

**AMENDED CONDITIONS - 2013HCC003 - Port Stephens, 16-2012-349-1,
Commercial Premises (Big W, 2 shops, cafe and parking), 155 Salamander
Way, Salamander Bay**

1. A Construction Certificate is required prior to commencement of works approved by this application. The person having the benefit of this consent must appoint a principal certifying authority. If Council is not appointed as the Principal Certifying Authority then Council must be notified of who has been appointed. Note: at least two (2) days' notice must be given to Council of intentions to start works approved by this application.
2. The development is to be carried out in accordance with the approved plans and documentation submitted with the application set out in Schedule 3, except as modified by the conditions of this development consent or as noted in red by Council on the approved plans.

PLANNING

3. Except where modified by the conditions of this consent, the development shall be carried out in accordance with the details and recommendations of the Acoustic Report prepared by Reverb Acoustics dated May 2012.

Certification is to be provided to **Council and** the Principal Certifying Authority from an Acoustic Engineer certifying that the recommendations from the Reverb report reference have been implemented and that the development achieves the necessary acoustic attenuation **prior to the issue of an Occupation Certificate and 3 months after occupation verifying the measures comply with the noise emission criteria.**

4. **Signage shall be displayed which makes clear that the void areas between the proposed development and the existing Salamander Bay shopping centre are restricted to centre staff only, and appropriate security measures are to be implemented. Details are to be submitted to Council prior to the issue of an Occupation Certificate. (Replacement of previous condition 4)**
5. Signage shall be in accordance with the details submitted with the application. No further signage is permitted without further Council approval unless that signage is exempt development.
6. **Despite Condition 5 above, proposed Sign 1 (wall sign located on the western elevation) shall be reduced in area to be no more than 20sqm in area and the height to be lowered by 1m on the wall, and proposed Sign 7 (post sign located along Salamander Way) shall be reduced in area to 8sqm as per the requirements of Development Control Plan 2007. (New condition)**
7. In order to protect the amenity of surrounding residences, illuminated signs must be fitted with an automatic timing device to extinguish the illumination outside the approved business operating hours, described in the Statement of Environment Effects as being 8am till 12am (midnight) seven days a week, **except for proposed Sign 1, which shall not be illuminated past 10pm.**
8. In order to protect the amenity of surrounding residences, trolley tractors are not to be used between the hours of 10pm and 7am.
9. Lighting shall meet relevant Australian Standards (AS1158) and should be directed so as not to cause nuisance to nearby residences.

10. The proposed development shall be provided with access and facilities for the disabled in accordance with Australian Standard 1428.1 and the relevant provisions of the Building Code of Australia.
11. The fit out of food preparation, storage and service areas are to be designed and constructed to comply with standard 3.2.3 of the Australia New Zealand Food Standards Code and Australian Standard AS 4674-2004 for the construction and fitout of food premises.

If Council is nominated as the Principal Certifying Authority, details of compliance are to be included in the plans and specifications for the construction certificate. The Food Surveillance Officer shall be given 48 hours notice to inspect the premises prior to commencement of the business.

Where Council is not nominated as the Principal Certifying Authority a certificate from an appropriately qualified person confirming compliance with the above legislation and guidelines is to be provided before the issue of the occupation certificate.

Prior to occupation the café is to be registered with Council.

ENGINEERING

12. All vehicles must enter and exit the site in a forward direction for the duration of the developments operation.
13. The stormwater system, including any water quality or quantity components, shall be maintained in perpetuity for the life of the development.
14. The applicant shall restore, replace or reconstruct any sections of footpath, cycleway, kerb and guttering, road pavement, stormwater, or any other public infrastructure located within the Road Reserve that occur as a result of construction activities, as determined by Council's Development Engineers or Civil Assets Engineer. The applicant shall bear all associated costs with restoring the public infrastructure to satisfaction of the Council.

An Occupancy Certificate shall not be issued until all necessary remediation and repair works have been completed to the satisfaction of Council.

BUILDING

15. All building work must be carried out in accordance with the provisions of the *Building Code of Australia*.
16. Where no sanitary facilities currently exist onsite for construction workers toilet accommodation for all tradespersons shall be provided from the time of commencement until the building is complete. The toilet facilities shall be located so as to have minimal impact of adjoining properties and shall not be placed on the road reserve, without separate approval from Council.
17. Construction work that is likely to cause annoyance due to noise is to be restricted to the following times:-
 - * Monday to Friday, 7am to 6pm;
 - * Saturday, 8am to 1pm;
 - * No construction work to take place on Sunday or Public Holidays.

When the construction site is in operation the L₁₀ level measured over a period of not less than 15 minutes must not exceed the background by more than 10dB(A). All possible steps should be taken to silence construction site equipment.

18. A fire safety certificate as prescribed by Section 174 Environmental Planning & Assessment Regulations 2000 which certifies the performance of the implemented fire safety measures in accordance with Section 170 of the Regulation must be submitted to the Principal Certifying Authority and the Commissioner of New South Wales Fire Brigades. A copy of fire safety certificate needs to be forwarded to Council, If Council is not nominated as the Principal Certifying Authority. A further copy of the certificate must also be prominently displayed in the building.
19. At least once in each twelve (12) month period, fire safety statements as prescribed by Section 175 Environmental Planning & Assessment Regulations 2000 in respect of each required essential fire safety measure installed within the building are to be submitted to Council. Such certificates are to state that:
 - a) The service has been inspected and tested by a person (chosen by the owner of the building) who is competent to carry out such inspection and test; and
 - b) That the service was or was not (as at the date on which it was inspected and tested) found to be capable of operating to a standard not less than that specified in the fire safety schedule for the building.

20. Deleted (Previously Condition 19).

CONDITIONS RELATING TO ISSUE OF CONSTRUCTION CERTIFICATE

PLANNING

21. Appropriate trees are to be planted within the car park to provide shade and visual relief at a rate of 1 tree (minimum 75L pot size) per 10 car parking spaces of a species considered acceptable by Council. Details are to be provided prior to the issue of a Construction Certificate. (New condition)
22. A Construction Management Plan shall be submitted and approved by the Principal Certifying Authority **prior to the issue of the Construction Certificate**. The construction management plan shall specify operational details to minimise any potential impact to adjoining properties. The construction management plan should include but not limited to the following information:- Construction techniques, noise and vibration management, storage of equipment and building materials, hours of work:, primary route for truck movements, etc.
23. Landscaping shall be carried out in accordance **with the approved landscaping plan**. The landscaping must be completed prior to issue of Occupation Certificate. Details demonstrating measures for protecting public infrastructure from tree root damage is to be submitted to and approved by Council **prior to the issue of a Construction Certificate**.
24. Pursuant to section 80A(1) of the Environmental Planning and Assessment Act 1979 and the Port Stephens Section 94A Development Contributions Plan, a contribution of the cost of development shall be paid to Council, as determined in accordance with clause 25j of the Environmental Planning and Assessment Regulation 2000 and as outlined in Table 1 below.

Table 1

Development Cost and Levy Rate

Proposed cost of carrying out the development is up to and including \$100,000

Nil

Proposed cost of carrying out the development is more than \$100,000 and up to and including \$200,000

0.5% of that cost

Proposed cost of carrying out the development is more than \$200,000

1% of that cost

A Cost Summary Report Form (**attached**) setting out an estimate of the proposed cost of carrying out the development in accordance with Schedule 1 of the Port Stephens Section 94A Development Contributions Plan, must be approved by Council and the applicable calculated fee paid **prior to issue of the Construction Certificate**. Where the estimated cost of carrying out the whole of the development is more than \$1,000,000, the Cost Summary Report Form must be completed by a Quantity Surveyor who is a registered Associate member or above, of the Australian Institute of Quantity Surveyors.

25. An amended site plan shall be submitted to the Principal Certifying Authority **prior to the issue of a Construction Certificate** detailing the accesses to the car park from the perimeter road, particularly the additional access required as part of the subdivision approved by DA16-2012-720-1.
26. The appearance of the blank wall facing the northern elevation is to be broken up with additional design features, such as recessed panels, varying colour schemes of a **natural colour/palette, to consider visual impacts on residents to the north**. Details are to be submitted to and approved by Council **prior to the issue of a Construction Certificate**.
27. The development is to incorporate public artwork within a visually prominent or culturally significant location within the public domain (recommended near the Big W entry). Details regarding the public artwork are to be provided to and approved by Council **prior to the issue of a Construction Certificate**.

ENGINEERING

28. A 150mm high kerb retain shall be constructed around the outside of car park and loading bay to prevent water from dispersing onto adjacent properties. Details shall be submitted to the Certifying Authority for approval **prior to the issue of the Construction Certificate**.
29. A minimum 300mm wide grated drain shall be installed at the property alignment across the full width of the proposed driveway between the 'Big W' car park and the existing Salamander Bay Shopping Centre car park.

A Construction Certificate cannot be issued until details of the grated drain are provided to the Certifying Authority for assessment and determined to be satisfactory by the Certifying Authority.

30. A qualified and NATA certified geotechnical engineer shall provide a report and testing on the following:
- Provide an assessment of the soil profile to determine the **steady state infiltration rate for saturated soil conditions**.
 - Test in accordance with "ASTM D3385-09 - Standard Test Method for Infiltration Rate of Soils in Field Using Double-Ring Infiltrometer". Provide charts and/or tables along with the geotechnical assessment to demonstrate that the steady state was achieved. Minimum test duration of 40minutes shall be undertaken for each test site.
 - Provide recommendations on the suitability of the location for infiltration purposes considering road pavements, soil profiles, water table, land slip and other relevant site factors.
 - Provide modelling and report of the highest predicted ground water details so suitability of depth of infiltration system can be determined

Details shall be submitted to the Certifying Authority for approval **prior to the issue of the Construction Certificate.**

31. An on-site infiltration system shall be designed and constructed for **all impervious areas** within the development site in accordance with the approved plans and in accordance with Australian Standards and Port Stephens Council's Design and Construction Infrastructure Specification to infiltrate all stormwater runoff for storm events up to the 1% ("100 year") AEP, and the following:

The design shall incorporate:

- All findings and recommendations of the geotechnical reports and conditions of consent.
- An infiltration System that **shall not** include any overflow pipe(s) connected to the public drainage system.
- Overland surcharge paths shall be provided for storm events great then the 1% AEP.
- The infiltration system design shall incorporate a factor of safety on the infiltration rate as determined by Bettess 1996 or another best practice industry standard

Factors of Safety Table for Infiltration (Bettess, 1996)

Size of area to be drained	Consequence of failure		
	No damage or inconvenience	Minor inconvenience (e.g. surface water on carpark)	Damage to buildings or structures, flooding of major roads, etc
< 100 m2	1.5	2	10
100 m2 to 1,000 m2	1.5	3	10
> 1,000 m2	1.5	5	10

- Provide detailed engineering plans (including proposed and existing surface levels, invert levels, long sections) for the pipe network and road inlet pits.
- The infiltration system shall not be impacted by the roots of landscaping, (i.e. located outside the mature drip line of existing or proposed species over 1.5m in height).
- The infiltration system invert level shall be installed a minimum of 0.3m above the highest predicted ground water level
- The infiltration system shall use a proprietary infiltration product that is easily and practically maintainable and able to be periodically *flushed* by a jetvac nozzle or silimar product.
- One out of every four infiltration rows shall be directly connected to an inlet stormwater pit, with all inlet rows having an accessible pit at the far end of the row with 300mm deep sediment sump for the collection of silt that will be flushed through during the periodic maintenance flushing. This maintenance pit shall be placed high enough to not invite surface water ingress for minor events.

A Construction Certificate cannot be issued until a stormwater drainage plan has been provided to the Certifying Authority for assessment and determined to be satisfactory by the Certifying Authority. A stormwater drainage plan must include all engineering details relevant to the collection, management and disposal of stormwater. The plan must include pit sizes, infiltration system details, existing site surface levels, finished site surface levels, pipeline sizes, invert levels, pipe grades and supporting calculations.

32. The stormwater pipe connected to 'pit N12' as shown on Sheet 3 Rev C dated 5/9/12 by Mott McDonald shall be deleted. Details shall be submitted to the Certifying Authority for approval **prior to the issue of the Construction Certificate.**
33. All surface water within the loading dock shall be captured and conveyed through gravity feeding to the infiltration system located in the main car parking area. The infiltration system shall be designed accordingly to infiltrate the additional volume generated by the loading dock for the 1% AEP storm event.

If the pipe cannot be gravity fed within the property boundaries then an infiltration system located within the loading dock area must be designed and constructed to infiltrate the 1% AEP. The infiltration system shall be designed and constructed to the requirements of that approved under the car park area and the other conditions of consent.

A Construction Certificate cannot be issued until a stormwater drainage plan has been provided to **Council** for assessment and determined to be satisfactory by **Council**. A stormwater drainage plan must include all engineering details relevant to the collection, management and disposal of stormwater from the site. The plan must include pit sizes, infiltration system details, existing site surface levels, finished site surface levels, pipeline sizes, invert levels, pipe grades and supporting calculations.

34. Water quality modelling with a computer program (eg. **MUSIC**) shall be undertaken for the entire site in accordance with the targets in Section 8.4 of Council's Urban Stormwater & Rural Water Quality Management Plan and the tables below. A report shall be provided detailing the developments pollutant discharge prior to treatment and pollutant discharge after treatment to demonstrate the pollutants discharge relevant to the development type including hydrocarbons, oil and grease are adequately controlled.

Table 8-2: Post Construction Stormwater Contaminants for Varying Land Uses.

Development Style	Litter	Coarse Sediment	Fine particles	Total Phosphorus	Total Nitrogen	Hydrocarbons, motor fuels, oils and grease
Low Density Residential	☑	☑	☑	☑	☑	☒
High Density Residential	☑	☑	☑	☑	☑	?
Commercial, shopping and retail	☑	☑	☑	☒	☒	?
Industrial	☑	☑	☑	?	?	☑
Fast food outlets and restaurants	☑	☒	☒	☒	☒	?
Carparks, service stations and wash bays	☑	☑	☑	☒	?	☑

☑ = Pollutant needs to be addressed

☒ = Not significant

? = Variable, subject to site specific assessment.

Adapted from Upper Parramatta River Stormwater Management Plan, 1999.

Table 8-3: Post Construction Stormwater Management Objectives for New and Redevelopments.

Pollutant/Issue	Retention Criteria
<i>Quantitative Objectives – applicable to subdivisions and all medium to large scale developments</i>	
Coarse Sediment	80% of average annual load for particles ≤ 0.5mm
Fine Particles	50% of average annual load for particles ≤ 0.1mm
Total Phosphorus	45% of average annual pollutant load
Total Nitrogen	45% of average annual pollutant load
Litter	70% of average annual litter load >5mm
Hydrocarbons (motor fuels, oils and grease)	90% of average annual pollutant load

Details shall be submitted to the Principal Certifying Authority for approval **prior to the issue of the Construction Certificate.**

35. All relevant roads and civil works that form part of the subdivision application 16-2012-720-1 shall be completed to satisfaction of Council's Development Engineers or Assets Engineer **prior to the issue of Construction Certificate.**
36. Traffic control devices for the car park are to be in accordance with the approved concept plan and designed and constructed in accordance with AS2890.1.2.3.3. Details shall be submitted to the Certifying Authority for approval **prior to the issue of the Construction Certificate.**
37. A designated pedestrian path shall be provided running in an east-west direction through the centre of the car park from the building entrance that links to the eastern most car spaces. Details shall be submitted to the Certifying Authority for approval **prior to the issue of the Construction Certificate.**

38. The car park layout shall accommodate a secondary access driveway in the location of the approved 'turning head and easement' that forms part of the Subdivision Application 16-2012-720-1. The access driveway shall be designed and constructed in accordance with AS2890.1. Details shall be submitted to the Certifying Authority for approval **prior to the issue of the Construction Certificate.**
- At such times as the access road to the development is extended along the western boundary of the site, the secondary access driveway shall be relocated away from the bend in the road within 3 months of the completion of the road works to a location that is deemed safe in regards to sight distance and braking stopping distance in accordance with Australian Standard 2890.1. The original driveway shall be removed and the verge reinstated with turf within the road reserve and landscaping within the property
39. There shall be no landscaping along the access road to the development other than in accordance with the subdivision development consent 16-2012-720-1. Details shall be submitted to the Certifying Authority **prior to the issue of the Construction Certificate.**
40. Erosion and sediment control measures shall be put in place to prevent the movement of soil by wind, water or vehicles onto any adjoining property, drainage line, easement, natural watercourse, reserve or road surface, in accordance with *Managing Urban Stormwater – Soils and Construction, Volume 1* (Landcom, 2004). Details shall be submitted to the Certifying Authority **prior to the issue of the Construction Certificate.**

GENERAL ADVICES

- a) Access to an adjoining property for construction & maintenance work requires the owner(s) consent. It is the responsibility of the owner/applicant to ensure that no part of the structure encroaches onto the adjoining property. The adjoining property owner can take legal action to have an encroachment removed.
- b) This approval relates to **Development Consent** only and does not infer any approval to commence excavations or building works upon the land. **A Construction Certificate should be obtained prior to works commencing.**
- c) The developer is responsible for full costs associated with any alteration, relocation or enlargement to public utilities whether caused directly or indirectly by this proposal. Such utilities include water, sewerage, drainage, power, communication, footways, kerb and gutter.
- d) Deleted
- e) The existing shopping centre building may be required to be upgraded to conform to the Building Code of Australia where necessary due to the addition of the new building works. Particular reference is made to fire safety, smoke control, egress and external fire fighting access. (Previously condition 19, as amended)

SCHEDULE 3 – APPROVED PLANS AND DOCUMENTATION

Amended Plans prepared by Morris, Bray, Martin, Ollmann, Project No. 11021

Drawing No.	Issue	Date
DA-01	B	5/6/2012
DA-02	B	5/6/2012
DA-03	B	5/6/2012
DA-04	B	5/6/2012

Amended Plans prepared by Morris, Bray, Martin, Ollmann, Project No. 11021

Drawing No.	Issue	Date
DA-05	N	20/2/2013
DA-06	L	20/2/2013
DA-07	J	20/2/2013
DA-08	H	20/2/2013

Signage Plans prepared by Morris, Bray, Martin, Ollmann, Project No. 11021

Drawing No.	Issue	Date
Sign DA-01	B	5/6/2012
Sign DA-02	D	20/2/2013
Sign DA-03	B	5/6/2012

Landscaping Plans prepared by Arcadia Landscape Architecture, Job No. 12-067, Sheets 1 to 5 dated 22/5/2012

Amended Civil Plans prepared by Mott McDonald, Sheets 1 to 6 Issue D dated 22/2/2013

Acoustic Report prepared by Reverb Acoustics, Report No 11-1624-R2 dated May 2012

Bushfire Report prepared by Travers Bushfire & Ecology dated May 2012

Traffic Report prepared by Colston, Budd, Hunt & Kafes dated June 2012