

SUMMARY OF APPLICANT'S REQUEST TO REVIEW AND AMEND RECOMMENDED DRAFT CONDITIONS
2017SYW116DA (DA No. 2016/171/1) – No. 1-15 Sturt Street, Smithfield

No.	Current condition	Proposed Amendment & Justification
DEFERRED COMMENCEMENT CONDITIONS		
1 & 2	<p>For the site known as 1-15 Sturt Street, Smithfield a Section B Site Audit Statement is required to be prepared by a Site Auditor (as accredited under the Contaminated Land Management Act 1997). The Section B Site Audit Statement will need to determine if the site can be made suitable for the proposed use.</p> <p>Subject to the terms of the Section B Site Audit Statement a Remedial Action Plan, followed by a Validation Report will be required to be prepared to the satisfaction of the Site Auditor.</p> <p>Following the submission of a satisfactory Validation Report, a Section A Site Audit Statement is required to be prepared by a Site Auditor (as accredited under the Contaminated Land Management Act 1997), verifying that the site is suitable for the proposed use.</p>	<p>Relocation of proposed conditions to “Prior to Issue of Construction Certificate”</p> <p><u>Reasons:</u></p> <ol style="list-style-type: none"> 1. Undertaking site remediation works is appropriately undertaken following demolition works when the site will be cleared. In terms of compliance this matter can be repositioned within the structure of the DA conditions by placement in the “prior to CC” section. This will enable matter to be addressed prior to commencement of construction. 2. There has been sufficient information submitted with the DA (Preliminary Environmental Site Assessment ref E28497K dated 13 July 2015) inclusive of soil testing from 20 sampling points, which provides the consent authority with sufficient information to reach the conclusion that this matter can be satisfied at a later date (post commencement and prior date, prior to use, consistent with the requirements of clause 7(1)(c) of SEPP 55 3. It is Bunnings’ recent experience that this type of requirement does not warrant a “deferred commencement”, and has been addressed in comparable cases in the “prior to CC” section of DAs - examples are Sydney West JRPP approval at 1-19 Bonnyrigg Avenue, Bonnyrigg (2015SYW037 issued 18/12/15); Wollongong City Council approval at 9 Watts Lane, Russell Vale (DA 2015/545 issued 4/5/16); and 459, 461-495 Victoria Road, Gladesville (2015SYE069 issued 28/10/15). <p>Not supported. Conditions are to remain under ‘Schedule A’.</p>
DA CONDITIONS		
N/A	<p><u>Headings:</u> PRIOR TO WORKS COMMENCING The following conditions are to be complied with</p>	<p>Amend headings as follows: <i>PRIOR TO WORKS COMMENCING</i></p>

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	<p>prior to any demolition / works commencing on the site</p> <p>DURING CONSTRUCTION / DEMOLITION</p> <p>The following conditions are applicable during demolition / construction</p>	<p><i>The following conditions are to be complied with prior to any demolition/ construction works commencing on the site</i></p> <p><i>DURING CONSTRUCTION / DEMOLITION</i></p> <p><i>The following conditions are applicable during demolition/ construction</i></p> <p><u>Reasons:</u></p> <ol style="list-style-type: none"> 1. Conditions 7 and 8 enable the commencement of demolition works, subject to the satisfaction of certain listed requirements; including satisfaction of environmental matters, handling of hazardous wastes/asbestos, payments of bonds and the like, prior to demolition occurring 2. The requirement to satisfy all matters listed in conditions 58-113 is onerous and unreasonable in respect of demolition works (alone) <p>Not supported.</p>
8(h)	Demolition is to be completed within 5 days of commencement.	<p>Amendment to condition as follows:</p> <p><i>Demolition is to be completed within 5 days 8 weeks of commencement.</i></p> <p><u>Reasons:</u></p> <ol style="list-style-type: none"> 1. Due to the scale of the development and demolition works involved, 5 days is unrealistic. 2. The proposed timing accommodates the expected 6-8 week demo process on-site <p>Supported.</p> <p>Condition 8(h) modified as per Applicant's request.</p>
11	Nothing in this consent prevents the issuing of separate Construction Certificates for the works under the following stages:	<p>Amendment to condition as follows:</p> <p><i>Nothing in this consent prevents the issuing of separate Construction Certificates for</i></p>

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	<p>Stage 1: Early works – remediation / demolition.</p> <p>Stage 2: Excavation/earthworks; in-ground services; foundation work, Building structure – whole of building envelope with roof.</p> <p>Stage 3: Road reserve works including diversion of public infrastructure, re landscaping of park in front of site.</p> <p>Stage 4: Building complete – including internal store fitout and food premises fitout, signage, mechanical & electrical services; fit-out; car parks; internal roadways; landscaping.</p> <p>Stage 5: Subdivision.</p>	<p><i>the works under the following stages:</i></p> <p>Stage 1: Early works – remediation / demolition.</p> <p>Stage 12: <i>Excavation/earthworks; in-ground services; foundation work, Building structure – whole of building envelope with roof.</i></p> <p>Stage 23: <i>Road reserve works including diversion of public infrastructure, re landscaping of park in front of site.</i></p> <p>Stage 34: <i>Building complete – including internal store fitout and food premises fitout, signage, mechanical & electrical services; fit-out; car parks; internal roadways; landscaping.</i></p> <p>Stage 45: <i>Subdivision.</i></p> <p><u>Reasons:</u></p> <p>1. No CC is required or proposed for demolition and/or remediation works</p> <p>Supported Condition 11 modified as per Applicant's request. Also deleted stage 5 subdivision.</p>
19	<p>The proposed changes that affect traffic signs, linemarking or traffic devices on any public road are subject to the approval of Council's Traffic Committee, prior to the issue of the Construction Certificate.</p>	<p>Relocation to "During Construction" and amendment to condition as follows:</p> <p><i>The proposed changes that affect traffic signs, linemarking or traffic devices on any public road are subject to the approval of Council's Traffic Committee, prior to the issue of the Construction Certificate.</i></p> <p><u>Reasons:</u></p> <p>1. Traffic committee meets once a month and delays to consideration may prevent an otherwise approvable CC and works proceeding on the development site itself (which have no logical relationship to traffic signage)</p> <p>2. The proposed relocation ensures the condition remains relevant and must still be satisfied</p>

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		<p>Not supported.</p> <p>The development is on a B-Double route and has the potential to create significant safety and congestion issues, therefore any proposed changes to Councils traffic assets, signs and linemarking must be well planned prior to construction as it will be difficult for alternative proposals to be considered once construction has commenced.</p>
35	<p>The developer shall arrange with the relevant authority for the relocation of the services affected by the proposed vehicular crossing and adjustment/realignment of the road. Any such work being carried out at the applicant's cost.</p>	<p>Relocation of the condition to the "During Construction"</p> <p><u>Reasons:</u></p> <ol style="list-style-type: none"> 1. Current drafting requires completion of services' relocations prior to CC. This condition is more logically satisfied "during works" given the expected timing for road works to be undertaken. <p>Supported in part.</p> <p>The condition has been amended as follows:</p> <p><i>The developer shall liaise and obtain concurrence with the relevant authority for the relocation of the services affected by the proposed vehicular crossing and adjustment/realignment of the road.</i></p> <p>The following <u>new condition</u> has been included under Prior to Works Commencing as condition no. 85A</p> <p><i>The developer shall make arrangements with the relevant authority for the relocation of the services affected by the proposed vehicular crossing and adjustment/realignment of the road. Any such work being carried out at the applicant's cost.</i></p>

No.	Current condition	Proposed Amendment & Justification
43	<p>The development has been identified as requiring Water Sensitive Urban Design (WSUD) which has formed part of the development consent. Therefore, in order to satisfy the drainage requirements for the building, any construction certificate for the building shall include the construction of the WSUD system. In this regard, design and construction details of the WSUD system demonstrating compliance with the Holroyd DCP 2013 Part A, Section 7.5 shall be submitted to the certifying authority prior to the issue of a construction certificate.</p> <p>i. Demonstrate compliance with the Stormwater Manage Plan for 1-15 Sturt Street (cnr Cumberland HWY) Smithfield NSW 2164; Bunnings Warehouse Smithfield, Report No. R01622-SWMP, Revision B prepared by C&M Consulting Engineers dated September 2016 submitted as part of the development application.</p>	<p>Delete subclause (i) as follows:</p> <p><i>The development has been identified as requiring Water Sensitive Urban Design (WSUD) which has formed part of the development consent. Therefore, in order to satisfy the drainage requirements for the building, any construction certificate for the building shall include the construction of the WSUD system. In this regard, design and construction details of the WSUD system demonstrating compliance with the Holroyd DCP 2013 Part A, Section 7.5 shall be submitted to the certifying authority prior to the issue of a that construction certificate.</i></p> <p>i. Demonstrate compliance with the Stormwater Manage Plan for 1-15 Sturt Street (cnr Cumberland HWY) Smithfield NSW 2164; Bunnings Warehouse Smithfield, Report No. R01622-SWMP, Revision B prepared by C&M Consulting Engineers dated September 2016 submitted as part of the development application.</p> <p><u>Reason:</u></p> <p>1. The main body of the condition requires provision of a WSUD system, and demonstrate compliance with DCP 2013 Part A, Section 7. In the context of demonstrating compliance with this standard, the requirement to comply with the consultants plan submitted at DA stage is unnecessary.</p> <p>Supported. Condition deleted as per the Applicant's request.</p> <p>It is noted that Condition 2 has been modified to make reference to Stormwater Manage Plan for 1-15 Sturt Street (cnr Cumberland HWY) Smithfield NSW 2164; Bunnings Warehouse Smithfield, Report No. R01622-SWMP, Revision B prepared by C&M Consulting Engineers dated September 2016 as it is currently referencing Revision A.</p> <p>Condition 42 has been deleted (iteration of Condition 43)</p>

No.	Current condition	Proposed Amendment & Justification
45	The technical specification for the proposed device, Vortechs VX7000 (Hydrodynamic Separator) shall be submitted to Council demonstrating compliance to the Holroyd DCP 2013 (Part A Section – 7.5).	<p>Deletion of condition.</p> <p><u>Reasons:</u></p> <ol style="list-style-type: none"> 1. The noted proprietary device of one of multiple options that may in fact be deployed and subject to further detailed (construction design) undertaken at CC stage. Conditions 42 & 43 establish the technical standards to satisfy in design certification. Limiting the system design to the use of one product when others are available, is unreasonable. 2. In the event that during detailed design of the WSUD system a different proprietary product is employed, which satisfies the required standards of the DCP, this condition is unwarranted and irrelevant. <p>Not supported.</p> <p>The condition has been amended as:</p> <p><i>The technical specification for the proposed WSUD device/s shall be submitted to Council demonstrating compliance with the Holroyd DCP 2013 (Part A Section – 7.5).</i></p>
46.	The Principal Certifying Authority must ensure that any certified plans forming part of the Construction Certificate, are in accordance with the Development Consent plans. .	<p>Deletion of condition</p> <p><u>Reasons:</u></p> <ol style="list-style-type: none"> 1. This requirement conflicts with clause 145(1)(a) of the <i>Environmental Planning & Assessment Regulation 2000</i>, which requires CC plans and specifications to be “not inconsistent with the development consent”. 2. This condition provides an unnecessary test to be considered by the PCA <p>Not supported.</p> <p>This is a standard Council condition.</p>

No.	Current condition	Proposed Amendment & Justification
47	<p>Structures near Easements</p> <p>Special footings will be required where the proposed/existing structure is adjacent to a drainage easement to protect Council's stormwater drainage infrastructure. The footings shall be taken down to the invert level of the existing drainage structure or to solid rock, whichever is the lesser. The footing depth may decrease by 500mm for every 1000mm increment in distance the footing is from the easement boundary. A Structural Engineer's certificate for the special footings referred to above is to be submitted to the Principal Certifying Authority.</p>	<p>Deletion of this condition</p> <p><u>Reason:</u></p> <ol style="list-style-type: none"> 1. This condition is almost entirely the same as condition 5 <p>Supported.</p> <p>Condition no. 5 has been deleted.</p>
50	<p>If the development likely to disturb or impact upon telecommunications infrastructure, written confirmation from the service provider that they have agreed to the proposed works must be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate or any works commencing, whichever occurs first.</p>	<p>Amendment to condition as follows:</p> <p><i>If the development likely to disturb or impact upon telecommunications infrastructure, written confirmation from the service provider that they have agreed to the proposed works must be submitted to the Principal Certifying Authority prior to the issue of a the relevant Construction Certificate affecting the telecommunication infrastructure. or any works commencing, whichever occurs first.</i></p> <p><u>Reasons:</u></p> <ol style="list-style-type: none"> 1. Impact on existing connection and services on-site are addressed in demolition condition 8(f) 2. Requirements to consult with existing service providers is also addressed already in Condition 4, therefore this condition is arguably unnecessary 3. Not all CC's will impact upon telecommunications infrastructure thereby making it specific to the CC that does is, avoids unnecessary delays to the development proceeding on-site <p>Not supported.</p>

No.	Current condition	Proposed Amendment & Justification
52	The applicant/owner is to give written notice to the Certifying Authority of the measures that are currently implemented in the building or premises to ensure the safety of persons in the building in the event of fire. The schedule of measures must be provided with the Construction Certificate application.	<p>Deletion of this condition:</p> <p><u>Reason:</u></p> <ol style="list-style-type: none"> 1. The current buildings will be demolished so existing fire safety services are not relevant. 2. Condition 53 requires the detailing of all essential fire safety measures are submitted with the CC, thereby rendering Condition 52 redundant <p>Not supported.</p>
54	<p>Fire Safety Upgrading & Essential Services</p> <p>The Construction Certificate is to include a schedule specifying all of the essential fire or other safety measures (both current and proposed) that are required for the building or premises to ensure the safety of persons in the building in the event of fire.</p>	<p>Deletion of this condition:</p> <p><u>Reason:</u></p> <ol style="list-style-type: none"> 1. This condition is a repeat of condition 53. <p>Supported. Condition deleted.</p>
83	All works within the Council reserve shall be completed within three (3) weeks of the date of commencement. Council's Development Engineer shall be advised prior to the commencement of works.	<p>Amendment to this condition as follows:</p> <p><i>All works within the Council reserve shall be completed as soon as practicable and no later than commencement of the use within three (3) weeks of the date of commencement. Council's Development Engineer shall be advised prior to the commencement of works.</i></p> <p><u>Reasons:</u></p> <ol style="list-style-type: none"> 1. This time frame does not appear to be appropriate for the scale of development approved and extent of roadworks, services relocations, footpath works, reinstatement of footway etc. A longer, but not open ended, time frame is warranted in our opinion.

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		<p>Supported in part. The condition has been amended as:</p> <p><i>All works within the Council reserve shall be completed as agreed with Council. A formal agreement between the Council and the applicant shall be arranged and agreed upon. The agreement shall include, but not limited to, timeframe of the completion of works. Council's Development Engineer shall be advised prior to commencement of works.</i></p>
137	<p>Defects Liability and Maintenance Period</p> <p>The applicant shall lodge with Council a cash bond or bank guarantee to cover the satisfactory maintenance of all roadworks, land and drainage to be dedicated/benefit Council. All roadworks, land and drainage to be dedicated or to benefit Council shall be maintained in the approved condition by the applicant for a period of twelve (12) months following the issue of the Subdivision Certificate. The bond amount shall be 5% of the total cost of works (amount not less than \$5000) and will be released following a satisfactory twelve (12) months maintenance period following completion of these works.</p> <p>Note: The applicant shall notify Council in writing and provide dated photographic evidence of the road and drainage condition, following the end of the twelve (12) months maintenance period and prior to release of the maintenance bond.</p>	<p>Amendment to condition as follows:</p> <p><i>The applicant shall lodge with Council a cash bond or bank guarantee to cover the satisfactory maintenance of all roadworks, land and drainage to be dedicated/benefit Council. All roadworks, land and drainage to be dedicated or to benefit Council shall be maintained in the approved condition by the applicant for a period of twelve (12) months following the issue of the Occupation Subdivision Certificate. The bond amount shall be 5% of the total cost of works (amount not less than \$5000) and will be released following a satisfactory twelve (12) months maintenance period following completion of these works.</i></p> <p>Note: <i>The applicant shall notify Council in writing and provide dated photographic evidence of the road and drainage condition, following the end of the twelve (12) months maintenance period and prior to release of the maintenance bond.</i></p> <p><u>Reasons:</u></p> <ol style="list-style-type: none"> 1. Roadworks are all to be completed prior to occupation, therefore the timing for retention of bonds for defects liability is logically related to that event (not SC). <p>Supported in part. The condition is amended as:</p> <p><i>The applicant shall lodge with Council a cash bond or bank guarantee to cover the</i></p>

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		<p><i>satisfactory maintenance of all roadworks, land and drainage to be dedicated/benefit Council. All roadworks, land and drainage to be dedicated or to benefit Council shall be maintained in the approved condition by the applicant for a period of twelve (12) months following the issue of the Occupation Certificate or the completion of works, (whichever occurs last). The bond amount shall be 5% of the total cost of works (amount not less than \$5000) and will be released following a satisfactory twelve (12) months maintenance period following completion of these works.</i></p> <p><i>Note: The applicant shall notify Council in writing and provide dated photographic evidence of the road and drainage condition, following the end of the twelve (12) months maintenance period and prior to release of the maintenance bond.</i></p>
145	<p>Subdivision</p> <p>The Torrens title plan of subdivision of Lot 12, DP 1004594 subject to Development Consent 2016/171 must be registered with Land and Property Information NSW prior to release of all bonds.</p>	<p>Deletion of this condition</p> <p><u>Reasons:</u></p> <ol style="list-style-type: none"> 1. Timing of this subdivision being effected has no relationship to the stated purposes of the required bonds and their logical purpose being works related : (Council property damage deposit Condition 21; tree protection bond Condition 23; various engineering bonds Conditions 28, 29, 30, 31; and defects liability period Condition 137) 2. The above mentioned conditions all state timing/procedure for return of bonds which are logical to their specific purposes and thereby the timing proposed under condition 145 unnecessary and unwarranted <p>Supported. Condition 145 deleted</p>
148	<p>As per Condition 126 of this Development Consent a restriction on the use of the land and a positive Covenant are to be created for the protection and ongoing maintenance of the On Site Detention and Pollution Control Device. The Section 88B instrument required is to be created in association</p>	<p>Delete condition and replace with following:</p> <p><i>Any Right of Carriageway or easement, and associated instrument, required arising as a result of the approved subdivision, shall be included on the plan submitted with the Subdivision Certificate.</i></p>

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	<p>with the subdivision and is to be in accordance with Holroyd City Council's standard wording. The instrument should also be used to create any Right of Carriageway and easement required. Provision is to be made for the General Manager of the Council or his/her designate to sign the document and it is to be appropriately noted on the linen plan of strata subdivision.</p>	<p><u>Reasons:</u></p> <ol style="list-style-type: none"> 1. The condition unnecessarily restates the effect of Condition 126 2. The condition is drafted to require creation of ROW and easements at the same time as the positive covenant & restriction associated with the OSD. Final OC for the Bunnings Warehouse may in fact be issued prior to lodgement of the Subdivision Certificate which makes compliance with this condition impossible. 3. The condition refers to outdated Council references 4. The condition refers to "strata" subdivision <p>Supported in part. Condition 148 deleted.</p>