a good condition, to ensure it is safe, stable and non-polluting.
Response to Submissions	The Applicant's response to issues raised in submissions received in relation to the application for consent for the development under the EP&A Act.

Administrative Conditions

1. Obligation to Minimise Harm to the Environment

In addition to meeting the specific performance measures and criteria in this consent, all reasonable and feasible measures must be implemented to prevent and, if prevention is not reasonable and feasible, minimise any material harm to the environment that may result from the construction and operation of the development.

2. Terms of Consent

The development may only be carried out:

- a) in compliance with the conditions of this consent;
- b) in accordance with all written directions of the Planning Secretary;
- c) generally in accordance with the EIS and Response to Submissions;
- d) generally in accordance with Modification Assessments;
- e) in accordance with the approved plans in the table below:

[insert table of Architectural Drawings]

Consistent with the requirements in this consent, the Planning Secretary may make written directions to the Applicant in relation to:

- a) the content of any strategy, study, system, plan, program, review, audit, notification, report or correspondence submitted under or otherwise made in relation to this consent, including those that are required to be, and have been, approved by the Planning Secretary; and
- b) the implementation of any actions or measures contained in any such document referred to in (a) above.

The conditions of this consent and directions of the Planning Secretary prevail to the extent of any inconsistency, ambiguity or conflict between them and a document listed in condition [x](c) or [x](d). In the event of an inconsistency, ambiguity or conflict between any of the documents listed in condition [x](c) and [x](d), the most recent document prevails to the extent of the inconsistency, ambiguity or conflict.

3. Limits of Consent

Construction hours

Construction, including the delivery of materials to and from the site, may only be carried out between the following hours:

- a) between [xx] am and [xx] pm, Mondays to Fridays inclusive; and
- b) between [xx] am and [xx] pm, Saturdays.

No work may be carried out on Sundays or public holidays.

Activities may be undertaken outside of these hours if required:

- a) by the Police or a public authority for the delivery of vehicles, plant or materials; or
- b) in an emergency to avoid the loss of life, damage to property or to prevent environmental harm.

Notification of such activities must be given to affected residents before undertaking the activities or as soon as is practical afterwards.

Rock breaking, rock hammering, sheet piling, pile driving and similar activities may only be carried out between the following hours:

- a) 9.00 am to 12.00 pm, Monday to Friday;
- b) 2.00 pm to 5.00 pm, Monday to Friday; and
- c) 9.00 am to 12.00 pm, Saturday.

4. Notification of Commencement

The Department must be notified in writing of the dates of commencement of physical work and operation at least 48 hours before those dates.

If the construction or operation of the development is to be staged, the Department must be notified in writing at least 48 hours before the commencement of each stage, of the date of commencement and the development to be carried out in that stage.

5. Surrender of Existing Consents or Approvals

Within 12 months of the date of commencement of development to which this consent applies, or within another timeframe agreed by the Planning Secretary, the Applicant must surrender the existing [project approval/development consent dated [XXX] for the [XX Project] in accordance with the EP&A Regulation.

Upon the commencement of development to which this consent applies, and before the surrender of existing development consents or project approvals required under condition [x], the conditions of this consent prevail to the extent of any inconsistency with the conditions of those consents or approvals.

Note: This requirement does not extend to the surrender of construction and occupation certificates for existing and proposed building works under the former Part 4A of the EP&A Act or Part 6 of the EP&A Act as applies from 1 September 2018. The surrender should not be understood as implying that works legally constructed under a valid consent or approval can no longer be legally maintained or used.

6. Evidence of Consultation

Where conditions of this consent require consultation with an identified party, the Applicant must:

- a) consult with the relevant party prior to submitting the subject document to the Planning Secretary for approval; and
- b) provide details of the consultation undertaken including:
 - i. the outcome of that consultation, matters resolved and unresolved; and
 - ii. details of any disagreement remaining between the party consulted and the Applicant and how the Applicant has addressed the matters not resolved.

7. Protection of Public Infrastructure

Unless the Applicant and the applicable authority agree otherwise, the Applicant must:

- a) repair, or pay the full costs associated with repairing, any public infrastructure that is damaged by carrying out the development; and
- b) relocate, or pay the full costs associated with relocating any infrastructure that needs to be relocated as a result of the development.

8. Demolition

Demolition work must comply with *Australian Standard AS 2601-2001 The demolition of structures* (Standards Australia, 2001). The work plans required by AS 2601-2001 must be accompanied by a written statement from a suitably qualified person that the proposals contained in the work plan comply with the safety requirements of the Standard. The work plans and the statement of compliance must be submitted to the Principal Certifier before the commencement of works.

9. Structural Adequacy

All new buildings and structures, and any alterations or additions to existing buildings and structures, that are part of the development, must be constructed in accordance with the relevant requirements of the BCA.

Note:

- Under Part 6 of the EP&A Act, the Applicant is required to obtain construction and occupation certificates for the proposed building works.
- Part 8 of the EP&A Regulation sets out the requirements for the certification of the development.

10. Compliance

The Applicant must ensure that all of its employees, contractors (and their sub-contractors) are made aware of, and are instructed to comply with, the conditions of this consent relevant to activities they carry out in respect of the development.

11. Planning Agreement

Within six months after the date of commencement of construction, or other timeframe agreed by the Planning Secretary, the Applicant must enter into a PA with the Council/Minister in accordance with:

- a) Division 7.1 of Part 7 of the EP&A Act; and
- b) the terms of the offer in the letter dated [xx] from [xx] to the Council/Minister, which has been accepted by the Council/Minister.

12. Operation of Plant and Equipment

All plant and equipment used on site, or to monitor the performance of the development must be:

- a) maintained in a proper and efficient condition; and
- b) operated in a proper and efficient manner.

13. Community Consultative Committee

Before the commencement of construction, a Community Consultative Committee (CCC) must be established for the development in accordance with the Department's *Community Consultative Committee Guidelines: State Significant Projects* (2016). The CCC must begin to exercise functions in

accordance with such Guidelines before the commencement of construction and continue to do so for the duration of construction and for at least six months following the completion of construction.

Note:

- The CCC is an advisory committee only.
- In accordance with the Guidelines, the Committee should comprise an independent chair and appropriate representation from the Applicant, Council and the local community.

14. Community Communication Strategy

A Community Communication Strategy must be prepared to provide mechanisms to facilitate communication between the Applicant, the relevant Council and the community (including adjoining affected landowners and businesses, and others directly impacted by the development), during the design and construction of the development and for a minimum of 12 months following the completion of construction.

The Community Communication Strategy must:

- a) identify people to be consulted during the design and construction phases;
- b) set out procedures and mechanisms for the regular distribution of accessible information about or relevant to the development;
- c) provide for the formation of community-based forums, if required, that focus on key environmental management issues for the development;
- d) set out procedures and mechanisms:
 - i. through which the community can discuss or provide feedback to the Applicant;
 - ii. through which the Applicant will respond to enquiries or feedback from the community; and
 - iii. resolve any issues and mediate any disputes that may arise in relation to construction and operation of the development, including disputes regarding rectification or compensation.

The Community Communications Strategy must be submitted to the Planning Secretary for approval no later than one month before the commencement of any work.

Work for the purposes of the development must not commence until the Community Communication Strategy has been approved by the Planning Secretary, or within another timeframe agreed with the Planning Secretary.

The Community Communication Strategy, as approved by the Planning Secretary, must be implemented for a minimum of 12 months following the completion of construction.

15. Easements

Within [x] months after the date of this consent, an easement under section 88A and/or restriction or public positive covenant under section 88E of the *Conveyancing Act 1919* naming the Council/Planning Secretary as the prescribed authority, which can only be revoked, varied or modified with the consent of the Council/Planning Secretary, and which provides for [xxx] must be registered on title of [insert Lot and DP].

16. External Walls and Cladding

The external walls of all buildings including additions to existing buildings must comply with the relevant requirements of the BCA.

Before the issue of a Construction Certificate and an Occupation Certificate, the Applicant must provide the Certifying Authority with documented evidence that the products and systems proposed for use or used in the construction of external walls, including finishes and claddings such as synthetic or aluminium composite panels, comply with the requirements of the BCA.

The Applicant must provide a copy of the documentation given to the Certifying Authority to the Planning Secretary within seven days after the Certifying Authority accepts it.

17. Applicability of Guidelines

References in the conditions of this consent to any guideline, protocol, Australian Standard or policy are to such guidelines, protocols, Standards or policies in the form they are in as at the date of this consent.

However, consistent with the conditions of this consent and without altering any limits or criteria in this consent, the Planning Secretary may, when issuing directions under this consent in respect of ongoing monitoring and management obligations, require compliance with an updated or revised version of such a guideline, protocol, Standard or policy, or a replacement of them.

Environmental Management

1. Revision of Strategies, Plans and Programs

Within three months of:

- a) the submission of a Compliance Report under condition [x];
- b) the submission of an incident report under condition [x];
- c) the submission of an Independent Audit under condition [x];
- d) the approval of any modification to the conditions of this consent; or
- e) the issue of a direction of the Planning Secretary under condition [x] which requires a review,

the strategies, plans and programs required under this consent must be reviewed, and the Department must be notified in writing that a review is being carried out.

If necessary to either improve the environmental performance of the development, cater for a modification or comply with a direction, the strategies, plans and programs required under this consent must be revised to the satisfaction of the Planning Secretary. Where revisions are required, the revised document must be submitted to the Planning Secretary for approval within six weeks of the review.

Note: This is to ensure strategies, plans and programs are updated on a regular basis and to incorporate any recommended measures to improve the environmental performance of the development.

Reporting and Auditing

1. Incident Notification, Reporting and Response

The Department must be notified in writing to compliance@planning.nsw.gov.au immediately after the Applicant becomes aware of an incident. The notification must identify the development (including the development application number and the name of the development if it has one) and set out the location and nature of the incident.

Subsequent notification must be given and reports submitted in accordance with the requirements set out in Appendix [x].

APPENDIX [X] - WRITTEN INCIDENT NOTIFICATION AND REPORTING REQUIREMENTS

A written incident notification addressing the requirements set out below must be emailed to the Department at the following address, compliance@planning.nsw.gov.au, within seven days after the Applicant becomes aware of an incident. Notification is required to be given under this condition even if the Applicant fails to give the notification required under condition [x] or, having given such notification, subsequently forms the view that an incident has not occurred.

WRITTEN INCIDENT NOTIFICATION REQUIREMENTS

Written notification of an incident must:

- a) identify the development and application number;
- b) provide details of the incident (date, time, location, a brief description of what occurred and why it is classified as an incident);
- c) identify how the incident was detected;
- d) identify when the Applicant became aware of the incident;
- e) identify any actual or potential non-compliance with conditions of consent;
- f) describe what immediate steps were taken in relation to the incident;
- g) identify further action that will be taken in relation to the incident; and
- h) identify a project contact for further communication regarding the incident.

INCIDENT REPORT REQUIREMENTS

Within 30 days of the date on which the incident occurred, or as otherwise agreed to by the Planning Secretary, the Applicant must provide the Planning Secretary and any relevant public authorities (as determined by the Planning Secretary) with a detailed report on the incident addressing all requirements below, and such further reports as may be requested.

The Incident Report must include:

- a) a summary of the incident;
- b) outcomes of an incident investigation, including identification of the cause of the incident;
- c) details of the corrective and preventative actions that have been, or will be, implemented to address the incident and prevent recurrence;
- d) details of any communication with other stakeholders regarding the incident.

2. Non-Compliance Notification

The Department must be notified in writing to compliance@planning.nsw.gov.au within seven days after the Applicant becomes aware of any non-compliance. The PCA must also notify the Department in writing to compliance@planning.nsw.gov.au within seven days after they identify any non-compliance.

The notification must identify the development and the application number for it, set out the condition of consent that the development is non-compliant with, the way in which it does not comply and the reasons for the non-compliance (if known) and what actions have been, or will be, undertaken to address the non-compliance.

A non-compliance which has been notified as an incident does not need to also be notified as a non-compliance.

3. Compliance Reporting

No later than 6 weeks before the date notified for the commencement of [construction/operation], a Compliance Monitoring and Reporting Program prepared in accordance with the Compliance Reporting Post Approval Requirements (Department 2018) must be submitted to the Department.

Compliance Reports of the project must be carried out in accordance with the Compliance Reporting Post Approval Requirements (Department 2018).

The Applicant must make each Compliance Report publicly available no later than 60 days after submitting it to the Department and notify the Department in writing at least 7 days before this is done.

4. Independent Audit

No later than 4 weeks before the date notified for the commencement of [construction/operation], an Independent Audit Program prepared in accordance with the Independent Audit Post Approval Requirements (Department 2018) must be submitted to the Department.

Independent Audits of the development must be carried out in accordance with:

- a) the Independent Audit Program submitted to the Department under condition [x] of this consent; and
- b) the requirements for an Independent Audit Methodology and Independent Audit Report in the Independent Audit Post Approval Requirements (Department 2018).
- c) In accordance with the specific requirements in the Independent Audit Post Approval Requirements (Department 2018), the Applicant must:
- d) review and respond to each Independent Audit Report prepared under condition [x] of this consent;
- e) submit the response to the Department; and
- f) make each Independent Audit Report and response to it publicly available no later than 60 days after submission to the Department and notify the Department in writing at least 7 days before this is done.

5. Monitoring and Environmental Audits

Any condition of this consent that requires the carrying out of monitoring or an environmental audit, whether directly or by way of a plan, strategy or program, is taken to be a condition requiring monitoring or an environmental audit under Division 9.4 of Part 9 of the EP&A Act. This includes conditions in respect of incident notification, reporting and response, non-compliance notification, compliance reporting and independent auditing.

Note: For the purposes of this condition, as set out in the EP&A Act, “monitoring” is monitoring of the development to provide data on compliance with the consent or on the environmental impact of the development, and an “environmental audit” is a periodic or particular documented evaluation of the development to provide information on compliance with the consent or the environmental management or impact of the development.

6. Access to Information

At least 48 hours before the commencement of construction until the completion of all works under this consent, or such other time as agreed by the Planning Secretary, the Applicant must:

- a) make the following information and documents (as they are obtained or approved) publicly available on its website:
 - i. the documents referred to in condition [x] of this consent;
 - ii. all current statutory approvals for the development;
 - iii. all approved strategies, plans and programs required under the conditions of this consent;

- iv. regular reporting on the environmental performance of the development in accordance with the reporting arrangements in any plans or programs approved under the conditions of this consent;
 - v. a comprehensive summary of the monitoring results of the development, reported in accordance with the specifications in any conditions of this consent, or any approved plans and programs;
 - vi. a summary of the current stage and progress of the development;
 - vii. contact details to enquire about the development or to make a complaint;
 - viii. a complaints register, updated monthly;
 - ix. audit reports prepared as part of any Independent Audit of the development and the Applicant's response to the recommendations in any audit report;
 - x. any other matter required by the Planning Secretary; and
- b) keep such information up to date, to the satisfaction of the Planning Secretary.