



Land and Environment Court New South Wales

Case Name:	BRL Developments Pty Ltd v Camden Council
Medium Neutral Citation:	[2023] NSWLEC 1292
Hearing Date(s):	Conciliation conference held on 2 June 2023
Date of Orders:	14 June 2023
Date of Decision:	14 June 2023
Jurisdiction:	Class 1
Before:	O'Neill C
Decision:	<p>The orders of the Court are:</p> <ol style="list-style-type: none">(1) The Applicant is to pay the Respondent's costs thrown away as a result of the amendment of the application pursuant to section 8.15(3) of the <i>Environmental Planning and Assessment Act 1979</i>, as agreed or assessed.(2) The appeal is upheld.(3) Development Application No. 2022/636/1, as amended, for the Torrens title subdivision of land into two (2) super lots and one (1) SP2 Infrastructure (local road) lot, construction and dedication of public roads, tree removal, stormwater and associated site works, on land legally described as Lot Y in DP 399114 and known as 142 Byron Rod, Leppington NSW 2179, is determined by the grant of consent, subject to the conditions of consent at Annexure A.
Catchwords:	DEVELOPMENT APPLICATION – conciliation conference – agreement between the parties – orders
Legislation Cited:	<p>Environmental Planning and Assessment Act 1979, ss 4.16, 8.7, 8.15 Environmental Planning and Assessment Regulation 2021, s 37 Land and Environment Court Act 1979, s 34 State Environmental Planning Policy Amendment (Water Catchments) 2022, s 6.65 State Environmental Planning Policy (Biodiversity and Conservation) 2021, Ch 6, 7, 8, 9, 10, 11, 12</p>

State Environmental Planning Policy (Precincts –
Western Parkland City) 2021, Appendix 5, ss 1.3,
2.2, 2.6
State Environmental Planning Policy (Resilience and
Hazards) 2021. s 4.6

Category:	Principal judgment
Parties:	BRL Developments Pty Ltd (Applicant) Camden Council (Respondent)
Representation:	Counsel: E Fleming (Solicitor) (Applicant) K Huxley (Solicitor) (Respondent) Solicitors: Macpherson Kelley (Applicant) Holding Redlich (Respondent)
File Number(s):	2022/299489
Publication Restriction:	No

JUDGMENT

- 1 **COMMISSIONER:** This is an appeal pursuant to the provisions of s 8.7(1) of the *Environmental Planning and Assessment Act 1979* (EPA Act) against the deemed refusal by Camden Council (the Council) of Development Application No 2022/636/1 for the Torrens title subdivision into 2 super lots and one SP2 infrastructure (local road) lot, construction and dedication of public roads, tree removal, stormwater and associated site works (the proposal). Development is proposed on land described as Lot Y in DP 399114 and known as 142 Byron Road, Leppington NSW 2179 (the site).
- 2 The Court arranged a conciliation conference under s 34 of the *Land and Environment Court Act 1979* (LEC Act) between the parties, which was held on 2 June 2023. I presided over the conciliation conference. At the conciliation conference, the parties reached agreement as to the terms of a decision in the proceedings that would be acceptable to the parties.
- 3 Under s 34(3) of the LEC Act, I must dispose of the proceedings in accordance with the parties' decision if the parties' decision is a decision that the Court could have made in the proper exercise of its functions. The parties' decision involves the Court exercising the function under s 4.16 of the EPA Act to grant consent to the development application.
- 4 There are preconditions to the exercise of power to grant development consent for the proposal.

Amended application

- 5 The Council, as the consent authority, consented to the amendment of the application pursuant to s 37 of the *Environmental Planning and Assessment Regulation 2021*, to include the amended plans and documents listed under schedule B, Condition 1.0(1) of the conditions of consent at Annexure A.

Jurisdictional pre-requisites

- 6 Section 4.6(1) of the *State Environmental Planning Policy (Resilience and Hazards) 2021* is in the following terms:

(1) A consent authority must not consent to the carrying out of any development on land unless—

(a) it has considered whether the land is contaminated, and

(b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and

(c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

- 7 A Stage 1 Preliminary Site Contamination Investigation Report was prepared for the site and concludes that the site is considered to have a low risk of soil and groundwater contamination. I accept that the site is suitable for the proposed development.
- 8 The repealed Chs 6 to 12 of the State Environmental Planning Policy (Biodiversity and Conservation) 2021 (BC SEPP) apply to the application (s 6.65 of the State Environmental Planning Policy Amendment (Water Catchments) 2022). The site is located within the Hawkesbury-Nepean Catchment for the purposes of Ch 9 of the BC SEPP prior to its amendment. I accept the parties' agreement that the amended application satisfactorily addresses the relevant matters for consideration in the BC SEPP.
- 9 The State Environmental Planning Policy (Precincts – Western Parkland City) 2021 applies to the amended application. The site is within the Camden Growth Centres Precinct Plan (CGCPP) area of the Leppington North Precinct (Appendix 5, s 1.3).
- 10 Pursuant to s 2.2 of the CGCPP site is zoned R3 Medium Density Residential and part SP2 Infrastructure (Local Road). Subdivision is permissible under s 2.6. The amended application satisfied s 6.1 by demonstrating that water, sewer, electricity, and telecommunication services can be made available to the site. The services will be connected to the proposed development in accordance with the relevant authority requirements, according to the Statement of Environmental Effects.

Conclusion

11 I have considered the submissions made by the Council in the Statement of Jurisdictional Issues filed with the Court on 2 June 2023 and I am satisfied on the basis of the evidence before me that the agreement of the parties is a decision that the Court could have made in the proper exercise of its functions.

Orders

12 The orders of the Court are:

- (1) The Applicant is to pay the Respondent's costs thrown away as a result of the amendment of the application pursuant to s 8.15(3) of the *Environmental Planning and Assessment Act 1979*, as agreed or assessed.
- (2) The appeal is upheld.
- (3) Development Application No 2022/636/1, as amended, for the Torrens title subdivision of land into two (2) super lots and one (1) SP2 Infrastructure (local road) lot, construction and dedication of public roads, tree removal, stormwater and associated site works, on land legally described as Lot Y in DP 399114 and known as 142 Byron Road, Leppington NSW 2179, is determined by the grant of consent, subject to the conditions of consent at Annexure A.

I certify that this and the preceding 2 pages are a true copy of my reasons for judgment.



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Susan O'Neill

Commissioner of the Court

DETERMINATION OF DEVELOPMENT APPLICATION BY GRANT OF DEFERRED COMMENCEMENT CONSENT

Development Application No:	DA/2022/636/1
Development:	Torrens Title subdivision of land into two (2) superlots and one (1) SP2 infrastructure (local road) lot, construction and dedication of public roads, tree removal, stormwater and associated site works.
Site:	Lot Y in Deposited Plan 399114, known as 142 Byron Road, Leppington NSW 2179.

The above development application has been determined by the granting of consent subject to the conditions specified in this consent.

Date of determination: 14 June 2023

Date from which deferred commencement consent takes effect: Date of Determination

TERMINOLOGY

In this consent:

- (a) Any reference to a Construction, Compliance, Occupation or Subdivision Certificate is a reference to such a certificate as defined in the *Environmental Planning and Assessment Act 1979*.
- (b) Any reference to the “applicant” means a reference to the applicant for development consent or any person who may be carrying out development from time to time pursuant to this consent.
- (c) Any reference to the “site”, means the land known as Lot Y in Deposited Plan 399114, otherwise known as 142 Byron Road, Leppington NSW 2179.

The conditions of consent are as follows:

Deferred Commencement Consent

This deferred commencement consent shall not operate until the applicant satisfies Council, in accordance with the *Environmental Planning and Assessment Regulation 2021*, in relation to the matters listed in the Schedule A condition, within 5 years of the date of this determination. Upon Council being satisfied as to the matters listed in the Schedule A condition, Council will notify the applicant in writing that the consent has been made operative subject to the conditions listed in Schedule B.

Should Council not be satisfied as to the matters listed in the Schedule A condition within the specified timeframe, this deferred commencement consent will be rendered permanently inoperative.

Schedule A Deferred Commencement Conditions

(1) **Deferred Commencement** - The Civil Engineering Plans listed in condition 1(1) of Schedule B to this Consent are required to be amended to Council's satisfaction and submitted to the Council to show:

- a) An extension of the site's stormwater system (including stormwater pipe, headwall and tail out swale), which is required through the adjacent properties, Lot 56 in Deposited Plan 8979, known as 150 Byron Road, Leppington NSW 2179, and Lot 100 in Deposited Plan 1252829, known as 1481 Camden Valley Way, Leppington NSW 2179. The updated civil engineering plans shall detail the extension of the stormwater system, ensuring compliance with Camden Council's Engineering Specifications, particularly, the "stormwater system" as described shall ensure outlet velocity is less than 2m/s, swale is grassed, has adequate freeboard and relative safety measures provided to ensure it is protected / maintained.
- b) The applicant is to contact Council's Manager Growth and Infrastructure (CMGI) to obtain the latest Byron Road design and submit engineering plans demonstrating the interface design of the proposed Development is compatible with the interim and ultimate designs for Byron Road.
- c) The applicant is to provide long-section and cross-sections (matching designer's chainages) of Byron Road in front of the Site, to the satisfaction of CMGI, demonstrating property boundary levels and the interim and ultimate road levels as at the time that the latest Byron Road design is obtained from CMGI. The design needs to fulfil the interim works objectives as follows:
 - To match proposed development with existing and future levels of major roads;
 - To alleviate requirement to relocate future utility services at major roads; and
 - To provide interim drainage works consisting of kerb & gutter and piped infrastructure before future road drainage is constructed, without half road construction.
 - To provide concrete footpath on the property frontage
- d) Road 01 Long Section shown on Drawing: 210104-DA-C07.01 Rev 5 is to be amended to be consistent with Byron Road MCOO alignment. The long section shall show existing, interim and ultimate levels.

(2) **Consent to carry out work** – The applicant must obtain consent from adjoining land owners to access and carry out the following off-site works set out above in Schedule A Condition (1)(a) and Schedule B, Section 2.0, Condition 2A imposed on this consent pursuant to section 4.17(1)(f) of the Environmental Planning & Assessment Act 1979:

- (i) Written owners consent for stormwater drainage works, earthworks and relevant easement(s) over the following adjoining properties: Lot 56 in Deposited Plan 8979, known as 150 Byron Road Leppington NSW 2179, and Lot 100 in Deposited

Plan 1252829, known as 1481 Camden Valley Way, Leppington NSW 2179. The applicant is to provide a copy of that consent to Council.

- (ii) The consent of the owners of Lot 42 DP 1177254 (1461 Camden Valley Way) and Lot 100 DP 1252829 (1481 Camden Valley Way) for removal of trees T20, T23, T32 & T35 as referenced in Arboriculture Tree Impact Assessment, Version 2 dated 18 May 2023. The Applicant is to provide a copy of that consent to Council.

Schedule B Conditions

1.0 - General Conditions of Consent

The following conditions of consent are general conditions applying to the development.

- (1) **Approved Plans and Documents** - Development shall be carried out in accordance with the following plans and documents, and all recommendations made therein, except where amended by the conditions of this development consent:

Plan Reference/ Drawing No.	Name of Plan	Prepared by	Date
Drawing No. DA01 Rev: 3	Site Analysis	The Bathla Group	17 May 2023
Drawing No. DA02 Rev: 3	Plan of Subdivision		17 May 2023
Plan No: 00000_A Sheet 1 of 1	Plan showing Detail & Levels over Lot Y in DP399114		12 April 2023
Drawing No. 210104-DA- C01.01 Rev 4	Cover Sheet and Drawing Schedule		21 April 2023
Engineering Plans			
Drawing No. 210104-DA- C01.21 Rev 4	Specification Notes – Sheet 01	Enspire	11 May 2023
Drawing No. 210104-DA- C01.22 Rev 5	Specification Notes – Sheet 02		11 May 2023 2023
Drawing No. 210104-DA- C01.41 Rev 5	General Arrangement Plan		16 May 2023
Drawing No. 210104-DA- C03.01 Rev 7	Erosion and Sedimentation Control and Demolition Plan		22 May 2023
Drawing No. 210104-DA- C03.21 Rev 3	Erosion and Sedimentation Control Details		13 March 2023

Drawing No. 210104-DA- C03.31 Rev 5	Temporary Sediment Basin Plan and Details	11 May 2023
Drawing No. 210104-DA- C04.01 Rev 5	Cut and Fill Plan	16 May 2023
Drawing No. 210104-DA- C04.21 Rev 5	Cut and Fill Sections	11 May 2023
Drawing No. 210104-DA- C05.01 Rev 7	Siteworks and Stormwater Management Plan - Sheet 01	22 May 2023
Drawing No. 210104-DA- C05.02 Rev 6	Siteworks and Stormwater Management Plan - Sheet 02	16 May 2023
Drawing No. 210104-DA- C05.11 Rev 4	Byron Road Ultimate Siteworks Plan	22 May 2023
Drawing No. 210104-DA- C06.01 Rev 4	Road Typical Cross Sections	21 April 2023
Drawing No. 210104-DA- C07.01 Rev 5	Road Longitudinal Sections Sheet 01	11 May 2023
Drawing No. 210104-DA- C07.02 Rev 3	Road Longitudinal Sections Sheet 02	11 May 2023
Drawing No. 210104-DA- C08.01 Rev 2	Byron Road Cross Sections	11 May 2023
Drawing No. 210104-DA- C14.01 Rev 4	Siteworks Details	11 May 2023
Drawing No. 210104-DA- C18.01 Rev 6	Stormwater Details Sheet 01	22 May 2023
Drawing No. 210104-DA- C18.02 Rev 5	Stormwater Details Sheet 02	16 May 2023
Drawing No. 210104-DA- C18.03 Rev 5	Stormwater Details Sheet 03	16 May 2023
Drawing No. 210104-DA- C20.01 Rev 5	Pre-Development Catchment Plan	18 May 2023
Drawing No. 210104-DA- C20.02 Rev 5	Post- Development Catchment Plan	18 May 2023
Drawing No. 210104-DA- C20.03 Rev 4	Ultimate Catchment Plan	21 April 2023

Drawing No. 210104-DA- C22.01 Rev 5	Turning Path Plan 9.9m Garbage Truck Sheet 01		16 May 2023
Drawing No. 210104-DA- C22.02 Rev 3	Turning Path Plan 12.5m Garbage Truck Sheet 02		16 May 2023
Drawing No. 210104-DA- C23.01 Rev 4	Safety In Design		11 May 2023

Document Title	Prepared by	Date
Salinity Management Report	Geotesta Pty Ltd	3 March 2023
Civil Engineering and Stormwater Management Report	Enspire Solutions Pty Ltd	18 May 2023
Arboriculture Tree Impact Assessment, Version 2	Tree Survey	18 May 2023

(2) **Modified Documents and Plans** - The development shall be modified as follows:

- a) The approved Subdivision Plan is to be amended to be consistent with the approved Civil Engineering Plans
- b) A landscape plan is to be provided to Council's satisfaction that is consistent with the amended Subdivision Plan and approved Civil Engineering Plans.

Amended plans or documentation demonstrating compliance shall be provided to the certifier and Council prior to the issue of a Construction Certificate / Subdivision Works Certificate.

(2A) **Development Staging** - The subdivision must be developed in a staged manner in accordance with the following requirements:

- c) Stage 1 – Construction of all roads, majority of lots and basins on each lot.
- d) Stage 2 – Filling in of basins, which is to commence once regional basin is constructed.

One Subdivision Works Certificate may be issued for Stage 1 and Stage 2, or a single Subdivision Works Certificate may be issued with respect to each stage.

(3) **Shoring and Adequacy of Adjoining Property** - If the approved development involves excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land, including a structure or work in a road rail corridor, the person having the benefit of the development consent must, at the person's own expense:

- a) protect and support the building, structure or work on adjoining land from possible damage from the excavation, and
- b) if necessary, underpin the building, structure or work on adjoining land to prevent damage from the excavation.

This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land gives written consent to the condition not applying.

A copy of the written consent must be provided to the principal certifier prior to the excavation commencing.

- (4) **Engineering Specifications** - The entire development shall be designed and constructed in accordance with Council's Engineering Specifications.
- (5) **Local Traffic Committee Concurrence** - Installation of or changes to regulatory signage, line marking and devices are subject to the concurrence of Council's Local Traffic Committee on local roads, and Transport for NSW on 'Classified Roads' pursuant to the *Roads Act 1993*.

These concurrences (as required) must be obtained prior to the installation of or any changes to regulatory signage, line-marking and devices.

- (6) **Street Lighting** - Street lighting for the subdivision shall be designed and installed in accordance with relevant Australian Standards and to the satisfaction of the appropriate roads authority under the *Roads Act 1993*.
- (7) **Protect Existing Vegetation and Natural Landscape Features** - Approval must be sought from Council prior to the removal, pruning, impact upon or any disturbance of the existing vegetation and natural landscape features, other than any existing vegetation and/or natural landscape feature authorised for removal, pruning, impact upon or disturbance by this development consent.

The following procedures shall be strictly observed:

- a) no additional works or access/parking routes, transecting the protected vegetation shall be undertaken without Council approval; and
- b) pedestrian and vehicular access within and through the protected vegetation shall be restricted to Council approved access routes.

The protection of existing trees, including existing trees on neighbouring land, and other landscape features, other than any existing trees and natural landscape features authorised for removal, pruning, impact upon or disturbance by this Consent, must be carried out as specified in the Australian Standard AS 4970-2009 Protection of Trees on Development Sites.

All initial procedures for the protection of existing trees and landscape features, as detailed in AS 4970-2009, must be installed prior to the commencement of any earthworks, demolition, excavation or construction works on the Development site.

The works and procedures involved with the protection of existing trees and other landscape features, are to be carried out by suitable qualified and experienced persons or organisations. This work should only be carried out by a fully insured and qualified Arborist.

Suitable qualifications for an Arborist are to be a minimum standard of Australian Qualification Framework (AQF) Level 3 in Arboriculture for the actual carrying out of tree works and AQF Level 5 in Arboriculture for Hazard, Tree Health and Risk Assessments and Reports.

- (8) **Landscaping and Embellishment Works on Future Land** - Prior to the transfer of land to Council's ownership, all landscaping and embellishment must be inspected and approved by Council.

- (9) **Street Tree Establishment and Maintenance Period** - For a period of 12 months commencing from the installation date of the street trees and their protective guards, the applicant will be responsible for their successful establishment.

At the completion of the 12 month establishment and maintenance period all street trees plantings must have signs of healthy and vigorous growth and all protective guards must be in an undamaged, safe and functional condition.

- (10) **Noxious Weeds Management** - Weed dispersion must be minimised and weed infestations must be managed during all stages of the development. Any noxious or environmentally invasive weed infestations that occur during or after works must be fully and continuously suppressed and destroyed by appropriate means. New infestations must be reported to Council.

Pursuant to the *Biosecurity Act 2015* and the *Biosecurity Regulation 2017*, the applicant must at all times ensure that any machinery, vehicles or other equipment entering or leaving the site are clean and free from any noxious weed material to prevent the spread of all weeds to or from the property.

Earth moved containing noxious weed material must be disposed of at an approved waste management facility and be transported in compliance with the *Biosecurity Act 2015* and the *Biosecurity Regulation 2017*.

- (11) **Infrastructure in Road and Footpath Areas** – Infrastructure must not be removed and/or reconstructed without prior written approval from Council. Any costs incurred due to the relocation, restoration or reconstruction of pram ramps, footpath, light poles, kerb inlet pits, service provider pits, street trees or other infrastructure in the street footpath area for the proposed development shall be borne by the applicant, and not Council.

Note. The issue of this development consent does not imply concurrence or approval of any required public infrastructure work associated with the development.

- (12) **Demolition of Temporary Water Quality Facilities** – All temporary water quality facilities will be made redundant upon the provision of an approved permanent water quality facility. The temporary water quality facilities must be demolished and the area containing the facilities reinstated. Any resulting impediment to existing permanent infrastructure as a result of the removal of the associated stormwater drainage system is to be rectified to Council's standards.

Prior to the commencement of any such demolition all contributing stormwater flows to the facilities must be diverted to the permanent water quality facilities by way of a stormwater drainage system approved by Council.

- (13) **Certification of Basin Facility** - Upon completion of the (on-site detention, sediment or water quality control) basin facility, whether temporary or permanent, a certificate prepared by a suitably qualified engineer shall be submitted to the Council certifying the following:

a) The works having been constructed in accordance with the approved plans.

- b) The constructed On-site Detention and Water Quality systems will function in accordance with the approved Construction Certificate plans and as per the original design intent;

Any variations from the approved drainage plans will not impair the performance of the Basin Facility.

- (14) **Demolition of Temporary Turning Head(s)/Temporary Road(s)** - The demolition of temporary turning head(s)/temporary road(s) will require sufficient excavation of all pavement materials (including all residue pavement materials) so that no contamination from these roads remains on site. Further, any soils adjoining these roads/turning heads potentially affected by residue pavement material or contaminated run-off must be inspected and removed where they are considered to be affected or contaminated.

Contaminated pavement material and soils are to be waste classified for either disposal to a licensed landfill or assessed for possible reuse under a NSW Environment Protection Authority Resource Recovery Order or Exemption.

A certified contaminated land consultant must inspect the site post-excavation and confirm in writing that they are satisfied (which may include the need for testing) that no residual contamination from the temporary turning head(s)/temporary road(s) remains on the land. The written confirmation must be provided to the principal certifier prior to the issue of a Subdivision Certificate for the approved lots thereon, prior to the release of any related easements and/or prior to the release of any bond held for the demolition works.

- (15) **Residue Lot** – The area zoned SP2 Infrastructure in the amended subdivision plan is to remain a residue lot.

2.0 - Prior to Issue of a Subdivision Works Certificate

The following conditions of consent shall be complied with prior to the issue of a Subdivision Works Certificate.

- (1) **Information for Subdivision Works Certificate** - The following information shall be provided to the certifier with the Subdivision Works Certificate application:

- a) Additional surface inlet pit to be provided between the crest of Road 1 and Pit B2-1
- b) GPTs are to be provided at all basin inlet points.
- c) A certificate must be prepared by a suitably qualified person to ensure that the retaining walls within the basins are capable of withstanding the effects of water and water pressure due to the 1% AEP event.
- d) Basin access ramp long-sections shall be provided and ensure compliance with relevant sections of AS2890.

Details demonstrating the above shall be provided to the principal certifier.

- (2) **Tree Removal** – The trees identified below as shown in the approved Witness Statement - Arboricultural Impact Assessment Report dated 18 May 2023 prepared by Tree Survey are approved for removal:

The following trees are approved for removal on the site T9, T11, T12, T13 T14 T15 T16, T17, T18, T19, T21, T22.

No other trees are approved for removal under this consent.

This work should only be carried out by a fully insured and qualified Arborist. to be a minimum standard of Australian Qualification Framework (AQF) Level 3 in Arboriculture for the actual carrying out of tree works and AQF Level 5 in Arboriculture for Hazard, Tree Health and Risk Assessments and Reports.

Where possible all green waste generated from the approved tree work is to be recycled into mulch or composted at a designated facility. All reasonable measures must be taken to protect the remaining vegetation on the site and on neighbouring land from damage during the approved tree works.

- (2A) **Tree Removal** - Subject to Schedule A, condition 2(ii), given the extent of the proposed earthworks on the site, the following off-site trees are approved for removal: T20, T23, T32 & T35.

- (3) **Performance Bond** - The applicant is to lodge a bond with Council to provide security for works undertaken within the existing public domain in accordance with Council's Development Infrastructure Bonds Policy.

Note. Fees are payable for the lodgement and refund of the bond.

- (4) **Civil Engineering Plans** - Civil engineering plans indicating drainage, roads, accessways, earthworks, pavement design, details of line-marking, traffic management, water quality and quantity facilities including stormwater detention and disposal, shall be prepared in accordance with the approved plans and Council's Engineering Design and Construction Specifications. Details demonstrating compliance shall be provided to the certifier with the Subdivision Works Certificate application.

A stormwater plan is to be submitted to the certifier prior to the augmentation of the existing drainage system to accommodate drainage from the approved development and to protect other property to the satisfaction of the certifier.

Note. Under the *Roads Act 1993*, only the Roads Authority can approve commencement of works within an existing road reserve.

- (5) **Structural Engineer's Details** - The piers/slabs/footings/structural elements shall be designed and certified by a suitably qualified structural engineer and shall take into consideration the recommendations of any geotechnical report applicable to the site. A statement to that effect shall be provided to the certifier.

A current copy of the structural engineer's professionally indemnity insurance is to be provided to Council.

- (6) **Driveway Gradients and Design** - The design of all driveways shall comply with AS 2890.1-2004 'Off street car parking' and:

- a) the driveway shall comply with Council's Access Driveway Specifications; <https://www.camden.nsw.gov.au/assets/pdfs/Development/Preparing-a-DA/Development-Guidelines-and-policies/Access-Driveways-Specifications-and-Drawings.pdf>
- b) the driveway shall be at least 1m from any street tree, stormwater pit or service infrastructure;
- c) the level for the driveway across the footpath area shall achieve a gradient of 4%; and
- d) a Driveway Crossing Approval (PRA) must be obtained prior to the issue of a Construction Certificate.

Details demonstrating compliance shall be provided to the certifier prior to issue of a Construction Certificate.

- (7) **Stormwater Detention and Water Quality** - An on-site detention system and water quality system shall be provided for the site and designed in accordance with Council's Engineering Specifications.

Where a Subdivision Works Certificate is required by this development consent, a detailed on-site detention and water quality report reflecting the Subdivision Works Certificate plans shall be provided to the certifier with the Subdivision Works Certificate application.

Where a Subdivision Works Certificate is not required by this development consent, a detailed on-site detention and water quality report reflecting the approved development application plans and Council's Engineering Specifications shall be provided to Council prior to works commencing.

- (8) **Turning Facilities** - Turning facilities shall be provided at all dead end roads. All turning and manoeuvring facilities, including turning heads, cul-de-sac, etc, shall be designed in accordance with Council's Engineering Specifications. Turning heads must be provided at the end of all dead end roads for subdivisions that are progressively developed in a staged manner.

Details demonstrating compliance shall be provided to the certifier prior to the issue of a Subdivision Works Certificate.

- (9) **Soil, Erosion, Sediment and Water Management** - An erosion and sediment control plan shall be prepared in accordance with 'Managing Urban Stormwater – Soils and Construction ('the blue book')'. Details demonstrating compliance shall be provided to the certifier with the Subdivision Works Certificate application.

- (10) **Provision of Kerb Outlets** - Where proposed lots grade to an existing/proposed public road, kerb outlets shall be provided in the kerb and gutter adjacent to those lots.

The outlets shall be located within 2m downstream of the prolongation of the lot corner with the lowest reduced level and to the requirements of the principal certifier.

- (11) **Works in Road Reserves** - Where any works are proposed in a public road reservation, the relevant Public Road Activity Approval (Road Works Application, Road Opening Permit and/or Road Occupancy Permit) shall be obtained from Council in accordance with Section 138 of the *Roads Act 1993*.

- (12) **Detailed Landscape Plan** - A detailed landscape plan shall be prepared in accordance with Appendix B – Landscape Design Principles of Camden Development Control Plan 2019 prior to the construction certificate (CC) and approved by Council. The following must be included:
- a) Street tree planting which includes species capable of reaching a mature height of greater than 15 metres.
 - b) Landscape treatment to be included along the eastern boundary between road and adjoining property (Caravan Park).
 - c) Planting palette to create a layered approach to suit application and soften future build form.
 - d) Tree pit design and allocation to include sufficient space and access to soil volume will assist in ameliorating what would otherwise be inhospitable growing conditions. Table 5, Section 4P of the ADG provides the starting point however trees proposed within or adjacent to hardstand areas to include StrataCell or equivalent root management system, with integrated sub-surface irrigation and conditioned soil to be provided to a minimum cell area of 60.75m³, based on the projected mature canopy spread/dripline of proposed trees, or no less than 5m from trunks. Where tree spacing is less than 5m, the StrataCell system must be provided to the entire hardstand area.
 - e) Landscaping shall incorporate the relevant ESD and WSUD principals.
 - f) All trees to be minimum 100 litre container size excluding the following Genus (Lophostemon and Eucalyptus) which are to be minimum 75 litre container size.
 - g) Trees to be sourced in accordance with tests and measurements contained within AS2303-2018 - Tree Stock for Landscape Use.
 - h) All tree stock shall be compliant with AS2303-2018, with certification to be provided to the Principal by the grower.
 - i) Street trees not to be positioned within 10m of road intersections, beneath street lighting or adjacent to stormwater inlets and be positioned minimum 2m from driveways.
 - j) Installation of street trees to be in accordance with Council's Engineering Design Specifications including root barrier installed 450-600 mm deep by minimum of 1.5 m wide, installed between tree and kerb and/ footpaths (where applicable).
- (13) **Fibre-Ready Facilities/Telecommunications Infrastructure** – Documentary evidence must be provided to the certifier demonstrating that satisfactory arrangements have been made for:
- a) the installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to

any premises that is being or may be constructed on those lots. The carrier must confirm in writing that they are satisfied that the fibre-ready facilities are fit for purpose; and

- b) the provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier.

This condition does not apply where an applicable exemption exists under Commonwealth law. Documentary evidence of any exemption relied upon must be provided to the certifier.

- (14) **Damages Bond** - The applicant is to lodge a bond with Council to ensure any damage to existing public infrastructure is rectified in accordance with Council's Development Infrastructure Bonds Policy 'P1.0019.2'.

Note. A fee is payable for the lodgement of the bond.

- (15) **Long Service Levy** - In accordance with the *Building and Construction Industry Long Service Payments Act 1986*, the applicant shall pay a long service levy at the prescribed rate to either the Long Service Payments Corporation or Council. This applies to building and construction works with a cost of \$250,000 or more.

- (16) **Temporary Turning Facilities** - Turning facilities shall be provided at all dead-end roads including the installation of reflectorized guideposts along the perimeter at 1.5 metre spacing and if required, chevron signs. All turning and manoeuvring facilities, including turning heads, cul-de-sac, etc., shall be designed in accordance with Council's Engineering Specifications and the Development Control Plan (DCP). Turning heads must be provided at the end of all dead end roads for subdivisions that are progressively developed in a staged manner.

Details demonstrating compliance shall be provided to the Certifying Authority prior to issue of a Subdivision Works Certificate.

- (17) **Incomplete Works Bond – Temporary Turning Head Removal** - An incomplete works bond shall be submitted in line with Camden Council's Development Infrastructure Bonds Policy 'P1.0019.2' to cover the removal of the temporary turning pavement, construction of full pavement and reinstatement of verge, at the ends of Roads 2 + 3.

- (18) **Tree Survey Plan and Hollow Bearing Trees/Active Nests** - A tree survey plan to identify the location, type and condition of existing trees proposed to be removed, including whether tree hollows or active nests are present, must be prepared. If three hollows and/or active nests are present, a nest box installation and active nest relocation plan must be prepared in addition to the tree survey plan.

The nest box installation and active nest relocation plan shall provide fauna with short-term habitat requirements during vegetation clearance and bushland restoration works. Each individual tree hollow must be replaced at a minimum 1:1 ratio with nest boxes.

All hollow-bearing and active nest trees removed from the site are to be inspected prior to removal. Measures must be taken to ensure that fauna inhabiting tree hollows or active nests are treated humanely and relocated before development activities commence, in line with the *National Parks and Wildlife Act 1974*. A qualified ecologist

or wildlife carer will be present throughout vegetation clearing activities to relocate fauna, or take fauna into care where appropriate (i.e. juvenile or nocturnal fauna).

- (19) **Landscape Certification** - Certification is to be provided to the Principal Certifying Authority (PCA) from the designer of the landscape plan that all tree planting/landscape works have been carried out in accordance with the Council endorsed landscape plan. If Council **is** the PCA, the certification is to be submitted to Council prior to or at the final landscape inspection. If Council **is not** the PCA, a copy of the certification is to be provided to Council with the lodgement of the Occupation Certificate.
- (20) **Byron Road Utility Services** - Prior to the issue of Subdivision Works Certificate, the applicant must demonstrate how the utility services along the frontage of Byron Road will be coordinated between the interim and ultimate scenarios of the respective future road works and the applicant must also demonstrate how the future levels of ultimate utility services/assets will be achieved in accordance with the ultimate design of Byron Road up to the satisfaction of Camden Council.
- (21) **Consultation with Utility Authorities** - Prior to the issue of Subdivision Works Certificate, the applicant to provide evidence of consultation with utility authorities ensuring future capacity can be accommodated.

3.0 - Prior to Commencement of Works

The following conditions of consent shall be complied with prior to any works commencing on the development site.

- (1) **Public Liability Insurance** - The owner or contractor shall take out a Public Liability Insurance Policy with a minimum cover of \$20 million in relation to the occupation of, and works within, public property (i.e. kerbs, gutters, footpaths, walkways, reserves, etc) for the full duration of the proposed works. Evidence of this Policy shall be provided to Council and the certifier.
- (2) **Notice of Principal Certifier** - Notice shall be given to Council at least two (2) days prior to subdivision and/or building works commencing in accordance with the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*. The notice shall include:
 - a) a description of the work to be carried out;
 - b) the address of the land on which the work is to be carried out;
 - c) the registered number and date of issue of the relevant development consent;
 - d) the name and address of the principal certifier, and of the person by whom the principal certifier was appointed;
 - e) the certifier's registration number, and a statement signed by the certifier consenting to being appointed as principal certifier; and
 - f) a telephone number on which the principal certifier may be contacted for business purposes.
- (3) **Notice of Commencement of Work** - Notice shall be given to Council at least two (2) days prior to subdivision and/or building works commencing in accordance with the

Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021. The notice shall include:

- a) the name and address of the person by whom the notice is being given;
- b) a description of the work to be carried out;
- c) the address of the land on which the work is to be carried out;
- d) the registered number and date of issue of the relevant development consent and construction certificate;
- e) a statement signed by or on behalf of the principal certifier (only where no principal certifier is required) to the effect that all conditions of the consent that are required to be satisfied prior to the work commencing have been satisfied; and
- f) the date on which the work is intended to commence.

(4) **Subdivision Works Certificate Required** - In accordance with the requirements of the *Environmental Planning and Assessment Act 1979*, building or subdivision works approved by this consent shall not commence until the following has been satisfied:

- a) a Subdivision Works Certificate has been issued by a certifier;
- b) a principal certifier has been appointed by the person having benefit of the development consent;
- c) if Council is not the principal certifier, Council is notified of the appointed principal certifier at least two (2) days before building work commences;
- d) the person having benefit of the development consent notifies Council of the intention to commence building work at least two (2) days before building work commences; and
- e) the principal certifier is notified in writing of the name and contractor licence number of the owner/builder intending to carry out the approved works.

(5) **Sign of Principal Certifier and Contact Details** - A sign shall be erected in a prominent position on the site stating the following:

- a) that unauthorised entry to the work site is prohibited,
- b) the name of the principal contractor, if any, for the building work and a telephone number on which the principal contractor may be contacted outside working hours, and
- c) the name, address and telephone number of the principal certifier for the work.

The sign must be maintained while the work is being carried out and removed when the work has been completed.

(6) **Site is to be Secured** - The site shall be secured and fenced.

- (7) **Soil Erosion and Sediment Control** - Soil erosion and sediment controls must be implemented prior to works commencing on the site in accordance with 'Managing Urban Stormwater – Soils and Construction ('the blue book') and any Sediment and Erosion plans approved with this development consent.

- (8) **Dilapidation Report – Council Property** - A dilapidation report prepared by a suitably qualified person, including a photographic survey of existing public roads, kerbs, footpaths, drainage structures, street trees and any other existing public infrastructure within the immediate area of the site shall be prepared. The report must be submitted to the principal certifier and Council at least 2 days prior to the commencement of works.

Should any public property or the environment sustain damage during the course of and as a result of construction, or if the construction works put Council's assets or the environment at risk, Council may carry out any works necessary to repair the damage or remove the risk. The costs incurred will be deducted from the applicant's damages bond.

- (9) **Dilapidation Report – Adjoining Property** - A dilapidation report prepared by a suitably qualified person, including a photographic survey of the following adjoining properties shall be prepared.

a) Lot 100 DP 1252829, known as 1481 Camden Valley Way, Leppington NSW 2179.

All costs incurred in preparing the dilapidation report and complying with the conditions it imposes shall be borne by the applicant.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant shall demonstrate in writing that all reasonable steps have been taken to obtain access to and advise the affected property owner of the reason for the survey and that these steps have failed. Written concurrence shall be obtained from the principal certifier in such circumstances.

- (10) **Traffic Management Plan** - A traffic management plan shall be prepared in accordance with Council's Engineering 'Engineering Design Specification' and 'Engineering Construction Specification' and Australian Standard 'AS 1742.3'. The plan must be submitted to the principal certifier.
- (11) **Construction Management Plan** - A construction management plan that includes dust, soil and sediment and traffic management, prepared in accordance with Council's Engineering Design Specification, shall be provided to the principal certifier.
- (12) **Environmental Management Plan** - An environmental management plan (EMP) prepared in accordance with Council's Engineering Design Specification shall be provided to the principal certifier.

The EMP shall address the manner in which site operations are to be conducted and monitored to ensure that adjoining land uses and the natural environment are not unacceptably impacted upon by the proposal. The EMP shall include but not be necessarily limited to the following measures:

- a) measures to control noise emissions from the site;
- b) measures to suppress odours and dust emissions;

- c) soil and sediment control measures;
- d) measures to control air emissions that includes odour;
- e) measures and procedures for the removal of hazardous materials that includes waste and their disposal;
- f) any other recognised environmental impact;
- g) work, health and safety; and
- h) community consultation.

(13) **Construction Noise Management Plan** – A construction noise management plan shall be provided to the principal certifier and include the following:

- a) noise mitigation measures;
- b) noise and/or vibration monitoring;
- c) use of respite periods;
- d) complaints handling; and
- e) community liaison and consultation.

(14) **Protection of Existing Street Trees** - No existing nature strip, street tree, tree guard, protective bollard, garden bed surrounds or root barrier installation shall be disturbed, relocated, removed or damaged during earthworks, demolition, excavation (including any driveway installation), construction, maintenance and/or establishment works applicable to this consent, without Council agreement and/or consent.

The protection methods for existing nature strip, street tree, tree guard, protective bollard, garden bed surrounds or root barrier installation during all works approved by this development consent shall be installed in accordance with Australian Standard AS 4970-2009, 'Protection of Trees on Development Sites'.

(15) **Protection of Trees to be Retained** - Protection of trees to be retained shall be in accordance with Council's 'Engineering Design Specification' and 'Engineering Construction Specification'. The area beneath the canopies of the tree(s) to be retained shall be fenced. Tree protection signage is required to be attached to each tree protection zone, and displayed in a prominent position.

(16) **Decommissioning of On-Site Sewerage Management** - Written confirmation verifying that the existing on-site sewerage management facility has been decommissioned in accordance with the following, shall be provided to the principal certifier and Council:

Option 1: (Removal of system from site)

That the septic tank, disposal field and all associated drainage shall be decommissioned in accordance with the following:

- a) The septic tank/holding well and grease trap shall be emptied by a liquid wastewater contractor and the contents disposed of at an approved wastewater depot. A copy of the receipt is to be provided to Council,
- b) The sides, lid, baffle (if fitted) and square junctions of the tank should be hosed down as the waste is being removed,
- c) The inlets and outlets should be plugged and the tank should then be filled with clean water and disinfected to a minimum level of 5mg/l of free residual chlorine, with a one half hour contact time. The lid should be exposed to the chlorine solution. The chlorine should be allowed to dissipate naturally and not be neutralised. The contents of the tank/ and or well shall then be emptied by a liquid wastewater contractor.

The septic tank and any associated drainage and disposal field including materials and drainage pipes used in the construction and connection of the existing redundant transpiration beds/ absorption trenches/ irrigation fields shall be removed and disposed of at a suitably licensed landfill site. (i.e. aggregates, rubble, sand, concrete slabs and the like) A copy of the receipt for disposal of the waste materials shall be provided to Council.

The tank excavation /transpiration beds/ absorption trenches are to be backfilled with clean filling material and finished to the surrounding ground level.

Option 2: (decommissioning on site)

The septic tank system shall be de-commissioned in the following manner:

- a) The septic tank/holding well and grease trap shall be emptied by a liquid wastewater contractor and the contents disposed of at an approved wastewater depot. A copy of the receipt is to be provided to Council.
- b) the septic tank and holding well shall be thoroughly dusted with commercial grade agricultural lime,
- c) the base(s) of the tank(s) is to be punctured (to prevent future holding of water), the lids broken in and the top edges broken down 300mm below ground level, and
- d) the tanks are to be backfilled with clean filling material and finished to the surrounding ground level.

4.0 - During Works

The following conditions of consent shall be complied with during the construction phase of the development.

(1) **Work Hours** - All work (including delivery of materials) shall be:

- restricted to between the hours of 7am to 5pm Monday to Saturday (inclusive), and
- not carried out on Sundays or public holidays,

unless approved in writing by Council.

- (2) **Excavations and Backfilling** - All excavations and backfilling associated with the approved development must be executed safely and protected to prevent them from being dangerous to life or property, and in accordance with the design of a suitably qualified structural engineer.

If an excavation extends below the level of the base of the footings of a building, structure or work on adjoining land, including a structure or work in a road rail corridor, the person causing the excavation must:

- a) protect and support the building, structure or work on adjoining land from possible damage from the excavation,
- b) if necessary, underpin the building, structure or work on adjoining land to prevent damage from the excavation, and
- c) give at least 7 days notice of the intention to excavate to the owner of the adjoining land before excavating.

The above requirements do not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land gives written consent to the requirements not applying.

The principal contractor, owner builder or any person who needs to excavate and undertake building work, shall contact 'Dial Before You Dig' prior to works commencing, and allow a reasonable period of time for the utilities to provide locations of their underground assets.

- (3) **Site Management** - The following practices are to be implemented during construction:

- a) stockpiles of topsoil, sand, aggregate, spoil or other material shall be kept clear of any drainage path, easement, natural watercourse, kerb or road surface and shall have measures in place to prevent the movement of such material off site;
- b) builder's operations such as brick cutting, washing tools, concreting and bricklaying shall be confined to the building allotment. All pollutants from these activities shall be contained on site and disposed of in an appropriate manner;
- c) waste shall not be burnt or buried on site or any other properties, nor shall wind-blown rubbish be allowed to leave the site. All waste shall be disposed of at a licenced waste disposal facility;
- d) a waste storage area shall be located on the site;
- e) all building materials, plant, equipment and waste control containers shall be placed on the building site. Building materials, plant and equipment (including water closets), shall not to be placed on public property (footpaths, roadways, public reserves, etc);
- f) toilet facilities shall be provided at, or in the vicinity of, the work site at the rate of 1 toilet for every 20 persons or part thereof employed at the site. Each toilet shall:
 - i) be a standard flushing toilet connected to a public sewer; or

- ii) have an on-site effluent disposal system approved under the *Local Government Act 1993*; or
 - iii) be a temporary chemical closet approved under the *Local Government Act 1993*.
- (4) **Traffic Management Plan Implementation** - All traffic management procedures and systems identified in the approved traffic management plan shall be introduced and maintained during construction of the development to ensure safety and to minimise the effect on adjoining pedestrian and traffic systems.
- (5) **Site Signage** - A sign shall be erected at all entrances to the site and be maintained until the development has been completed. The sign shall be constructed of durable materials, be a minimum of 1200mm x 900mm, and read as follows:
- "WARNING UP TO \$8,000 FINE. It is illegal to allow soil, cement slurry or other building materials to enter, drain or be pumped into the stormwater system. Camden Council (02 4654 7777) – Solution to Pollution."*
- The wording shall be a minimum of 120mm high and the remainder a minimum of 60mm high. The warning and fine details shall be in red bold capitals and the remaining words in dark coloured lower case letters on a white background, surrounded by a red border.
- (6) **Compaction (Lots)** – The approved lots, which are subject to filling must be compacted in accordance with Council's current Engineering Construction Specifications. A suitably qualified and experienced geotechnical engineer must supervise the placing of fill material and certify that the work has been carried out to level 1 responsibility in accordance with Appendix B of AS 3798.
- (7) **Vehicles Leaving the Site** - The construction supervisor must ensure that:
- all vehicles transporting material from the site cover such material so as to minimise sediment transfer;
 - the wheels of vehicles leaving the site:
 - do not track soil and other waste material onto any public road adjoining the site; and
 - fully traverse the site's stabilised access point.
- (8) **Fill Compaction** - All fill must be compacted in accordance with Camden Council's current Engineering Design Specifications.
- (9) **Removal of Waste Materials** - Where there is a need to remove any identified materials from the site that contain fill/rubbish/asbestos, the waste material shall be assessed and classified in accordance with the NSW EPA Waste Classification Guidelines 2014 (refer to: www.epa.nsw.gov.au/wasteregulation/classify-guidelines.htm)

Once assessed, the materials shall be disposed of to a licensed waste facility suitable for that particular classification of waste. Copies of tipping dockets shall be retained and supplied to Council upon request.

(10) **Soil, Erosion, Sediment and Water Management – Implementation** - All requirements of the erosion and sediment control plan and/or soil and water management plan shall be maintained at all times during the works and any measures required by the plan shall not be removed until the site has been stabilised.

(11) **Noise During Work** - Noise levels emitted during works must comply with:

(a) Construction period of 4 weeks and under:

The LAeq level measured over a period of not less than 15 minutes when the construction site is in operation must not exceed the background level by more than 20 dB(A).

(b) Construction period greater than 4 weeks and not exceeding 26 weeks:

The LAeq level measured over a period of not less than 15 minutes when the construction site is in operation must not exceed the background level by more than 10 dB(A).

(c) Construction period greater than 26 weeks:

The LAeq level measured over a period of not less than 15 minutes when the construction site is in operation must not exceed the background level by more than 5 dB(A).

Alternatively, noise levels emitted during works shall be restricted to comply with the NSW Environment Protection Authority Interim Construction Noise Guidelines.

(12) **Location of Stockpiles** - Stockpiles of soil shall not be located on / near any drainage lines or easements, natural watercourses or water bodies, footpath or roadway without first providing suitable protective measures adequate to protect these water bodies. All stockpiles of contaminated materials shall be suitably covered to prevent dust and odour nuisance.

(13) **Disposal of Stormwater** - Water seeping into any site excavations is not to be pumped into the stormwater system unless it complies with relevant EPA and ANZECC standards for water quality discharge.

(14) **Delivery Register** - The applicant must maintain a register of deliveries which includes date, time, truck registration number, quantity of fill, origin of fill and type of fill delivered. This register must be made available to Council officers on request and be provided to the Council at the completion of the development.

(15) **Fill Material (VENM)** - Prior to the importation and/or placement of any fill material on the subject site, an assessment report and sampling location plan for such material must be provided to and approved by the principal certifier.

The assessment report and associated sampling location plan must:

- a) be prepared by a contaminated land specialist; and
- b) be endorsed by a practising engineer with Specific Area of Practice in Subdivisional Geotechnics; and
- c) be prepared in accordance with;

Virgin Excavated Natural Material (VENM):

- i) the Department of Land and Water Conservation publication "Site investigation for Urban Salinity;" and
 - ii) the Department of Environment and Conservation - Contaminated Sites Guidelines "Guidelines for the NSW Site Auditor Scheme (Third Edition) - Soil Investigation Levels for Urban Development Sites in NSW."
- d) confirm that the fill material;
- i) provides no unacceptable risk to human health and the environment;
 - ii) is free of contaminants;
 - iii) has had salinity characteristics identified in the report, specifically the aggressiveness of salts to concrete and steel (refer Department of Land and Water Conservation publication "Site investigation for Urban Salinity");
 - iv) is suitable for its intended purpose and land use; and
 - v) has been lawfully obtained.

Sampling of VENM for salinity of fill volumes:

- e) less than 6000m³ - 3 sampling locations; and
- f) greater than 6000m³ - 3 sampling locations with 1 extra location for each additional 2000m³ or part thereof.

For e) and f) a minimum of 1 sample from each sampling location must be provided for assessment.

Sampling of VENM for contamination and salinity must be undertaken in accordance with the following table:

Classification of Fill Material	No of Samples Per Volume	Volume of Fill (m ³)
Virgin Excavated Natural Material	1 (see Note)	1000 or part thereof

Note – Where the volume of each fill classification is less than that required above, a minimum of 2 separate samples from different locations must be taken.

- (16) **Offensive Noise, Dust, Odour and Vibration** - All work shall not give rise to offensive noise, dust, odour or vibration as defined in the *Protection of the Environment Operations Act 1997* when measured at the property boundary.
- (17) **Erosion and Sedimentation Control** - Soil erosion and sedimentation controls are required to be maintained for the duration of the works. The controls must be undertaken in accordance with version 4 of the Soils and Construction – Managing Urban Stormwater manual (Blue Book).

Soil erosion and sediment control measures shall only be removed upon completion of the works when all landscaping and disturbed surfaces have been stabilised (for example, with site turving, paving or re-vegetation).

- (18) **Protection for Existing Trees** – The protection of existing trees (on-site and street trees) must be carried out as specified by AS 4970 Protection of Trees on Development Sites.
- (19) **Salinity Management Plan** - All approved development that includes earthworks, imported fill, landscaping, buildings and associated infrastructure must be carried out or constructed in accordance with the conclusion and recommendations contained within the Salinity Management Plan NE1564 prepared by Geotesta Pty Ltd dated 3 March 2023 and the salinity / control measures contained in Council's Engineering Specifications.
- (20) **Relics Discovery During Works** – If any relic surviving from the past is uncovered during the work that could have historical significance (but is not an aboriginal object):
- all work must stop immediately in that area;
 - Heritage NSW must be advised of the discovery in writing in accordance with Section 146 of the *Heritage Act 1977*, and
 - any requirements of Heritage NSW must be implemented.
- (21) **Aboriginal Objects Discovered During Works** – If any Aboriginal object (including evidence of habitation or remains) is discovered during the work:
- all excavation or disturbance of the area must stop immediately in that area,
 - Heritage NSW must be advised of the discovery in writing in accordance with Section 89A of the *National Parks and Wildlife Act 1974*, and
 - any requirements of Heritage NSW must be implemented.
- (22) **Pavement Layer Thickness** - At the completion of each pavement layer, the applicant shall submit to the principal certifier a site survey plan showing the Reduced Level of the finished surface layer after trimming and before the next course material is laid. The survey plan shall be prepared by a suitably qualified surveyor and RL shall be to AHD level. Survey readings at 3 points – being the lip of gutter (two sides) and the centre line of the road – shall be provided at least every 50 metres of road chainage or part thereof, with a minimum of two chainage locations per continuous length of pavement design profile along a single road. The survey plan shall specify the variation from the design level and whether the points are within Council's acceptable tolerances. The tolerances for each layer are specified below. The construction of the next pavement layer shall not commence until written approval is given by the principal certifier.

Layer	Tolerance
Subgrade (surface level)	-30mm / +10mm

Subbase Course (thickness)	-10mm / +20mm
Base Course (thickness)	-0mm / +20mm
Finished Surface Level	-15mm / +12mm

- (23) **Unexpected Finds Contingency (Remediation)** - Should any additional contamination or hazardous materials be encountered during any stage of the remediation process, all remediation works in the vicinity of the findings shall cease and compliance with the contingency recommendations in the approved remediation action plan shall be adopted.
- (24) **Remediation Action Plan** - All approved remediation works that include excavation, stockpiling, on-site and off-site disposal, cut, backfilling, compaction, monitoring, validation, site management and security and work health and safety must be carried out in accordance with the approved remediation action plan titled Remedial Action Plan 36 Ingleburn road and 142 Byron Road, Leppington report no. NE1310 prepared by Geotesta dated 20 May, specifically for site 2 being 142 Byron road, Leppington. except where amended by other conditions of this development consent.

Any variation to the approved remediation action plan will require this development consent to be modified or a separate development consent to be obtained.

5.0 - Prior to Issue of a Subdivision Certificate

The following conditions of consent shall be complied with prior to the issue of a Subdivision Certificate.

- (1) **Requirement for a Subdivision Certificate** - The application for a subdivision certificate(s) shall be made in accordance with the requirements of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.
- (2) **Show Easements/ Restrictions On The Plan Of Subdivision** - The developer shall acknowledge all existing easements and/or restrictions on the use of the land on the final plan of subdivision.
- (3) **Burdened Lots To Be Identified** - Any lots subsequently identified during the subdivision as requiring restrictions shall also be suitably burdened.
- (4) **Subdivision Certificate** - The issue of a Subdivision Certificate is not to occur until all conditions of this development consent have been satisfactorily addressed and all engineering works are complete (where the subdivision involves engineering works), unless otherwise approved in writing by the principal certifier.
- (5) **Fill Plan** - A fill plan shall be provided to the principal certifier prior to the issue of any Subdivision certificate. The plan must show (where applicable):
 - a) lot boundaries;
 - b) road/drainage/public reserves;
 - c) street names;

- d) final fill contours and boundaries; and
- e) depth in filling in maximum 0.5m Increments

The plan is to be provided electronically in portable document format (.PDF).

- (6) **Incomplete Works Bond** - Where there are incomplete works, the applicant is to lodge a bond with Council to cover the cost of the incomplete works in accordance with Council's Development Infrastructure Bonds Policy 'P1.0019.2'.

Note. Fees are payable for the lodgement and refund of the bond.

- (7) **Surveyor's Report** - Prior to the issue of the Subdivision Certificate a certificate from a registered surveyor must be provided to the principal certifier, certifying that all drainage lines have been laid within their proposed easements. Certification is also to be provided stating that no services or access ways encroach over the proposed boundary other than as provided for by easements as created by the final plan of subdivision.
- (8) **Value of Works** - Itemised data and value of civil works shall be provided to Council for inclusion in Council's Asset Management System in accordance with Council's Engineering Specifications.
- (9) **Electricity Notice of Arrangement** - A Notice of Arrangement for the provision of distribution of electricity from Endeavour Energy must be submitted to the principal certifier (Council). The arrangement must include the provision of street lighting in accordance with the electrical design approved by Council.
- (10) **Soil Classification** - A soil classification report prepared by a suitably qualified person in accordance with AS 2870 'Residential Slabs and Footings', detailing the general classification of soil type generally found within the subdivision, shall be provided to the principal certifier. A classification shall be provided for each lot within the subdivision. The soil classification report shall also be provided to Council.
- (11) **Services** - Certificates and/or relevant documents shall be obtained from the following service providers and provided to the principal certifier:
- a) Energy supplier – A Notice of Arrangement for the provision of distribution of electricity from Endeavour Energy to service the proposed development;
 - b) Water supplier – A Section 73 Compliance Certificate demonstrating that satisfactory arrangements have been made with a water supply provider to service the proposed development.

The assessment will determine the availability of water and sewer services, which may require extension, adjustment or connection to Sydney Water mains. Sydney Water will assess the development and if required will issue a Notice of Requirements letter detailing all requirements that must be met. Applications can be made either directly to Sydney Water or through a Sydney Water accredited Water Servicing Coordinator (WSC). Go to www.sydneywater.com.au/section73 or phone 1300 082 746 to learn more about applying through an authorised WSC or Sydney Water.

- (12) **Works As Executed Plan** - Works As Executed Plans shall be prepared and provided in accordance with Council's Engineering Specifications.

Digital data must be in AutoCAD .dwg or .dxf format, and the data projection coordinate must be in (GDA94.MGA zone 56).

- (13) **Section 88B Instrument** - The applicant shall prepare a Section 88B Instrument for approval by the principal certifier which incorporates the following easements, positive covenants and restrictions to user where necessary:
- a) Easement for services;
 - b) Easement to drain water and easement to drain over overland flow paths.
 - c) Easement for on-site stormwater detention
 - d) Easement for water quality facility
 - e) Positive covenant for the maintenance, repair and insurance of the on-site stormwater detention/ water quality facility
 - f) Restriction on the use of land over lots which stipulates that footings of an improvement cannot be erected on the burdened lots unless they were designed by a suitably qualified civil and/or structural engineer;
 - g) Restriction as to user preventing the alteration of the final overland flow path shape, and the erection of any structures (other than open form fencing) in the overland flow path
 - h) Right of carriageway burdening Lot 1 and Lot 2 and benefitting Camden Council over the areas required for the turning head facilities at the ends of Roads 2 and 3.
 - i) Restriction on the use of land ensuring that proposed lots fronting Byron Road cannot be accessed directly from Byron Road;
 - j) Restriction as to user over Lots 1 and 2 as created in this subdivision shall be suitably burdened with a residue lot indicating that no further development shall be carried out on the lot unless satisfactory approvals have been granted by Camden Council.
 - k) Easement to drain water burdening Lots 56B and 56C of DP8979 and benefitting Camden Council over the full length of the tail-out drainage
 - l) All approved development that includes earthworks, imported fill, landscaping, buildings and associated infrastructure must be carried out or constructed in accordance with the Conclusion and recommendations in the Salinity Management Plan NE1564 prepared by Geotesta Pty Ltd dated 3 March 2023 and the salinity / control measures contained in Council's Engineering Specifications.
- (14) **Compaction Report** - A compaction report must be submitted that demonstrates that all roads and lots have been compacted in accordance with Council's Engineering Specifications.

- (15) **Lot Numbers and Street Names** - Lot numbers and street names must be stencilled on the face of kerb or in alternative locations directed by the principal certifier.

The stencil medium must be of good quality UV stabilised paint and applied to the kerb thusly:

- a) Lot numbers – White number in Brunswick Green background located on the prolongation of both common boundaries of each lot.
 - b) Street names – White lettering on Brunswick Green background at kerb and gutter tangent points.
- (16) **Stencilled Pit Lintels** – Pit lintels must be labelled with permanent stencilled signs in accordance with Council's current Engineering Design Specifications.
- (17) **Completion of Landscape Works** – All landscape works, including the removal of noxious weed species, are to be undertaken in accordance with the approved landscape plan and conditions of this development consent.

Certification for compliance with AS2303-2018 – Tree Stock for Landscape Use from the grower/supplier of the trees must be provided to the principal certifier.

- (18) **Fibre-Ready Facilities/Telecommunications Infrastructure** – Documentary evidence must be provided to the principal certifier demonstrating that satisfactory arrangements have been made for:

- c) the installation of fibre-ready facilities to all individual lots and/or premises in a real estate development project so as to enable fibre to be readily connected to any premises that is being or may be constructed on those lots. The carrier must confirm in writing that they are satisfied that the fibre-ready facilities are fit for purpose; and
- d) the provision of fixed-line telecommunications infrastructure in the fibre-ready facilities to all individual lots and/or premises in a real estate development project demonstrated through an agreement with a carrier.

This condition does not apply where an applicable exemption exists under Commonwealth law. Documentary evidence of any exemption relied upon must be provided to the principal certifier.

- (19) **Footpath Works Bond** - Where the applicant proposes deferral of work in accordance with Council's engineering specifications, a bond is to be lodged with Council for the construction of concrete footpaths and/or pedestrian/cycle shared ways in accordance with Council's Development Infrastructure Bonds Policy 'P1.0019.2'.

The deferred footpath works must be completed once 80% of housing has been constructed within the approved subdivision, or within 2 years from the date of deferrals, whichever occurs first.

Note. Fees are payable for the lodgement and refund of the bond.

- (20) **Defects and Liability Bond** - The applicant is to lodge a bond with Council to cover any defects and liabilities of any new public infrastructure in accordance with Council's Development Infrastructure Bonds Policy.

Note. Fees are payable for the lodgement and refund of the bond.

- (21) **Water Quality Facility** - A water quality facility must be constructed for the site in accordance with the approved plans and Council's Engineering Specifications.
- (22) **Water Quality Facility Operation, Maintenance and Monitoring Manual/s** - Operation, Maintenance and Monitoring Manual/s ('Manuals') for the permanent water quality facility shall be provided for approval to the principal certifier. The Manuals shall be prepared by a suitably qualified person in accordance with Council's Engineering Specifications.
- (23) **Water Quality Facility Works Bond** - Where the applicant proposes deferral of work in accordance with Council's engineering specifications, a bond is to be lodged with Council for the construction of approved water quality facilities in accordance with Council's Development Infrastructure Bonds Policy.

Note. Fees are payable for the lodgement and refund of the bond.

- (24) **Temporary OSD and Bioretention Basins** - Restriction as to User shall be placed over area of the lots which contain Temporary On-site Detention and Water Quality Facilities to prevent further development on those lots until these facilities have been suitably decommissioned and the subject lots are suitably filled and compacted in accordance with Council's Engineering Specifications.
- (25) **Stormwater Pipe CCTV** - A CCTV camera report of all stormwater drainage pipes for the development shall be submitted to the Principal Certifying Authority for assessment. The submission shall include the hardcopy report and an electronic report in a format suitable to the PCA. The CCTV inspection shall be carried out in accordance with Water Services Association of Australia (WSAA) "Sewer Inspection Report Code of Australia" and the "Sewerage Code of Australia" (Sydney Water Edition).

CCTV Field Assessors must have NATA accreditation under the Sydney Water Field Testing Services Program for CCTV inspections and have adequate professional indemnity insurance to cover the value of the works they are inspecting.

A minimum of 2 CCTV reports will be required to be undertaken by the developer. The first shall be carried out after the placement of AC pavement layer and not more than 2 weeks before the Final Inspection date. The second shall be at the end of the defects and liability period.

As a minimum stormwater pipes shall be inspected and reported on the following:

- a) Horizontal alignment,
- b) Vertical alignment,
- c) Cracks and defects,
- d) Pipe joints ,
- e) Joints in manholes and other pipes including both existing and new,
- f) Ovality.

The camera must stop perpendicular to all cracks, defects, intrusions, joints and manholes and pan 360degrees. Camera speed shall be no greater than 0.2m/sec (or as agree by Camden Council Engineers). The report and camera footage shall be in colour.

(26) **Bond for the Decommissioning of the Modified "Construction" Onsite Stormwater Detention/ Sediment Control Basin and Water Quality Facility –**

Prior to the issue of any Subdivision Certificate a bond for:

- a) the removal of the modified "construction" on-site stormwater detention/ sediment control basins and water quality facilities and reinstatement of the areas must be lodged with Camden Council.
- b) applies where such facilities are located in existing and/or proposed public land, and / or a residue lot.
- c) has been determined by Camden Council and the applicant, and
- d) will be retained by Council until: -
 - i) such works have been completed in accordance with the approved plans and to the requirements of Council,
 - ii) a permanent water quality facility has been provided in a public infrastructure location approved by Council and

The completion of such work has been confirmed, in writing, by Council

(27) **Validation Report** - A validation report endorsed by a certified contaminated land consultant shall be provided to the certifier and Council within 30 days following completion of the remediation works, which demonstrates:

- a) compliance with the approved RAP;
- b) that the remediation acceptance criteria (in the approved RAP) has been fully complied with;
- c) that all remediation works undertaken comply with the contaminated lands planning guidelines, *Contaminated Lands Management Act 1997*, State Environmental Planning Policy (Resilience and Hazards) 2021 and Council's Management of Contaminated Lands Policy;

and includes:

- d) Works-As-Executed Plan(s) that identify the extent of the remediation works undertaken (that includes any encapsulation work) prepared by a registered surveyor;
- e) a "notice of completion of remediation work" as required by State Environmental Planning Policy (Resilience and Hazards) 2021; and

A statement confirming that the site following remediation of contamination is suitable for the intended use.