

PART A

Deferred Commencement

Pursuant to Section 80(3) of the EP and A Act 1979, this is a deferred commencement condition. This has the effect that the consent is not to operate until the applicant satisfies the consent authority that:

1. Submission of revised plans relocating the proposed Waste Area adjacent to the Scrubby Creek pedestrian entry to the loading dock off Wilsons Road, or in a location as otherwise agreed to by consent authority.

The revised plans shall include a perspective of the amended pedestrian entry off Scrubby Creek that demonstrates improved passive surveillance opportunities and implementing the recommendations of the approved Crime Risk Assessment prepared by Neal Consulting dated 17 October 2016.

The applicant must produce evidence to the consent authority to satisfy the deferred commencement condition listed in Part A **within 12 months** from the date of this consent.

The consent will lapse if the applicant does not provide the evidence to address the deferred commencement condition/s, within this 12 month period.

PART B

Conditions of Consent

(Approved subject to the conditions specified in this notice and in accordance with the stamped approved plans.)

Reason for the Imposition of Conditions

The reason for the imposition of the following conditions is to ensure, to Council's satisfaction, the objects of the *Environmental Planning and Assessment Act 1979* (as amended) are achieved:

- (a) To encourage:
 - (i) The proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forest, minerals, water, cities, towns, and villages for the purpose of promoting the social and economic welfare of the community and a better environment;
 - (ii) The promotion and co-ordination of the orderly and economic use of development of land;
 - (iii) The protection, provision, and co-ordination of communication and utility services;
 - (iv) The provision of land for public purposes;

- (v) The provision and co-ordination of community services and facilities;
 - (vi) The protection of the environment, including the protection and conservation of native animals and plants including threatened species, populations, and ecological communities and their habitats;
 - (vii) Ecologically Sustainable Development; and
 - (viii) The provision and maintenance of affordable housing.
- (b) To promote the sharing of the responsibility for environmental planning between the different levels of government in the State.
 - (c) To provide increased opportunity for public involvement and participation in environmental planning and assessment.

1. Prescribed Conditions

- (a) The work must be carried out in accordance with the requirements of the *Building Code of Australia*.
- (b) In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:

- a. the name and licence number of the principal contractor, and
- b. the name of the insurer by which the work is insured under Part 6 of that Act,
- (ii) in the case of work to be done by an owner-builder:
 - a. the name of the owner-builder, and
 - b. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under (d) becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

2. Inspections

The person having the benefit of the consent shall ensure that critical stage inspections are carried out and notify the Principal Certifying Authority giving adequate notice of the time that each stage of the building/development is ready for inspection.

Note: Failure to have a critical stage inspection conducted by the PCA will constitute a breach of the *Environmental Planning and Assessment Act 1979*. Penalties may apply.

3. Approved Documentation

The development consent incorporates this schedule of conditions and the plans and documents referenced and stamped as listed below. Where there are any inconsistencies between the approved documentation and the conditions of this consent, the requirements of the conditions shall prevail.

(a) Plans Reference:

Architectural Plans prepared by: IC2; Project No: N11-011			
Name of Plan	Drawing Number	Issue	Date
Ground Floor – Stages 1 & 2	DA03	A	20/4/16
Ground Floor – Stage 3	DA04	B	1/9/16
Ground Floor – Stage 4	DA05	B	1/9/16
Ground Floor – Master Plan	DA06	B	1/9/16

Undercroft Floor Plan	DA07	B	1/9/16
Detailed Entry Plan	DA08	B	1/9/16
Roof Plan	DA09	B	1/9/16
Elevations - 1	DA10	B	1/9/16
Elevations - 2	DA11	B	1/9/16
Sections	DA12	B	1/9/16
Perspectives	DA13	B	1/9/16
Elevations and Perspectives	SK-11	A	1/9/16

Service Station Concept Plans prepared by: I2C; Project No: N11-011

Name of Plan	Drawing Number	Issue	Date
Floor Plan	01	-	20/9/16
Roof Plan	02	-	20/9/16
Elevations	03	*	20/9/16
Elevations	04	-	20/9/16
Elevations	05	-	20/9/16
Perspective	06	-	20/9/16
Pad Site	SK-01.G		23/11/16

Engineering Plans prepared by: I2C; Project No: 141657

Name of Plan	Drawing Number	Issue	Date
Notes/Legen	C100	A	25/8/16
Overall Siteworks	C102	B	14/9/16
Siteworks - 1	C103	A	25/8/16
Siteworks – 2	C104	B	14/9/16
Siteworks - 3	C105	A	25/8/16
Stormwater – 1	C106	A	25/8/16
Stormwater – 2	C107	B	14/9/16
Stormwater – 3	C108	A	25/8/16

Pavement – 1	C110	B	14/9/16
Sections – 1	C120	A	25/8/16
Details - 1	C130	A	25/8/16
Details – 2	C131	A	25/8/16
Details - 3	C132	A	25/8/16

Landscape Plans prepared by: Site Image; Project No: SS16-3212

Name of Plan	Drawing Number	Issue	Date
Cover Sheet	000	C	19/4/16
Landscape Plan	101	C	19/4/16
Lower Car Park	102	C	7/9/16
Details	501	E	7/9/16
Specification	502	B	7/9/16

Hydraulic Plans prepared by: ADP Consulting; Project No: 2435

Name of Plan	Drawing Number	Issue	Date
Hydraulic Services	H101	1	26/8/16

(b) Document Reference:

Document	Reference	Author	Date
Statement of Environmental Effects	-	Willow Tree Planning	5/5/16
Additional Acoustic Information	20160087.1	Acoustic Logic	8/12/2016
Acoustic Assessment	20160087.1 (Revision 2)	Acoustic Logic	6/8/16
Crime Risk Assessment	-	Neal Consulting	17/10/16
Targeted Site Investigation	E22864	Environmental Investigations Australia	8/9/16

Social Impact Assessment	16-227	BBC Consulting Planners	October 2016
Trolley Management Policy	-	-	-

Details of the development shown in the approved plans and documents referenced are altered in the manner indicated by:

- (i) Any amendments made by Council on the approved plans or documents;
- (ii) Any notes, markings, or stamps on approved plans or documents, and
- (iii) Any conditions contained in this consent.

4. Construction Certificate

Prior to the commencement of building work or subdivision work, a Construction Certificate shall be obtained.

Note: If the Construction Certificate is issued by a Principal Certifying Authority that is not Council it will be necessary to lodge the Construction Certificate and other approved documents with Council within two days of such approval. (Clause 142(2) EPA Regulation 2000).

5. Occupation Certificate

The development shall not be occupied or used prior to the issuing of a Final Occupation Certificate or Interim Occupation Certificate by the Principal Certifying Authority. Where an Interim Occupation Certificate has been issued, only that part of the building to which the Certificate applies may be occupied or used.

6. Staged Development

This consent relates to Staged Development as described in Part 4 Division 2A in the Environmental Planning and Assessment Act 1979.

Stage 1 applies to redevelopment of the shopping centre, involving demolition of the existing Coles and construction of a new Coles building and specialty shops.

Stage 2 is a concept proposal for a Service Station, including a food and drink premises and demolition of existing specialty shops.

This consent does not authorise the carrying out of any development associated with Stage 2 until such time as a separate development application is approved for those works.

A future development application for the Service Station must be consistent with the approved Concept Plan, subject to the following amendments:

- Provision of a suitable pedestrian walkway with a minimum width of four metres from the bus stop along Wilsons Road into the new shopping centre entry.
- Identification of a location for a Shared Path/Cycleway with a minimum width of three metres between the west boundary of 72 Wilsons Road to the Scrubby Creek pedestrian entry into the Shopping Centre. The Shared Path/Cycleway shall be constructed as part of Stage 2 of the development.

7. Shopping Trolley Management Plan

Prior to the release of the first construction certificate for the development, the person having the benefit of the Development Consent shall submit to Council an amended Shopping Trolley Management Plan for approval.

In the minimum the plan is to include the following details:

- Use of a Radio Frequency wheel locking system or similar method of restricting removal of trolleys from the shopping centre
- Timing of the collection service
- Process for collection of trolleys outside of retail hours
- Response time for collecting trolleys reported as stolen
- Signage to be erected within the development indicating that trolleys are not to be removed from the premises and that penalties apply for abandoned trolleys
- Well signed trolley bays at exit points to the complex
- A map showing usual collection trolley routes and schedules
- Sign clearly advising the contact number of the collection agent
- Publication of contact details registered at the developments website for the reporting of dumped trolleys and complaint handling during and outside of the approved hours of operation
- Trolleys easily identifiable by council officers as belonging to the shopping centre

The Principal Certifying Authority must not release the first or any Construction Certificate without evidence of Council having approved the Shopping Trolley Management Plan.

Following the issuing of the Interim or Final Occupation Certificate, the Shopping Trolley Management Plan is to be implemented and maintained in perpetuity with the operation of the Shopping Centre.

8. Erosion and Sediment Control

Prior to the issue of any Construction Certificate or the commencement of any works, a revised Erosion and Sediment Control Plan, prepared in accordance with the Lake Macquarie Development Control Plan 2014 shall be submitted to and approved by Lake Macquarie City Council's Erosion and Sediment Control Officer.

The Plan shall include a signed and dated Statement of Compliance stating (in full):

1. This Plan has been developed, certified and signed off by an appropriately qualified and experienced professional in erosion and sediment control;
2. The Plan complies with the requirements for the area of disturbance in accordance with DCP 2014;
3. The Plan and associated documents, calculations and drawings, have been prepared to a standard which, if properly implemented, will achieve the water release criteria of 50mg/L of total suspended solids (TSS); and
4. All erosion and sediment control measures are in accordance with DCP 2014.

ENGINEERING

9. Stormwater Disposal - Stormwater Detention and Harvesting

The Stormwater Disposal and Harvesting system submitted with any Construction Certificate shall be generally in accordance with the Civil Engineering Report approved by the Development Consent prepared by Taylor Thomson Whitting, Ref: 141657 P dated 9 September 2016 and must comply with the following:

- (a) Stormwater shall be disposed of through a piped system designed in accordance with Australian Standard AS 3500 by a suitably qualified professional. Qualifications shall be in accordance with Part DQS.06 of Council's Engineering Guidelines.
- (b) Stormwater harvesting measures shall be constructed and maintained in accordance with clause 2.5.4 of DCP 1 (and supporting guidelines). Stormwater drainage plans shall include details of the harvesting system (eg rainwater tank and pump details plus reticulation diagrams).

Prior to the issue of an Interim or Final Occupation Certificate, whichever occurs first:

- (c) All drainage works shall be carried out generally in accordance with the approved Construction Certificate plans.

- (d) A **Works As Executed Plan** is to be submitted to the Principal Certifying Authority that shows any changes (in different colour) to the approved Construction Certificate plans and endorsed by a registered surveyor.
- (e) Certification by the engineer, is to be submitted to the Principal Certifying Authority that any changes comply with the requirements (a) and (b) as shown above. **Note:** This may be shown on the Works As Executed Plan.

10. Fix Damage Caused by Construction Works

Any damage or injury caused to a public road or associated structures including footpaths, drains, kerb and gutter and utility services caused as a consequence of the construction works shall be made good at the cost of the person with the benefit of the consent.

Any disused kerb and gutter and footpath crossing shall be removed and replaced with full kerb and gutter in accordance with Council's standards to match finished adjoining kerb and gutter. All replacement works are to be completed to the satisfaction of Council prior to the issue of an Occupation Certificate at the cost of the person with the benefit of the consent.

11. Parking Areas and Access Ways

All parking areas and access ways shall be designed, constructed, sealed and drained in accordance with the standards nominated in Council's Development Control Plan 1, Volume 1 and 2 Engineering Guidelines and the Australian Standard 2890. All parking areas and access ways, line marking and signage shall be completed prior to the issue of an Occupation Certificate.

12. Stormwater Upgrade Works

Prior to the issue of any Occupation Certificate for the development, the applicant shall arrange for the provision of a 1050mm diameter reinforced concrete stormwater pipe and new inlet pit, generally as identified in the Civil Engineering Report prepared by Taylor Thomson Whitting, reference 141657 P, dated 9 September 2016. The stormwater works shall be designed and constructed in accordance with the specifications contained in Council's Engineering Guidelines.

A headwall and energy dissipation control shall be provided at the outlet of the pipe to ensure that stormwater does not cause erosion in Scrubby Creek.

13. Provision of Council Easements

The Applicant shall arrange for the widening of the existing easement to drain water to cover the proposed new 1050mm diameter pipe and associated structures. The easement shall benefit the Council and the Council shall be identified as the party that can release, vary or modify the easement.

The easement shall be registered prior to the release of any Occupation Certificates.

14. Public Positive Covenant

The applicant shall create a Public Positive Covenant to benefit the Council in relation to the construction of a new building over the stormwater pipe system. The Covenant shall cover the area of the stormwater pipes that will be located below the new Coles building and extend for a distance 2.0 metres beyond the proposed building on each side. The terms of the Covenant shall be as generally set out below:

The land owner shall be responsible for the maintenance, repair and replacement of the stormwater pipes that are located below the new Coles building and extend for a distance 2.0 metres beyond the proposed building on each side. The land owner shall be responsible for any damage to the building that is caused as a consequence of the operation or lack of maintenance of the stormwater pipes. The stormwater pipes shall be maintained to the satisfaction of Lake Macquarie City Council.

Council shall be identified as the party that can release, vary or modify the covenant.

The Covenant shall be registered prior to the release of any Occupation Certificates.

15. Topsoil and Stockpiles of Materials

Topsoil shall only be stripped from approved areas and shall be stockpiled for re-use during site rehabilitation and landscaping.

Stockpiles of topsoil, sand, aggregate, spoil or other material stored on the site that is capable of being moved by running water shall be stored clear of any drainage line or easement, natural watercourse, footpath, kerb, and/or road surface. Suitable sediment and erosion control devices shall be installed prior to the stockpile being created. The stockpile shall be treated so its surface is erosion resistant to wind and water action. No stockpiles of topsoil, sand, aggregate, spoil or other material shall be located on the public footpath or road reserve.

16. Removal, Management and Transportation of Fill

All excavated fill material that is to be removed from the site shall only be distributed to:

- (a) A NSW Office of Environment and Heritage licensed waste disposal facility. A copy of the receipts from the waste disposal facility shall be kept and shall be provided to the Principal Certifying Authority prior to the issue of an Interim or Final Occupation Certificate, whichever occurs first, or authorised officer of Council upon request; or
- (b) A site which has a current development consent for the importation of fill material. A copy of the current development consent for the site to which the material is proposed to be distributed must be provided to the Principal Certifying Authority prior to the issue of an Interim or Final Occupation Certificate, whichever occurs first, or authorised officer upon request.

All removed excavated material shall be transported and disposed of in accordance with the NSW Office of Environment and Heritage guidelines applicable at the time of removal.

17. Dust Suppression

During the extraction, removal, and transportation of material associated with the works, the person having the benefit of the consent shall ensure that airborne dust is contained within the work site or transport vehicles, and does not impact on the amenity of the surrounding environment.

Effective environmental controls and practices shall be implemented and maintained to the satisfaction of Council or the Principal Certifying Authority.

18. Management of Site - Erosion Prevention and Sediment Control

All disturbed areas shall be revegetated or rendered erosion resistant in accordance with DCP 2014 Guidelines – Erosion Prevention and Sediment Control Guidelines as soon as practical, and no later than the timeframes specified in Managing Urban Stormwater: Soils and Construction “The Blue Book” 4th Edition, Landcom, 2004.

PLANNING

19. Lot Consolidation

Lots 101 and 103 DP 1115833, being 46 and 56 Wilsons Road Mount Hutton, shall be consolidated prior to the commencement of works. Evidence in this regard shall be provided to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

20. Boundary Fencing

To ensure pedestrian access to the site is not restricted, this consent does not authorise any fencing along the boundary between the Coles parking area in the eastern corner of the site and 72 Wilsons Road, or along the Scrubby Creek frontage.

21. Hours of Operation

This consent authorises the Coles supermarket to operate 24 hours a day, 7 days per week, as detailed in the approved Statement of Environmental Effects.

This consent does not otherwise change the operating hours of the existing shopping centres.

In this regard, this consent does not authorise extended operating hours for the proposed Bottle Shop, which is to maintain operating hours consistent with those of the shopping centre.

22. Lighting

The development is to provide lighting for pedestrian walkways to a minimum of 20 lux illumination, in accordance with Part 4, Section 3.6 in Lake Macquarie Development Control Plan 2014.

All external lighting, including illuminated signs, must be installed to ensure minimal glare and light spill onto adjoining properties or roadway in accordance with Australian Standard AS4282-1997.

Certification that works comply with these requirements shall be provided by a lighting consultant to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

23. Bicycle Parking Racks

Secure bicycle parking/storage shall be provided along the Wilsons Road and Scrubby Creek pedestrian entries, in accordance with the requirements of Part 4, Section 5.3 in Lake Macquarie Development Control Plan 2014. The installation and dimensions of the bicycle parking/storage shall be in accordance with the Austroads 'Cycling Aspects of Austroads Guides' and Australian Standard AS2890.3:1993. These works shall be completed prior to the issue of an Occupation Certificate.

24. Bus Shelter

The existing bus shelter along Wilsons Road shall be upgraded to be consistent with the proposed development, in accordance with Council's Standard Drawing EGSD-801.

An approval under s138 of the Roads Act 1993 shall be obtained from Council prior to the issue of any Construction Certificate for these works.

Prior to the issue of a Compliance Certificate/Occupation Certificate a certificate shall be issued by the contractor stating that the bus shelter installation has been undertaken in accordance with the Council's Standard Drawing EGSD-801.

25. Advertising Structures and Signs

All signage shall be in accordance with the details on the approved plans, with the exception of the proposed pylon sign along Wilsons Road, which is to have a maximum height of 8m.

Further development consent shall be obtained from Council prior to the erection of any additional advertising structures or signs on the site. This requirement does not apply to any exempt, complying, or previously approved signage.

26. Ausgrid Requirements

The development shall comply with the general requirements specified in Ausgrids letter dated 9 June 2016. Prior to the issue of the first Construction Certificate, the requirements of Ausgrid shall be obtained and a copy of the such requirements shall be lodged with the Principal Certifying Authority. All works shall comply with the requirements of Ausgrid.

27. Category 3 Landscaping

Landscaping shall be implemented/installed in accordance with the approved landscape plans and documentation prepared by Site Image Landscape, but shall include the following:

- Tree planting within the car park area adjacent to the proposed entry as shown on the approved architectural plans (Sheets DA06 and DA08)
- Tree species within the car park areas must be of a mature height proportional to the scale of the proposed buildings.
- Additional tree, shrubs and ground covers are to be planted along the Scrubby Creek reserve at a suitable density to ensure suitable survival rates.

Amended details in this regard are to be submitted to Council **prior to the issue of a Construction Certificate.**

All landscape works shall be carried out by members of the Landscape Contractors Association of Australia and implemented under the full supervision of the appropriately qualified landscape consultant until the Landscape Compliance Report is received by the Principal Certifying Authority.

Landscaping as proposed as per approved plans must conform to landscaping and typical minimum planting densities 'once mature' comprising shrubs at a minimum 1 plant/m² and groundcovers/low planting at a minimum 2 plants/m² pending species selected within all nominated open areas dedicated to planting.

A hard garden retaining edge (Timber or concrete edge) to all garden bed areas adjoining lawn or pathway/hardstand surfaces must be implemented and all landscaping to be covered with minimum 75mm Mulch to aid plant establishment.

Nominated Street Trees addressing street/ Public Road reserve (only) must be planted at minimum 75L Pot size.

At the completion of landscape works, the landscape consultant who prepared the documentation shall submit to the Principal Certifying Authority a Landscape Compliance Report prior to issue of Occupation Certificate that establishes satisfactory completion of the landscaping works approved by this consent.

All landscaping shall be permanently maintained in good condition in accordance with the adopted DCP 2014 Guidelines – Landscape Design Guidelines.

28. Retention of Trees and Native Vegetation (Development)

All native vegetation on the site, particularly along or within Scrubby Creek and Wilsons Road, shall be retained and protected unless it:

- (a) has been clearly identified for removal on the approved plans or documentation; or
- (b) has been identified for selective removal by the NSW Rural Fire Service; or
- (c) is a tree or native vegetation, on the site, that is within close proximity to the approved buildings (ie; within 0 to 5 metres of the approved building) and provided it has not been identified for specific retention in any of the approved plans or documentation.

A separate application shall be made to Council in accordance with Clause 5.9 of LEP 2014 for the removal of any other trees or native vegetation. This includes application for the removal of any understorey vegetation or the stripping of ground cover vegetation that is outside those areas approved for construction.

All reasonable measures shall be undertaken to protect all other native vegetation on the site and on adjoining lands from damage during construction. Such measures shall include but not be limited to:

- (a) installing exclusion fencing around vegetation that adjoins the construction area to minimise damage to vegetation that is to be retained. Exclusion fencing shall be installed prior to the issue of the first Construction Certificate or if no Construction Certificate is necessary, prior to the commencement of works and maintained in good working order for the duration of works. The person having the benefit of the consent shall notify Councils Development Planner Flora and Fauna when exclusion fencing has been installed;
- (b) prohibiting compaction and the placement of fill within 5 metres of trees and native vegetation that are to be retained;
- (c) keeping all vehicles, construction materials and refuse within areas approved for buildings, structures, access ways and car parks;
- (d) limiting the number of access points;
- (e) salvaging useable trees and shrubs which are felled for re-use, either in log form, or as woodchip mulch for erosion control and/or site rehabilitation. Non-salvageable material such as roots and stumps may only be disposed of at an approved site;
- (f) notifying all contractors, sub-contractors, and personnel of vegetation protection requirements of this condition.

29. Construction and Waste Management

An amended Construction and Waste Management Plan shall be submitted to Council prior to the issue of any Construction Certificate.

The amended plan shall clearly identify interim waste management measures during the proposed construction stages for the development, including management of operational waste during demolition of the existing Coles loading dock and waste area.

30. Contamination

The development shall be undertaken in accordance with the recommendations of the Targeted Site Investigation prepared by Elaustalia Urban dated 8 September 2016, and the actions specified in the recommendations shall be implemented prior to commencement of works associated with the built form of the development.

31. Acoustic Certification

The development shall be constructed and operated in accordance with the details and recommendations contained in the approved acoustic report and supplementary documentation prepared by Acoustic Logic Consultancy listed in Condition 3.

In this regard, the proposed loading dock shall not operate the hours of 7am and 10pm.

A suitably qualified acoustic consultant shall be engaged to assist with the preparation of the final building plans and specifications to ensure compliance with any acoustic conditions and that no other noise nuisance is created to the neighbourhood.

Upon completion of the works and prior to the issue of an Interim or Final Occupation Certificate, whichever occurs first, a certificate shall be provided to the Principal Certifying Authority from a suitably qualified acoustic consultant certifying that the works have been completed in accordance with their requirements and the development or proposed use is capable of operating in accordance with the design criteria.

At 90 days of operation a suitably qualified acoustic consultant shall test, measure and certify that the development is operating, at that time, in accordance with the approved acoustic report.

Note – This condition should be read in conjunction with Part A Deferred Commencement condition and the acoustic certification is to ensure that the relocated Waste Area does not present any additional noise impacts on nearby residences.

32. Noise – Ongoing Operation of Machinery, Plant and Equipment

The Laeq (15 minute) operating noise level of machinery, plant and equipment when measured at the boundary of the nearest residential premises shall comply with either the amenity or intrusiveness criteria calculated in accordance with the NSW Office of Environment and Heritage Industrial Noise Policy. For assessing amenity criteria, the area shall be categorised in accordance with the guidelines outlined in Chapter 2 of that Policy.

Prior to the issue of an Interim or Final Occupation Certificate, whichever occurs first, certification from a suitably qualified acoustic consultant shall be submitted to the Principal Certifying Authority, demonstrating compliance with the above.

33. Emissions

There shall be no interference with the amenity of the neighbourhood by reason of the emission of any "offensive noise" as defined in the *Protection of the Environment Operations Act 1997*, vibration, smell, fumes, smoke, vapour, steam, soot, ash or dust, or otherwise as a result of the development.

34. Garbage Storage Areas

The garbage washing and bin storage area shall be constructed of, or lined with materials that are durable, impervious to moisture, and capable of being easily cleaned.

The storage area shall be supplied with hot and cold water, roofed and the floor bunded, graded and drained to a sump, which shall be connected to the sewer in accordance with the requirements of the Hunter Water Corporation.

Construction details shall be provided to the Principal Certifying Authority prior to the issue of the first Construction Certificate.

Adequate facilities shall be provided in a screened location within the premises for the separate storage of recyclable and non-recyclable material and arrangements shall be made for the regular removal and disposal of those materials.

35. Loading Dock and Driveway

The loading dock and driveway shall be graded and drained to a collection sump for the control of any spillages or cleaning waste generated. Wastes shall be directed to the sewer in accordance with the requirements with the Hunter Water Corporation. Details shall be provided to the Principal Certifying Authority prior to the issue of the first Construction Certificate.

36. Bottle Shop Management Plan

The take-away liquor store is to prepare a plan of management detailing provisions in relation to responsible service of alcohol, pricing points to minimise the availability of bulk discount liquor, appropriate trading hours, amenity impacts, and responsible promotion of alcohol (as per the mitigation measures identified in Section 6.1 of the SIA). The management plan shall be developed in accordance with the Shopping Centre Management, and submitted to and approved by Council prior to the issue of an Occupation Certificate.

37. Crime Risk

The development shall be undertaken in accordance with the recommendations of the Crime Risk Assessment prepared by Neal Consulting Solutions dated 17 October 2016.

BUILDING

38. Disability Access Requirements

Access for people with disabilities must be provided from the building(s) to kerb ramps and footpaths along the street frontage, by means of a continuous path of travel in accordance with Australian Standard AS 1428.1.

Prior to the issue of an Occupation Certificate, certification from an accredited access consultant shall be submitted to the Principal Certifying Authority, certifying the development's compliance with the Building Code of Australia and the Disability Discrimination Act 1992 in relation to the provision of equity in access for disabled persons.

Note: Additional legislation exists to promote the provision of services, which enable people with a disability to maximise their potential, further their integration in the community and achieve positive outcomes.

The following legislation may be relevant:

- The NSW Disability Services Act 1993
- The Commonwealth Disability Discrimination Act 1992
- NSW Anti Discrimination Act 1977.

For further information please consult:

- Human Rights and Equal Opportunity Commission
- NSW Anti Discrimination Board.

39. Construction and Fit-out of Food Premises

(a) General Construction

The fit-out of areas used for food preparation, storage or display, shall comply with the requirements of the *Food Act 2003*, *Food Regulation 2010*, and *Australian Standard AS4674 "Design, construction and fit-out of food premises"*.

Note: Particular attention should be paid to:

- Routing of plumbing & electrical conduit
- Installation of hand wash basins and cleaners sinks
- Construction of floors, walls and ceilings
- Finishes of floors, walls and ceilings
- Cool room construction
- Installation of fixtures fittings and equipment

- Toilet facilities and airlocks
- Installation of light fittings
- Installation of floor wastes
- Ventilation and exhaust systems

(b) **Plans and Specifications**

Any application for the first construction certificate shall be accompanied by plans and specification demonstrating compliance with the Food Act and Regulations, and relevant Australian Standards.

(c) **Mechanical Ventilation**

Installation of any mechanical ventilation system(s) shall comply with the provisions of Part 2 of the Australian Standard AS1668.

(d) **Partition Wall Construction**

Any partition wall (that do not extend to the ceiling), sills or other ledges located within food preparation areas shall be splayed on top at an angle of 45 degrees to prevent storage of articles and reveal build-up of food waste, dirt, grease or other visible matter.

(e) **Waste Traps**

Any bucket traps, grease traps and associated sewer connections shall be installed in accordance with the requirements of Hunter Water Corporation.

40. Certification of Food Premises Fit-out

Prior to the issue of any Occupation Certificate the food premises shall be inspected by an appropriately qualified person who shall certify that the premises, including the construction and installation of all equipment, fixtures, fittings and finishes therein, complies with the *Food Act 2003*, *Food Regulation 2010*, and *Australian Standard AS 4674 "Design, construction and fit-out of food premises"*.

41. Building Waste

Prior to any construction work commencing, containment of building waste materials shall be provided within the boundaries of the building site, above natural or excavated ground level, by a screened area of silt stop fabric or shade cloth, having minimum dimensions of 2.4 x 2.4 x 1.2 metres high OR equivalent size waste disposal bin.

The enclosure or bin shall be maintained for the term of the construction to the completion of the development.

The enclosure or bin shall be regularly cleaned to ensure proper containment of the building wastes generated on the site.

Appropriate provision is to be made to prevent wind blown rubbish escaping from the containment.

42. Works on a Road

Prior to the carrying out of any works on a road, the person having the benefit of the consent shall apply to Council for an approval under s138 of the Roads Act 1993. The road shall not be opened until the approval has been issued. The person having the benefit of the consent shall pay to Council the calculated road restoration fee (where the road surface is disturbed) prior to the issue of any occupation certificate.

The person having the benefit of the consent is given permission to open a grassed or natural surface footpath for the installation of all water services, cables, or mains. Upon completion of the work, the footpath shall be restored to its original state and ensure that there are no hazards that may impact on the public.

All precautions must be taken to protect the public while work is in progress. Traffic control shall be undertaken in accordance with Australian Standard AS1742 – Manual Uniform Traffic Control Services – Parts 1, 2 and 3.

43. Unobstructed Footpath Access

The person having the benefit of the consent shall maintain unobstructed footpath access within the public road reserve at all times. Building materials shall not be placed or stored within the road reserve.

In the case of sites where it is not possible to keep the footpath or road reserve clear during construction works written approval from Council shall be obtained prior to any closing of the road reserve or footpath area. The closure shall take place in accordance with Council's written approval. The area shall be signposted and such signposting be maintained in a way that ensures public safety at all times.

44. Demolition

Demolition may only be carried out between 7.00 am and 5.00 pm on Monday to Saturday and no demolition is to be carried out at any time on a Sunday or a public holiday.

No trees shall be removed from the site unless they are shown for removal on the approved plans, or separately approved by Council.

Erosion and sediment control measures shall be installed prior to any demolition works and maintained in accordance with DCP 2014 Guidelines - Erosion Prevention and Sediment Control Guidelines.

Temporary toilet facilities shall be provided during the course of demolition at a ratio of one toilet, plus one additional toilet for every 20 persons employed at the site.

All demolition work shall be carried out strictly in accordance with *Australian Standard AS 2601—1991: The Demolition of Structures* and as in force at 1 July 1993.

Waste materials (including excavation, demolition and construction waste materials) must be managed on the site and then disposed of at a waste management facility. During construction all vehicles entering or leaving the site must have their loads covered, and must be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads.

At the completion of the works, the work site must be left clear of waste and debris and the site shall be grassed or otherwise rendered erosion resistant.

45. No works on adjoining Public Reserve

The public reserve adjoining the site shall not be affected by site works, construction materials stockpiles, waste, building products and debris, site sheds, spoil placement or the like. No access for vehicles, machinery or goods to the site shall be gained across the public reserve without a written license from Council. All costs associated with such a license shall be payable by the person having the benefit of the consent.

46. Noise - Construction Sites

The operating noise level of construction site operations, including machinery, plant and equipment when measured at any affected premises, shall be evaluated and comply with the requirements of the NSW Office of Environment and Heritage publication "Interim Construction Noise Guideline" July 2009.

Approved Construction Times

The approved hours for construction of this development are –

Monday to Friday - 7.00am to 6.00pm.

Saturday – 8am to 1pm.

No construction work shall take place on Sundays or Public Holidays.

Construction Periods in Excess of 26 Weeks

If the construction period is in excess of 26 weeks, a Noise Management Plan (NMP) shall be provided to Council prior to the issue of the first construction certificate. Such

plan shall be prepared with the assistance of a suitably qualified acoustic engineer, indicating whether the use of machinery, plant and equipment during those operations can be completed without causing offensive noise (as defined in the *Protection of the Environment Operations Act 1997*) in the neighbouring area. The NMP shall be complied with at all times during the construction period and shall identify any mitigation measures to control noise, noise monitoring techniques and reporting methods, likely potential impacts from noise and a complaints handling system.

Operational times may be amended with the written advice of Council's General Manager or delegate.

47. General Terms of Approval

The development shall be undertaken in accordance with the general terms of approval issued by the following authorities in relation to the development:

Mine Subsidence Board

1. Design the proposed structure to be "safe, serviceable and any damage shall be limited to cosmetic damage" using the subsidence parameters outlined below;
 - i. Maximum vertical subsidence: 150mm
 - ii. Maximum Horizontal Strain: 2mm/m
 - iii. Maximum Tilt 2mm/m
2. Submit a "Building Impact Statement" prior to the commencement of detailed design for the Board's acceptance. It shall identify;
 - i. The mine subsidence parameters outlined above
 - ii. The main building elements and finishes
 - iii. The mine subsidence mitigation measures proposed for each building element.
3. Submit final design drawings incorporating the mine subsidence mitigation measures identified in the Building Impact Statement for approval by the Board prior to the commencement of construction. This shall include certification by a qualified engineer to the effect that the improvement will remain "safe, serviceable and any damage shall be limited to cosmetic damage" given the subsidence parameters outlined above.
4. On completion, certification by a qualified structural engineer is to be forwarded to the Board, that all improvements have been constructed in compliance with plans approved by the Board under this development application.

48. Contribution to Provision of Public Amenities and Services (Sec. 94)

- (a) In accordance with the provisions of Section 94 of the Environmental Planning and Assessment Act 1979 and the Lake Macquarie City Council Development Contributions Plan Charlestown Contributions Catchment - 2015, the monetary contributions in the attached Contributions Schedule must be paid to Council for the purposes identified in that Schedule.
- (b) From the date this determination is made until payment, the amounts of the contributions payable under the preceding clause will be indexed and adjusted at the close of business on:

14 August,
14 November,
14 February, and
14 May;

in each year in accordance with indexation provisions within the Contributions Plan. The first date for indexation will occur on the first abovementioned date after the Notice of Determination becomes effective.

- (c) The contributions payable will be the amounts last indexed and adjusted in accordance with Clause (b) above. However, if no amount has been indexed and adjusted because the first date for indexation and adjustment has not arrived, the contributions payable shall be those in clause (a) above.
- (d) The contributions shall be paid to Council as follows:
- Development Applications involving subdivision – prior to the release of the Subdivision Certificate;
 - Development Applications involving building work – prior to the release of the first Construction Certificate;
 - Development Applications involving both subdivision and building work – prior to the release of the Subdivision Certificate or first Construction Certificate, whichever occurs first;
 - Development Applications where no Construction Certificate or Subdivision Certificate is required – prior to the commencement of any construction work or prior to any occupation, whichever occurs first;
 - Complying Development Certificates - prior to any work authorised by the application or certificate commencing.

It is the professional responsibility of the Principle Certifying Authority to ensure that the monetary contributions have been paid to Council in accordance with the above provisions.

Please note that payments made by cheque or electronic transfer - the release of any documentation will be subject to the clearing of those funds.

Indexation details are available from Council's Community Planning Department.

A copy of the Lake Macquarie City Council Development Contributions Plan Charlestown Contributions Catchment - 2015 may be viewed on Council's website, or a copy is available for inspection at the Council's Administrative Building during Council's ordinary office hours at 126-138 Main Road, Speers Point, NSW.

CONTRIBUTION FEE SCHEDULE

DESCRIPTION	FEE AMOUNT
CMH-Roads-Capital-R005/R006/R007-CPI	\$775,074.92
CMH-Roads-Land-R005/R006/R007-LVI	\$5,539.80
CMH-Public Transport Facilities-CPI	\$692.02
CMH-Plan Preparation & Administration-CPI	\$2,163.66
	TOTAL \$783,470.40