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| --- | --- | --- | --- | --- | --- |
| MEMO | | | | |  |
| To: | Hunter and Central Coast Regional Planning Panel | | | | |
| From: | Scott Fatches, Development Planner | | | | |
| File: | DA/226/2022 | **Reference:** | PPSHCC-167 | Date: | 15 May 2023 |
| Subject: | Supplementary information for 31-33 Smith Street, Charlestown | | | | |

A supplementary review of draft conditions in consultation with the applicant has occurred. This review identified proposed conditions reference a previous and incorrect version of architectural plans and a level of ambiguity on the wording of proposed condition 4.

This memo highlights the error in the plan schedule and clarifies the uncertainty in Condition 4.

**Amendment to incorrect date**

An error was noted in Condition 2 – Approved Documentation table with reference to the plans by Archadia Projects dated March 2023. This was not updated to reflect the most recent set of plans provided. This occurred in error, the correct suite of plans for reference should be version 3.2, dated May 2023.

**Clarity in Condition 4**

Condition 4 has been amended to remove the uncertainty in the wording to be clear that a separate application for the fit-out shall be obtained prior to any use. The reference to March was also amended to reflect the correct date in accordance with the plan set issued in version 3.2.

**Conditions of consent**

The following table outlines the conditions proposed to be modified, the condition description, and changes made.

A copy of the amended draft conditions is attached at Appendix A to this memo.

|  |  |  |
| --- | --- | --- |
| **Condition no.** | **Condition description** | **Change** |
| 2 | Approved Documentation | Amendment to incorrect date (May from March) |
| 4 | Fit-out and Use of Level 1 and Level 4 | Grammatical update and date amendment |

Should you have any further questions, or require further information to assist in the Panel’s determination of the application, please contact me on 0438 268 841 or sfatches@lakemac.nsw.gov.au.

Scott Fatches

Development Planner

Development Assessment & Certification

*Appendix A – Revised Draft Conditions of Consent*

**Draft conditions of consent – DA/2630/2022, 31-33 Smith Street Charlestown**

**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 shall ensure, to Council’s satisfaction, the objects of the *Environmental Planning and Assessment Act 1979* (as amended) are achieved:

To encourage:

1. 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;
2. The promotion and co-ordination of the orderly and economic use of development of land;
3. The protection, provision, and co-ordination of communication and utility services;
4. The provision of land for public purposes;
5. The provision and co-ordination of community services and facilities;
6. 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;
7. Ecologically Sustainable Development; and
8. The provision and maintenance of affordable housing.
9. To promote the sharing of the responsibility for environmental planning between the different levels of government in the State.
10. To provide increased opportunity for public involvement and participation in environmental planning and assessment.

**Administrative Conditions**

1. Prescribed Conditions
2. The work shall be carried out in accordance with the requirements of the *Building Code of Australia*.
3. 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.
4. A sign shall be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
5. showing the name, address and telephone number of the Certifying Authority for the work, and
6. 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
7. stating that unauthorised entry to the work site is prohibited.

Any such sign shall be maintained while the building work, subdivision work or demolition work is being carried out, but shall be removed when the work has been completed.

1. Residential building work within the meaning of the *Home Building Act 1989* shall not be carried out unless the Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
2. in the case of work for which a principal contractor is required to be appointed:
3. the name and licence number of the principal contractor, and
4. the name of the insurer by which the work is insured under Part 6 of that Act,
5. in the case of work to be done by an owner-builder:
6. the name of the owner-builder, and
7. 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 the information notified under (d) becomes out of date, further work must not be carried out unless the Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

1. Approved Documentation

The development consent incorporates this schedule of conditions and the plans and documents referenced and stamped as follows:

a) Plans Reference:

|  |  |  |  |
| --- | --- | --- | --- |
| Plans prepared by: Archadia Projects; Project Number. A106. Proposed Health Services Facility | | | |
| **Name of Plan** | **Drawing Number** | **Issue** | **Date** |
| Proposed Site Plan | DA13 | 3.2 | May 2023 |
| Proposed Infrastructure Plan | DA14 | 3.2 | May 2023 |
| Level 1 | DA15 | 3.2 | May 2023 |
| Level 2 | DA16 | 3.2 | May 2023 |
| Level 3 | DA17 | 3.2 | May 2023 |
| Level 4 | DA18 | 3.2 | May 2023 |
| Plant | DA19 | 3.2 | May 2023 |
| Sections | DA20 | 3.2 | May 2023 |
| Elevations | DA21 | 3.2 | May 2023 |
| Elevations | DA22 | 3.2 | May 2023 |
| Proposed External Finishes | DA28 | 3.2 | May 2023 |
| CCTV= Security Lighting – Level 1 | DA29 | 3.2 | May 2023 |
| CCTV= Security Lighting – Level 2 | DA30 | 3.2 | May 2023 |
| CCTV= Security Lighting – Level 3 | DA31 | 3.2 | May 2023 |
| Section D – Streetscape | DA38 | 3.2 | May 2023 |
| Wayfinding Signage – Proposed Locations | WS02 | 1.2 | April 2023 |
| Wayfinding Signage – Vehicle Directional: Large type | WS03 | 1.2 | April 2023 |
| Wayfinding Signage – Vehicle Directional: Small type, Total Signs | WS04 | 1.2 | April 2023 |
| Wayfinding Signage – Main Entry Identification ID01 | WS05 | 1.2 | April 2023 |
| Wayfinding Signage – Main Entry Identification ID02 | WS06 | 1.2 | April 2023 |
| Wayfinding Signage – Loading Dock Identification | WS07 | 1.2 | April 2023 |
| Wayfinding Signage – Car Park Identification | WS08 | 1.2 | April 2023 |

|  |  |  |  |
| --- | --- | --- | --- |
| Plans prepared by: Conus Landscape Architecture; Project Number. 22.11 | | | |
| **Name of Plan** | **Drawing Number** | **Issue** | **Date** |
| Landscape Concept Plan | LDA02 | F | 25/04/2023 |
| Plant Schedule and Details | LDA03 | F | 25/04/2023 |
| Elevations | LDA04 | F | 25/04/2023 |

|  |  |  |  |
| --- | --- | --- | --- |
| Plans prepared by: Northrop; Project Number. NL211248 | | | |
| **Name of Plan** | **Drawing Number** | **Issue** | **Date** |
| Bulk Earthworks Cut and Fill Plan | DA-C03.00 | A | 19/04/2023 |
| Civil Works Plan Level 1 | DA-C03.01 | D | 19/04/2023 |
| Civil Works Plan Level 2 | DA-C03.02 | C | 19/04/2023 |
| Civil Works Plan Level 3 | DA-C03.03 | C | 19/04/2023 |
| OSD Schematic | DA-C09.01 | D | 19/04/2023 |
| Driveway Longitudinal Sections | DA-C09.02 | D | 19/04/2023 |

b) Document Reference:

|  |  |  |  |
| --- | --- | --- | --- |
| **Document** | **Reference** | **Author** | **Date** |
| Aboriginal Cultural Heritage Assessment Report | HN000440-A | Heritage Now | 10/11/2022 |
| Access Report | LP\_22080 | Lindsay Perry Access | 18/11/2022 |
| Arborist Report | 31-33 Smith St Charlestown NSW | Accurate Tree Assessment | August 2022 |
| Acoustic Report | 22-2722-R1 | Reverb Acoustics | September 2022 |
| BCA Section J Compliance Report | 21125 – 00 | EVC Consulting Engineers Pty Ltd | 11/04/2022 |
| Crime Risk Assessment | Health Services Facility and Shop (Pharmacy) | Wilson Planning | 21/11/2022 |
| Traffic and Parking Assessment | 22/028 | Intersect Traffic | 22/04/2023 |
| Landscape Design Report | 22.11 | Conus Landscape Architecture | 26/04/2023 |
| Demolition Management Plan | 31 – 33 Smith Street Charlestown NSW 2290 | Archadia Projects | April 2023 |
| Servicing & Waste Management Plan | 31 – 33 Smith Street Charlestown NSW 2290 | Archadia Projects | April 2023 |
| Construction Management Plan | 31 – 33 Smith Street Charlestown NSW 2290 | Archadia Projects | November 2022 |
| Social Impact Assessment | Health Services Centre  At 31-33 Smith St Charlestown | BB Professional Services | November 2022 |
| Desktop Geotechnical Report | 210780.00 | Douglas Partners | November 2022 |
| Report on  Geotechnical Investigation | 210780.01 | Douglas Partners | June 2022 |
| Potentially Hazardous and Potentially Offensive Industry Risk Screen | 23032\_  GPV CHARLESTOWN\_  SEPP33\_R0\_270423 | Opterr | April 2023 |

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.

**General Conditions**

The person having the benefit of the consent shall comply with each of the following conditions.

1. Disability Access Requirements

Access for people with disabilities shall be provided from the buildings 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.*

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:

1. *The NSW Disability Services Act 1993*,
2. *The Commonwealth Disability Discrimination Act 1992*,
3. *NSW Anti Discrimination Act 1977*.

For further information please consult:

1. Human Rights and Equal Opportunity Commission,
2. NSW Anti Discrimination Board.
3. Fit-out and Use of Level 1 and Level 4

Prior to any occupation of Level 1 and/or Level 4 as identified by approved architectural plans prepared by Archadia Projects, Project No. A106 issue 3.2 dated May 2023, consent shall be obtained for the fit-out and any variation to the health services facility.

**General Terms of Approval and Concurrence Requirements**

1. Subsidence Advisory NSW – General Terms of Approval

Subsidence Advisory NSW (Ref: TBA22-02908) has granted its approval for this development, subject to:

* + - 1. The development being undertaken strictly in accordance with the details set out on the application form, any information submitted with the application and the plans submitted, as amended or as modified by the conditions of this approval.

**Note**: Any proposal to modify the terms or conditions of this approval, whilst still maintaining substantially the same development to that approved, will require the submission of a formal application for consideration by Subsidence Advisory NSW. If amendments to the design result in the development not remaining substantially the same as that approved by this approval, a new application must be submitted to Subsidence Advisory NSW.

* + - 1. This approval expires 5 years after the date the approval was granted if construction work has not physically commenced (date of approval from 31 August 2022).
      2. **Prescribed Design Parameters – Victoria Tunnel Seam**

The proposed structures are to be designed to be “safe, serviceable and any damage from mine subsidence shall be limited to ‘very slight’ damage in accordance with AS2870 (Damage Classification), and readily repairable” if subjected to the subsidence parameters outlined in Table 3 (Worst Credible Subsidence Parameters) of the accepted Report on Mine Subsidence Assessment by Douglas Partners (Project 210780.01-June 2022).

* + - 1. Submit an “Engineering Impact Statement” for acceptance by SA NSW, which identifies the:
* Mine Subsidence Parameters used for the design.
* Main building elements and materials.
* Risk of damage due to mine subsidence
* Design measures proposed to control the risks.
* Provide certification that the design will ensure the improvement remains “*safe, serviceable and any damage from mine subsidence shall be limited to ‘very slight’ in accordance with AS2870 (Damage Classification), and readily repairable*”.
* Comment on the:
* likely building damage in the event of mine subsidence.
* sensitivity of the design to greater levels of mine subsidence.
  + - 1. Submit a final design incorporating the design methodology contained in the “Engineering Impact Statement”, for acceptance by Subsidence Advisory NSW prior to commencement of construction.

It shall include certification by a qualified structural engineer including a statement to the effect that the improvements will remain “safe, serviceable and any damage from mine subsidence shall be limited to ‘very slight’ damage in accordance with AS2870 (Damage Classification), and readily repairable” taking into consideration the mine subsidence parameters outlined in Table 3 (Worst Credible Subsidence Parameters) of the accepted Report on Mine Subsidence Assessment by Douglas Partners (Project 210780.01-June 2022).

* + - 1. Establish 4 survey monitoring reference marks on and around the circumference of the building(s) so that structure movement can be monitored should mine subsidence occur.

At least 2 of the following PMs or SSMs should be used as a benchmark:

* PM23119U
* PM23120
* SS18489

A plan with the position including Easting, Northing and RL of each of the monitoring reference marks and original RLs are to be forwarded to Subsidence Advisory NSW.

* + - 1. Upon completion of construction, works-as-executed certification by a qualified engineer is to be forwarded to Subsidence Advisory NSW confirming that construction was in accordance with the plans approved by Subsidence Advisory.

**Fees, Charges and Contributions**

1. Fixed Development Contributions

From the date this determination is made until payment, the amount of the contribution payable shall be indexed and adjusted at the close of business on:

1. 14 August,
2. 14 November,
3. 14 February, and
4. 14 May;

In each year in accordance with indexation provisions within the Section 7.12 Contributions Plan. The first date for indexation shall occur on the first abovementioned date after the Notice of Determination becomes effective.

The contribution payable shall be the amount last indexed and adjusted in accordance with the 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 that contribution nominated below.

The contribution shall be paid to Council as follows:

1. Development Applications involving subdivision – prior to the release of the Subdivision Certificate;
2. Development Applications involving building work – prior to the release of the first Construction Certificate;
3. Development Applications involving both subdivision and building work – prior to the release of the Subdivision Certificate or first Construction Certificate, whichever occurs first;
4. 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;
5. Complying Development Certificates – prior to any work authorised by the application or certificate commencing.

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

Please note for payments made by cheque or electronic transfer – the release of any documentation shall be subject to the clearing of those funds.

Indexation details are available from Council’s Development Contributions Team. A copy of the Section 7.12 Contributions Plan can be viewed on Council’s website, and at Council’s Administrative Building during Council’s normal business hours.

In accordance with the provisions of the *Environmental Planning and Assessment Act 1979* – Section 7.12 and as at the date of this consent (and subject to indexation), the monetary contribution payable is:

**TOTAL $298,562.46**

**Conditions to be satisfied prior to the issue of the Construction Certificate**

The person having the benefit of the consent shall comply with each of the following conditions prior to the issue of a Construction Certificate.

Any documentation required to be submitted for the Construction Certificate shall be submitted to the Certifying Authority unless otherwise specified.

1. Construction Certificate

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

1. Stormwater Disposal - Stormwater Detention and Harvesting

A Stormwater Management Plan shall be submitted. The plan shall be generally in accordance with the plans approved by the Development Consent prepared by Northrop, Ref: NL211248 dated 19.04.2023. The stormwater plans approved by this development consent are not approved for construction. The stormwater plans shall comply with the following:

1. Stormwater shall be disposed of through a piped system designed in accordance with *Australian Standard AS 3500* by a suitably qualified professional. The design shall be undertaken by a practising Civil Engineer deemed to be suitably experienced by Council and qualified so as to be accepted as a Member of the Institution of Engineers Australia or a Registered Surveyor deemed to be suitably experienced by Council shall be accepted as qualified to prepare plans for drainage works (excluding flood control structures and bridges). Qualifications demonstrating the above may be requested by Council. Stormwater detention measures shall be designed to ensure the development does not increase upstream or downstream flood levels for all recurrence intervals up to and including the 1% Annual Exceedance Probability.
2. Detention storage shall be calculated and designed in accordance with *Australian Rainfall and Runoff 2019* and the Lake Macquarie City Council guideline – *Handbook for Drainage Design Criteria* and shall conform to the specifications and standards contained in *Development Control Plan 2014 Engineering Guidelines*.
3. Stormwater harvesting measures shall be designed in accordance with the *Development Control Plan 2014 Water Cycle Management Guideline*. Stormwater drainage plans shall include details of the harvesting system, including rainwater tank details, pump details and reticulation diagrams.
4. The location of a permanent metal sign (minimum dimensions 150mm x 220mm) shall be detailed on the plans in a visible location near the detention orifice plate or onsite detention entry with the following wording:*.*

|  |
| --- |
| THIS IS AN ONSITE STORMWATER DETENTION SYSTEM REQUIRED BY LAKE MACQUARIE CITY COUNCIL.  It is an offence to reduce the volume of the tank or basin or to interfere with the orifice plate that controls the outflow.  The base of the outlet control pit and the debris screen shall be cleaned of debris and sediment on a regular basis.  This plate shall not be removed |

1. There is to be no adverse increase in overland flooding or surcharging of pits along the downstream network (e.g. Pacific Highway) for the events up to the 1% AEP (100 year ARI).
2. The existing and proposed pits on the Pacific Highway (at the intersection with Frederick Street) are to be constructed/reconstructed at a minimum SA2 (2000 mm opening), or equivalent, as per TfNSW standard drawing R0220-01.
3. The pipe connection to the new stormwater pit on the Pacific Highway is to be aligned to 45 degrees (from 90 degrees) to minimise the risk of blockage and improve hydraulic losses.
4. Concrete Footpath

A design plan for concrete footpaths in accordance with Council’s Charlestown Streetscape Master Plan along the full length of the street frontage shall be submitted. No works shall commence prior to the issue of a Public Works Certificate in accordance with s138 of the *Roads Act 1993*. Any works on a public road shall be approved by Council.

1. Vehicles Access Crossing and Kerb Layback

An approval for the vehicle access crossing and kerb layback, including associated cut or fill works, under s138 of the *Roads Act 1993* is required.

A paved vehicular access including kerb layback from the property boundary to the street shall be designed in accordance with Councils Standard Drawings*: EGSD-103, EGSD-201 or EGSD-104* (available from Councils website).

Where existing street tree/s are to be retained and are within five metres of the vehicle access, details shall be provided to identify appropriate construction techniques to retain the street tree.

Where street trees cannot be retained, street trees shall be replaced at a rate and with species approved by Council’s Natural Assets section.

1. Geotechnical Report Compliance

The recommendations of the Geotechnical Report Reference 210780 prepared by Douglas Partners dated 18 November 2022 shall be complied with. Any works undertaken in relation to the development shall embody all relevant recommendations of the Geotechnical Report.

The engineering plans shall be certified as being designed in accordance with the approved Geotechnical Report.

1. Parking Areas and Access Ways

A design plan for parking areas and access ways shall be submitted. The design shall include pavement design, stormwater drainage, line marking and signage. The design shall meet the standards nominated in *Development Control Plan 2014, Engineering Guidelines* and *Australian Standard AS2890*.

1. Disability Access Design Audit

A disability access design audit which has been certified by an accredited access consultant shall be submitted, 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.

The recommendations contained in the access report prepared by Lindsay Perry Access project number LP\_22080 dated November 2022 shall be incorporated into the design and construction of the development.

This certification shall be submitted to the Certifying Authority with the application for a Construction Certificate.

Note:

1. Compliance with the Building Code of Australia only, can still leave a building professional or building owner in contravention of the *Disability Discrimination Act 1992*.
2. The Association of Consultants in Access Aust Inc at www.access.asn.au may be able to provide further information.
3. Ausgrid Requirements

The written requirements of Ausgrid for the development shall be obtained and complied with.

1. Acoustic Certification

The recommendations contained in the acoustic report prepared by Reverb Acoustics project number 22-2722-R1 dated September 2022 shall be incorporated into the design and construction of the development.

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 or approved building.

1. Dangerous Goods Thresholds

Prior to issue of any Construction Certificate an assessment by a suitably qualified person against the placard and manifest thresholds from the Work Health and Safety Regulation 2017 shall be carried out. If the DGs stored at a particular site exceed the placard or manifest thresholds, then additional requirements apply.

When placarding thresholds are exceeded, specific signage is required at the site entries and at building entrances and storage areas. Details of such shall be included in the detailed design.

When manifest thresholds are exceeded, a manifest must be prepared, SafeWork NSW must be notified, and Fire and Rescue NSW must be consulted regarding emergency plans for the site.

1. Public Art

Prior to the issue of a Construction Certificate, Public Art details shall be submitted to and approved by Council. The details shall be generally in accordance with the approved concept plans prepared by Archadia Architects, and be updated to reflect the approved site plan, with addition of the following:

* Mural must cover the extent of the height of multi-story carparking areas;
* Provide detailed elevations of all murals on Smith St and Fredrick St frontages which detail measurements and materiality;
* Detailed images must be provided that refers to the former school site, be of a suitable quality and should improve the aesthetics of the site;
* Incorporating the provision of lighting to illuminate mural during the night; and
* Provide a design solution in order to deter creeping plants from growing on mural.

1. Landscape Design

Prior to the issue of a Construction Certificate, Landscape plans shall be submitted to and approved by Council. The plans shall be generally in accordance with the approved concept plans prepared by Conus Landscape Architects, updated to reflect the approved site plan, with addition of the following:

* Updated tree species along the front setback of Fredrick Street with adequate root volume to ensure healthy tree establishments. Tree species are to be amended to include *Tristaniopsis laurina, Callistemon salignus and Backhousia myrtifolia* or equivalent to the satisfaction of Councilspaced out evenly across the whole front setback of Frederick Street, generally in accordance with the approved landscape plan
* Retaining wall must be at seat height level to the extent of the Fredrick Street frontage. Retaining walls must taper to ground levels and not abruptly end. Retaining walls must specify skateboarding deterrents along extent of wall.

1. Crime Prevention

Prior to the issue of the Construction Certificate, the measures listed in the Crime Risk Assessment Report prepared by Wilson Planning (November 2022) shall be included in the final design plans to the satisfaction of the Principle Certifying Authority.

**Conditions to be satisfied prior to the issue of the Public Works Certificate**

The person having the benefit of the consent shall comply with each of the following conditions prior to the issue of the Public Works Certificate for works within the public domain.

A Public Works Certificate is issued under s138 of the Roads Act 1993.

1. Roadways and Drainage Works Standards

All works within the public domain shall be designed and constructed in accordance with the following publications (as amended or updated), as applicable:-

1. *Australian Rainfall and Runoff, 1987*.
2. *Development Control Plan 2014* and supporting guidelines.
3. AUSTROADS *Guide to Road Design Guide*.
4. Roads and Maritime Services *Delineation Guidelines*.
5. *Managing Urban Stormwater documents (2004)* by Landcom.
6. *The Constructed Wetlands Manual* - Department of Land and Water Conservation, 1998.
7. WSUD *Technical Design Guidelines for South East Queensland*.
8. *Healthy Waterways – Water* by Design Guidelines.
9. Australian Standards including, but not limited to:-
10. *AS1428 - Design for Access and Mobility, Part 1 General Requirements for Access and Part 4 Tactile Indicators,*
11. *AS2890 - Off Street Parking*

Where any inconsistency exists between these documents the relevant standard to be adopted shall be verified in writing with Council.

1. Public Works Certificate for Works

An application for a Public Works Certificate (under Section 138 Roads Act 1993) and the associated fee shall be submitted to Council.

The application shall include detailed engineering plans and specifications (including a Design Certification Report and Checklists in accordance with *the Lake Macquarie City Council Engineering Guidelines)* relating to the works.

1. Compliance Certificate for Works

An application for a Compliance Certificate and the associated application fee shall be submitted to Council prior to the commencement of works identified on the respective Public Works Certificate.

1. Application Fees for Required Certificates

Applications for the following Certificates shall be submitted. For Council to process applications for these certificates the following fees shall be payable:

|  |  |  |  |
| --- | --- | --- | --- |
| **Public Works Certificate** | **Please contact Council for fees** | Plus **$85** Archival Fee | (inc GST) |
| **Compliance Certificate** | **Please contact Council for fees** | Plus **$85** Archival Fee | (inc GST) |

Applications for these certificates shall be lodged on the approved application form and be accompanied by the appropriate fee.

Where the development includes public domain construction works valued at $250,000.00 or more, the person having the benefit of the consent shall pay the Long Service Levy, as detailed in the *Building and Construction Industry Long Service Payments Scheme.* The Levy shall be paid prior to the issue of the Public Works Certificate. The Levy shall be paid directly to the Long Service Payments Corporation or to Council as agent for the Corporation. The Levy rate is 0.25% of the cost of building and construction works.

The above fees are current for the 2022/2023 financial year and are subject to change each financial year without notice. Confirmation of the relevant fee shall be obtained from Council prior to the lodgement of any application.

1. Public Works Certificate for Works

An application for a Public Works Certificate (under Section 138 Roads Act 1993) and the associated fee shall be submitted to Transport for NSW (TfNSW) for any works within the Pacific Highway (HW10) road corridor

The application shall include detailed engineering plans and specifications (including a Design Certification Report and Checklists in accordance with the current version of *Austroads Guide to Road Design* and relevant Australian Standards (with Transport for NSW supplements) to the satisfaction of both TfNSW and Council.

**Conditions to be satisfied prior to the commencement of works**

The person having the benefit of the consent shall comply with each of the following conditions prior to the commencement of works.

1. Erosion and Sediment Control

Appropriate erosion and sediment controls shall be installed in accordance with *Development Control Plan 2014*.

1. Dilapidation Survey Report

A Dilapidation Report shall be submitted to Council and the Certifying Authority prior to any works, including demolition works, commencing. The report shall be prepared by an engineer or other suitably qualified person.

The report shall cover all properties and public land that adjoin the development or that could be potentially damaged by the works.

The report shall include a description of the location and nature of any existing observable defects to the properties and existing public infrastructure, including a photographic record.

1. Hoarding and Construction Site Safety Fencing

Construction site safety fencing and/or hoarding shall be provided in accordance with WorkCover requirements. Such fencing and/or hoarding shall be erected wholly within the property boundary unless prior approval from Council is obtained.

Council approval is required to install hoarding, site fencing or overhead protective structures over or adjoining a public place i.e. a footpath or a Public Reserve. An application for temporary structure or occupation of road reserve should be submitted via Council’s website.

No work shall commence until written approval is obtained.

1. Public Domain Works - Landscaping

A public works certificate application shall be lodged with and approved by Council prior to any works in the public domain. The Landscape Construction Drawings and Specifications shall be completed by a qualified landscape architect (category three landscape consultant) with demonstrated experience in producing landscape construction documentation for public domain works and include the extent of detail required to construct such works. The documentation shall reference and comply with the conditions of consent and approved landscape plans.

Plans shall include details and specification information suitable for construction with no generic reference to concept plans or Council guidelines. Plans shall include tactile ground surface indicators to Australian Standards.

The plans shall reference the standard hold and witness points listed below for hard and soft works and shall include contact details for Council’s City Projects Department at [projectmanagementpat@lakemac.nsw.gov.au](mailto:projectmanagementpat@lakemac.nsw.gov.au) to assess and sign off on public domain works. Plans shall include a 104-week establishment phase for all works within the public domain.

**Streetscape Furniture & Lighting**

Provide three bike racks as per LSD-BKR-01 – Bike Racks (Typical) and Charlestown Streetscape Technical Guidelines to locations at:

* + the south of the proposed driveway along Smith Street,
  + the southern section of the Pacific Highway frontage (Just north of Pedestrian Traffic lights)
  + to the northern section of Pacific Hwy Frontage

Provide bin enclosure to bin specifications asper LSD-BIN-01 Bin Enclosure and Charlestown Streetscape Technical Guidelines to locations at:

* southern section of Pacific Highway (Just north of Pedestrian Traffic lights)
* northern section of Pacific Highway frontage (just south of McDonalds),
* southern section of Smith Street frontage just north of the pedestrian crossing.

Provide three seats along Smith Street spaced out along frontage, seating as per Charlestown Streetscape Technical guidelines.

Provide three Charlestown custom seats as per LSD-CHAR-CS – Charlestown Custom Seat, Charlestown Streetscape Technical Guidelines spaced out evenly across the entire frontage of the site on the Pacific Highway.

Provide awning mounted pedestrian lighting as per Charlestown Streetscape technical guidelines along Pacific Highway frontage.

Street lighting with banner arms must be provided as per Charlestown Streetscape Technical Guidelines, along the extent of Fredrick Street frontage,

Provide pedestrian lighting along Fredrick Street and Smith Street frontages per Charlestown Streetscape technical guidelines.

**Street Trees and Mass Planting**

Street trees along Fredrick Street shall comprise of four *Pyrus calleryana ‘Capital’*” and eight *Buckinghamia celcissima*. Street trees along Smith Street shall comprise ten *Angophora hispida.* All trees must be planted at centres indicated on stamped approved landscape drawings along the streetscape.

Street trees must be provided with Charlestown Custom Tree Guard, as *per Charlestown Streetscape Masterplan and Technical Guidelines*, and will need to be detailed on landscape construction drawings.

All landscape planting works shall be implemented under the full supervision of a contractor with a current NSW Department of Fair Trading endorsed license in Structural Landscaping.

The Landscape contractor shall remove all pot stakes, labels and wire/rubber/plastic tags from every street tree with only tree guard/staking as detailed. All street trees shall be grown to *AS2303:2015* with the landscape consultant sighting documentation from the nursery supplier confirming this and all street trees shall be maintained once planted for 104 weeks.

Mass planting species should be specified on drawings and must ensure suitably designed species that won’t over grow onto adjacent footpath and kerb/gutter.

The detail of these requirements shall be included in the Public Works Certificate Landscape Construction Drawings and Specifications.

The Hold/Witness Points – Checks Required

1. Set out of tree pits within existing concrete footpath (hold point).
2. Excavation of tree pits with root barrier and sub-surface drainage   installed in accordance with *Lake Macquarie City Council Landscape Standard Drawings March 2019* – relevant street tree details (hold point).
3. Evidence of certification of all associated imported topsoil for street tree planting in accordance with *AS4419 – 2003* shall be provided to Councils Senior Project Officer (Civil) (hold point).
4. Tree delivery prior to installation and certification to comply with *AS2303-2015 Tree Stock for Landscape Use* (hold point).
5. Commencement of tree planting (witness point).
6. Installation of growing medium (witness point).
7. Completion of tree planting, including the installation of tree guards, in accordance with *Lake Macquarie City Council Landscape Technical Drawings February 2016* (witness point).

**Hardscape Works**

The footpath along the Pacific Highway and Fredrick Street shall comprise of full width streetscape pavements with unit paving banding as per Street Pavement Type 1. The footpath along Smith Street shall comprise of concrete pavements with unit paving banding as per Street Pavement Type 2. All pavements must be as per the *LMCC Charlestown Streetscape Master Plan March 2017* and specified to *LMCC Charlestown Streetscape Technical guidelines 2018.* Banding shall incorporate tree pits and kerb ramps.

All paving works shall be implemented under the full supervision of a contractor with a current NSW Department of Fair Trading endorsed license in Structural Landscaping, Building or Minor Trade – Paving.

The Hold/Witness Points – Checks Required

1. Formwork inspection (hold point)
2. Pre pour inspections for pavement and pathways (hold point)
3. Installation of tactile ground surface indicators as per manufacturers recommendations
4. Review of works as executed with LMCC Senior Project Officer (Civil) prior to landscape compliance report sign off (hold point).
5. Archaeological test excavation

The person having the benefit of the consent shall ensure that archaeological test excavation is carried out in accordance with the Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales, as identified in the Aboriginal Cultural Heritage Assessment Report by Heritage Now dated 10/11/2022.

A copy of the result of the site test investigations and Aboriginal Cultural Heritage Management Plan (ACHMP) shall be provided to Lake Macquarie City Council prior to works commencing.

Should the investigations trigger the requirement for an Aboriginal Heritage Impact Permit (AHIP) the person having the benefit of the consent shall apply for an AHIP from the Department of Premier and Cabinet - Heritage NSW. A copy of the approved AHIP shall be provided to Lake Macquarie City Council prior to works commencing.

1. Building Waste

An area for the 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.

1. Works Within a Public Road Reserve

Approval is granted to open a grassed or natural surface within the road reserve for the installation of all water services, cables, or mains. Upon completion of the work, the road reserve shall be restored to its original state and no hazards shall remain that may impact on the public.

For any other works within the road reserve, an approval under s138 of the *Roads Act 1993* shall be obtained from Council. The road shall not be opened until the approval has been issued.

1. Temporary Traffic and Pedestrian Management

The contractor engaged to undertake construction works shall obtain prior approval from Council for associated traffic and pedestrian control a minimum of four weeks prior to commencing any works. An application for temporary traffic and pedestrian management should be submitted via Council’s website.

Traffic management or control plans shall be approved by Council prior to works commencing on site. Traffic management or control plans shall set out the vehicle and pedestrian management for the works and should seek to minimise disruption to the local community.

As a minimum, the application must address the following areas:

* Traffic Control and Management
* Public safety, amenity and site security
* Pedestrian management
* Construction hours
* Construction dates
* Haulage routes

1. Dial Before You Dig (Advice)

Prior to commencement of work, the free national community service “Dial Before You Dig” shall be contacted on 1100 regarding the location of underground services in order to prevent injury, personal liability and even death. Enquiries shall provide the property details and the nearest cross street/road.



1. Details Required Prior to Commencement of Works within the Public Domain

Construction works within the public domain in accordance with this development consent shall not commence until a Minor Public Works or Public Works Certificate has been issued by Council

In accordance with Council's authority under Section 138 of *The Roads Act 1993*, a Private Certifier shall not issue a Minor Public Works or Public Works Certificate for any works within an existing public road. A Minor Public Works or Public Works Certificate application shall be lodged with Council for the works.

A fee for applications for Minor Public Works or Public Works Certificates shall be required to be paid in accordance with Council’s fees and charges.

1. Construction Management Plan/s for works within public road reserve and development site

Works within public domain

The contractor engaged to undertake the construction works within the public domain shall provide a Construction Management Plan (CMP) to Council, a minimum of seven days prior to commencing any works. The CMP shall be submitted to the City Projects Department at the following email address [projectmanagementpat@lakemac.nsw.gov.au](mailto:projectmanagementpat@lakemac.nsw.gov.au). The CMP shall be approved by Council prior to works commencing on site. The CMP shall set out the construction approach for the works and should seek to minimise disruption to the local community.

Works within development site

The contractor engaged to undertake the construction works within the development site shall provide a CMP to the satisfaction of the Certifying Authority, a minimum of seven days prior to commencing any works. The CMP shall be approved by the Certifying Authority prior to works commencing on site. The CMP shall set out the construction approach for the works and should seek to minimise disruption to the local community.

CMP’s

Both CMP’s must address the following, where required:

Health and Safety

1. Public safety, amenity and site security,
2. Traffic control and management (note, separate approval may be required from Council),
3. Pedestrian management (note, separate approval may be required from Council),
4. Construction hours,
5. Noise control,
6. Contractor vehicle parking,
7. Locating existing utilities and services,
8. Health and Safety requirements.

Environment

1. Air quality management,
2. Erosion and sediment control- base information, monitoring and management,
3. Waste management,
4. Material stockpiling,
5. Vegetation management,
6. No-go zones,
7. Heritage management (if applicable).

Quality

1. Submission of current insurance certificates,
2. Work method description,
3. Construction equipment to be used,
4. Inspection and testing requirements,
5. CCTV survey of pipework,
6. Earthworks methodologies,
7. Haulage routes,
8. Retaining structure construction methodologies,
9. Concrete jointing methodologies,
10. Subsoil drainage installation methodologies,
11. Stormwater drainage infrastructure installation methodologies,
12. Stormwater Quality Improvement Device installation methodologies,
13. Road construction methodologies,
14. Accessways and footway construction methodologies,
15. Landscaping installation methodologies,
16. Utility and services installation methodologies,
17. Construction and installation methodologies of other structures not otherwise covered above.

All works on site shall be undertaken in accordance with the approved CMP.

A copy of the approved CMP, and any conditions imposed on that plan, shall be kept on site at all times and made available to any officer of Council upon request.

1. Notice of Commencement of Works within the Public Domain

Construction works associated with a Public Works Certificate shall not commence until a meeting between the contractor and a representative of the Council or Certifying Authority has taken place on site.

In accordance with Section 6.12 of the *Environmental Planning and Assessment Act* the Council or Certifying Authority shall be given at least two days notice in writing prior to such meeting taking place.

The notice shall also include the names of the contractor undertaking construction and the developer's supervising officer.

1. Pre – Clearance Fauna Surveys

Immediately prior to clearing, a suitably qualified Ecologist shall undertake pre-clearing surveys to identify fauna habitats present on site that will require attention during clearing works. Pre-clearing surveys are to include (but not limit to):

* Inspection of hollow bearing trees;
* Inspection of vegetation for nests / dreys;
* Inspection of debris piles, including coarse woody debris;
* Appropriate tagging of trees to be retained; and
* Identification of any hollow bearing trees / nest trees to be retained.

**Conditions to be satisfied during demolition and construction works**

The person having the benefit of the consent shall comply with each of the following conditions during demolition and construction works.

1. Erosion and Sediment Control

All erosion and sediment controls shall be appropriately managed throughout the development to prevent pollution until the land is considered erosion resistant.

Any pollution from site shall be cleaned up immediately and appropriate repairs made to onsite controls.

The final 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 *Development Control Plan 2014*;
3. The plan and associated documents, calculations and drawings, have been prepared to a standard which, if properly implemented, shall achieve the water release criteria of 50mg/L of total suspended solids; and
4. All erosion and sediment control measures are in accordance with *Development Control Plan 2014*.
5. Geotechnical Report Compliance

Where the geotechnical report prepared for this development requires inspections, a suitably qualified engineer shall inspect the works at the stages specified in that report.

1. Removal of Fauna Habitat

A qualified ecologist is to supervise removal of any fauna habitat to ensure mitigation against any native animal welfare issues.

Removal of trees with habitat hollows shall be undertaken at a time that minimises impact to fauna, particularly threatened fauna that could breed and or hibernate within hollows /nests on site (i.e. preferably March, April, September or October).

Where possible, trees with habitat hollows shall be removed at least 24 hours after other vegetation approved for removal to encourage any residing fauna to relocate.

Hollow-bearing trees shall be felled in one to two metre sections, beginning at the top of the crown. Lengths cut from the trees shall be in a manner that shall preserve the hollows with each section inspected and appropriately treated to minimise impact to fauna.

Hollows are to be salvaged and repurposed for reuse on Council land at 9 Bimbae Close Lot 15 DP 262937.

Clearing shall be staged, where possible, from areas of most impact to areas of least impact to help guide fauna into areas of bushland that are to be retained.

Detailed requirements for relocation shall be confirmed in writing by Council’s Development Planner Flora and Fauna prior to removal from site. Any species detected during hollow bearing tree removal shall be provided to Lake Macquarie City Council in writing.

1. Landscape works

Landscape works shall be constructed in accordance with the approved landscape plans and specification.

All landscape planting works shall be implemented under the full supervision of a contractor with a current NSW Department of Fair Trading endorsed license in Structural Landscaping.

All paving works shall be implemented under the full supervision of a contractor with a current NSW Department of Fair Trading endorsed license in Structural Landscaping, Building or Minor Trade – Paving.

Landscape works shall conform to planting densities as scheduled, with all plants at nominated pot sizes and spacing’s and be maintained for a minimum of 52 weeks to achieve continuous healthy growth. A hard garden retaining edge (timber or concrete) shall be installed to all planting areas adjoining turf surfaces. All planted areas shall be covered with minimum 100mm mulch to aid plant establishment.

The turf species used on all roadway landscapes and any other approved locations on public land shall be couch. This turf species shall be specified on all landscape concept and construction documentation.

1. Public Domain Works

All landscape and public domain works approved by the Public Works Certificate application shall be coordinated during the construction period with Council’s Senior Project Officer (Civil) at [projectmanagementpat@lakemac.nsw.gov.au](mailto:projectmanagementpat@lakemac.nsw.gov.au). The witness and hold points set out in the Public Works Certificate landscape construction plans shall be observed.

1. Excavation – Aboriginal Relics

Should any Aboriginal relics be discovered then all excavations or disturbance to the area shall cease immediately and the Department of Premier and Cabinet - Heritage NSW, shall be informed in accordance with Section 89A of the *National Parks and Wildlife Act 1974.*

All necessary approvals from the Department of Premier and Cabinet - Heritage NSW shall be obtained and a copy provided to Council prior to works recommencing.

1. Excavation and Retaining

Only retaining walls indicated on the approved plans shall be constructed under this consent.

No additional excavation/fill shall occur outside the area as shown on the approved plans.

No fill or retaining walls shall be located within any drainage easement located upon the subject property.

Retaining walls, footings and associated drainage works shall be located wholly within the subject property boundaries and shall be connected to the existing stormwater system or other approved stormwater system on the subject property.

Note: Some retaining walls are able to be erected without consent, as Exempt or Complying Development pursuant to *State Environmental Planning Policy Exempt and Complying Development Codes 2008*. Prior to erection of any retaining wall not approved under this consent, reference to the *State Environmental Planning Policy Exempt and Complying Development Codes 2008* shall be undertaken to ascertain whether approval is required.

1. Building Waste

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.

1. Waste Management

All requirements of the approved Demolition and Waste Management Plan shall be implemented during the demolition, excavation and construction of the development.

1. 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 approval from Council shall be obtained prior to any closing of the road reserve or footpath area. An application for temporary structure or occupation of road reserve should be submitted via Council’s website.

1. Site Amenities

Toilet facilities shall be available or provided at the work site before works begin and shall be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

Each toilet shall:

1. be a standard flushing toilet connected to a public sewer, or
2. have an approved on-site effluent disposal system under the *Local Government Act 1993*, or
3. be a temporary chemical closet.
4. Works Within a Public Road Reserve

When works are being undertaken within a road reserve, all necessary precautions shall be taken to protect the public while work is in progress, this shall include traffic control in accordance with *Australian Standard AS1742 – Manual Uniform Traffic Control Services – Parts 1, 2 and 3*.

Note: NSW Road Rules apply and may be enforced without notice.

1. Demolition

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

All demolition work shall be carried out strictly in accordance *with Australian Standard AS 2601-2001: The Demolition of Structure*.

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

1. Site Amenities

Toilet facilities shall be available or provided at the work site before works begin and shall be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

Each toilet shall:

1. be a standard flushing toilet connected to a public sewer, or
2. have an approved on-site effluent disposal system under the *Local Government Act 1993*, or
3. be a temporary chemical closet.
4. Removal, Management and Transportation of Fill

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

1. 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 Certifying Authority prior to the issue of the Final Occupation Certificate, or authorised officer of Council upon request; or
2. 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 shall be provided to the Certifying Authority prior to the issue of the Final Occupation Certificate, 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.

1. 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 Certifying Authority.

1. Signage – Over or Adjacent to Public Places

During the placement of signage above or adjacent to a public place (footpath, road or public reserve), pedestrian control measures to protect the public during construction, shall be implemented in accordance with an approved Traffic Management Plan. The Traffic Management Plan shall be prepared by an accredited Traffic Controller, and approved by Council, prior to the erection of the sign.

Throughout the course of demolition and construction of any signage, Council’s footpath shall be kept clear at all times to allow unobstructed access by pedestrians. Where it is not possible for Council’s footpath to be kept clear, it shall be necessary to make an application to Councils’ Asset Management Department, to erect barricades and the like, to provide safe pedestrian access.

The contractor installing the signage shall have a current public liability insurance with a reputable insurer of not less than $20,000,000 in respect of each accident.

1. 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 Heritagepublication *Interim Construction Noise Guideline July 2009*.

Approved Construction Times

1. The approved hours for construction of this development are –

Monday to Friday - 7.00am to 6.00pm.

Saturday – 8am to 1pm.

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

Construction Periods in Excess of 26 Weeks

1. If the construction period is in excess of 26 weeks, a Noise Management Plan 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 Noise Management Plan 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.
2. Operational times may be amended with the written advice of Council’s General Manager or delegate.
3. Construction Site Vibration

Vibration on surrounding land from construction site operations shall comply with the Office of Environment and Heritage publication *Assessing Vibration: a technical guideline February 2006*.

**Conditions to be satisfied prior to issue of an Occupation Certificate**

The person having the benefit of the consent shall comply with each of the following conditions prior to the issue of the Occupation Certificate, Interim or Final, as stated in each condition.

1. 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 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.

1. Prior to the issue of the Final Occupation Certificate

Prior to the issue of the Final Occupation Certificate, the earthworks, retaining walls and driveways shall be completed to the satisfaction of the Certifying Authority.

1. Commencement of the Use of the Land

The approved use of the land shall not commence until all relevant conditions of this consent have been complied with and a Final or Interim Occupation Certificate has been issued. Where an Interim Occupation Certificate has been issued, only that part of the building to which the Certificate applies may be occupied or used.

1. Stormwater Disposal - Stormwater Detention and Harvesting

All drainage works shall be carried out in accordance with the approved Construction Certificate plans.

Prior to the issue of an Interim or Final Occupation Certificate, whichever comes first, a Works As Executed Plan shall be prepared by a surveyor and submitted to the Certifying Authority that demonstrates compliance with the approved Construction Certificate. If there are any changes from the Construction Certificate these shall be highlighted in a different colour on the plan and certification shall be provided from the design engineer the changes do not affect the stormwater design outcomes.

1. Dilapidation Survey Report

A final Dilapidation Report shall be prepared by an engineer or suitably qualified person at the completion of the works. The report shall identify if any structural or cosmetic damage has occurred to the properties specified in the earlier report. A copy of the report shall be submitted to Council, the Certifying Authority and owners of potentially affected properties and public infrastructure. Any identified damage shall be repaired prior to the issue of the Final Occupation Certificate.

1. Fix Damage Caused by Construction Works

Any damage to a public road or associated structures caused as a consequence of the construction works shall be made good to the satisfaction of Council.

Any disused kerb and gutter and footpath crossing shall be removed and replaced with full kerb and gutter in accordance with Council's standards.

These works shall be undertaken prior to the issue of the Final Occupation Certificate.

1. Concrete Footpath

A Compliance Certificate shall be issued by Council stating the concrete footpath work has been undertaken in accordance *with Development Control Plan 2014 and Engineering Guidelines*, prior to the issue of the Final Occupation Certificate.

1. Geotechnical Report Compliance

Prior to the issuing of the Interim or Final Occupation Certificate, whichever comes first, the suitably qualified engineer who inspected the works shall provide written confirmation the constructed works are in accordance with the recommendations of the Slope Stability Geotechnical report prepared for the development.

1. Tactile Indicators

Prior to the issue of an interim or final occupation certificate, whichever occurs first, the development shall have tactile indicators installed in accordance with *AS 1428.4.*

Note: The areas of the development to have tactile indicators installed are varied and include kerb ramps and footpaths along the street frontage; carpark pedestrian crossings (street frontage and internal); lifts; stairways and ramps.

1. Consolidation of Lots

Prior to the issue of an Interim or Final Occupation Certificate, whichever occurs first, Lot 1 DP and Lot 2 of DP 877977 shall be consolidated and registered at the NSW Land Registry Services and a copy of the registered plan shall be provided to Council.

1. Car Parking

All car parking spaces, line marking and signage shall be completed prior to the issue of the Interim or Final Occupation Certificate, whichever comes first.

1. Parking Areas and Access Ways

All parking areas and access ways shall be fully constructed and sealed in accordance with the approved Construction Certificate plans, prior to the issue of the Interim or Final Occupation Certificate, whichever comes first.

1. Landscape Works

At the completion of landscape works, the consulting landscape architect who prepared the documentation shall submit to the Certifying Authority a Landscape Compliance Report. This report shall certify shrub and tree species, pot size, and planting densities and landscape area setout comply with approved documentation and practical completion of the landscaping works has occurred. This report shall certify any required street trees are planted specifically as per the nominated locations on the approved documentation and these conditions, and have edging constructed as per the *Lake Macquarie City Council Landscape Standard Drawings March 2019*. The Certifying Authority shall not issue the Final Occupation Certificate without receipt of the Landscape Compliance Report.

1. Public Domain Works

At the practical completion of works and prior to the issue of the Final Occupation Certificate, the landscape consultant that prepared the Public Works Certificate landscape construction plans shall submit a Landscape Compliance Report to the LMCC Senior Project Officer (Civil) certifying all public domain landscape works have received the relevant witness and hold point inspections, implemented and maintained in accordance with this Public Works Certificate. This compliance report is required prior to LMCC issuing a compliance certificate for the works.

1. Driveway Construction

Prior to the issue of the Final Occupation Certificate, the driveway to the garage or car parking area of the development shall be constructed in accordance with the approved Construction Certificate plan.

1. Works Within a Public Road Reserve

Where a road surface has been disturbed or damaged the calculated road restoration fee shall be paid to Council. Evidence shall be provided the relevant fee has been paid prior to the issue of the Final Occupation Certificate.

1. Removal, Management and Transportation of Fill

For all excavated fill material that has been removed from the site during construction:

1. A copy of the receipts from the waste disposal facility shall be kept and provided to the Certifying Authority prior to the issue of the Final Occupation Certificate, or authorised officer of Council upon request; or
2. A copy of the current development consent for the site to which the material has been distributed shall be provided to the Certifying Authority prior to the issue of the Final Occupation Certificate, or authorised officer upon request.
3. Hunter Water Requirements

The person with the benefit of this consent shall comply with Hunter Water’s requirements to provide the development with water supply and sewerage services. A copy of Hunter Water’s compliance certificate (Hunter Water Act 1991- Sect 50) shall be submitted with your Occupation Certificate application.

1. Acoustic Certification

Prior to the issue of the Interim or Final Occupation Certificate, whichever comes first, written confirmation shall be provided from a suitably qualified acoustic consultant certifying works have been completed in accordance with the recommendations of the Acoustic Report prepared for the development and the development is capable of operating in accordance with the design criteria.

1. Works as Executed Plan – Public Works Certificate

An electronic copy of the Works as Executed Plans, certified by the Consulting Civil Engineer or Registered Surveyor supervising the works shall be supplied to Council.

The Works as Executed Plan shall, in addition to construction details, show limits and depths of filling, locations of service conduits and street names.

1. Compliance Certificate for Public Works Certificate

All public domain construction works required for the development shall be completed and a Compliance Certificate shall be obtained for these works. The Compliance Certificate shall certify that all public domain construction works and associated development have been constructed in accordance with this Development Consent, the Public Works Certificate and all other standards specified in this consent.

1. Bus Stop

In consultation with the local bus authority (Keolis Downer) a new bus stop shall be provided on the western side of Smith Street within the frontage of the development site.

1. Crime Prevention

The Certifying Authority shall ensure that the development has been designed and constructed in accordance with the recommendations provided in Section 7 of the Crime Risk Assessment Report prepared by Wilson Planning (November 2022).

**Operational Conditions**

The person having the benefit of the consent shall comply with each of the following conditions during the operation of the development.

1. Replacement Tree Planting

All replacement trees shall be permanently maintained in good condition in accordance with the approved landscape plan and the adopted *Development Control Plan 2014 Guidelines – Landscape Design Guidelines*.

1. Landscape Works

All landscape works required under this consent shall undergo an establishment maintenance period of a minimum of 52 weeks.

All landscaping shall then be permanently maintained in good condition in accordance with the approved landscape plan and the adopted *Development Control Plan 2014 Guidelines – Landscape Design Guidelines*.

1. Public Domain Works

The landscape consultant that prepared the Public Works Certificate landscape construction plans (or a consultant with equivalent qualifications) shall submit Landscape Maintenance Reports to LMCC Senior Project Officer (Civil) at 52 weeks and 104 weeks after practical completion certifying the public domain works are being satisfactorily maintained.

1. Signage Lighting

Any lighting shall be installed to comply with *Australian Standard* AS4282 Control of the Obtrusive Effects of Outdoor Lighting.

Illumination of the sign shall be restricted to:

* 4000cd/m2 during daylight hours;
* 700cd/m2 30minutes before and after sunrise and sunset;
* 350cd/m2 during night time.

Illuminated signs must minimise the spill effects or escape of light beyond the subject sign and must not compromise safety for pedestrians, vehicles or aircraft.

Flashing, pulsating or flickering lights shall not be permitted.

Electric wiring or cabling to illuminate signs must be concealed.

Depending upon the location of an illuminated sign and its impact on the amenity of residents or future residents, the Authority may require illumination to be controlled between the hours of 11pm and 7am

1. Signage – Over or Adjacent to Public Places

The owner of the signage shall maintain current public liability insurance for an amount of $20,000,000 with a reputable insurer while ever the signage is erected over Council owned, maintained or controlled land. A copy of this insurance shall be submitted to the Certifying Authority prior to the issue of the Interim or Final Occupation Certificate, whichever comes first.

1. Acoustic Certification

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

1. Bunded Spillage Areas

Chemicals stored in bulk form, or work areas where spillages are likely to occur, shall be bunded in accordance with the NSW Environment Protection Authority manual *Bunding and Spill Management*.

1. Liquid Gaseous Wastes, Emissions and Odour Control

Emissions shall be responsibly managed at all times, so as not to cause a danger to public health or loss of amenity or damage to the environment.

Any liquid gaseous wastes, emissions or odours shall be controlled and disposed of in accordance with the *NSW Protection of the Environment Operations Act 1997* and *Regulations 1997,* as amended.

Where it is proposed to treat and discharge waters to the Hunter Water Corporations Sewer, formal approval from the Corporation shall be obtained.

1. 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.

1. Medical / Pathology Waste

Any contaminated medical or pathology wastes stored on the premises shall be secured in approved containers and disposed of by a registered contractor, in accordance with the requirements of the NSW Department of Health and the NSW Environment Protection Authority.

1. Garbage Storage Areas

Adequate arrangements shall be made for the regular removal and disposal of waste materials.

1. Storage of Dangerous Goods

Any Dangerous Goods shall be stored in a manner which complies with the relevant and applicable storage standards, including but not limited to:

* AS/NZS 3833:2007 *The storage and handling of mixed classes of dangerous goods, in packages and intermediate bulk containers*; and
* AS 4332-2004 *The storage and handling of gases in cylinders.*

1. Crime Prevention

The following good practice measures shall be implemented to strengthen mitigation of crime that may impact on the proposed development:

* The proposed Closed-Circuit Television System (CCTV) complies with Australian Standard – Closed Circuit Television System (CCTV) AS 4806.1/2/3/4. The system to be installed as permitted by a development application to receive, hold or process data for the identification of people involved in anti-social or criminal behaviour. The system is obliged to conform with Federal and State Privacy and Surveillance Legislation. Digital or analogue technology should be used to receive, store and process data.
* Directional signage shall be provided throughout the development, inclusive of car parking areas and vehicle access entrances/exits.  The signage is to be clear, legible and useful, to aid way finding throughout the area reducing opportunity for excuse making behaviour and loitering
* Lighting shall be designed in accordance with AS 1158.3.1 to provide appropriate lamps and lighting levels to mitigate pedestrian crime risk and fear facilitating a safe, comfortable visual environment for pedestrian and wheeled transport movement at night. Where damaged or broken, lighting shall be repaired within 48 hours.
* Use robust and vandal-proof finishes and fixtures including fencing, seating and signage including graffiti resistant building materials and fixtures in the construction of the development. Where there are existing surfaces exposed to potential for graffiti damage, graffiti resistant coatings should be applied. Graffiti shall be removed within 24 hours of its appearance.

1. On-site Detention Inspections

The On Site Detention (OSD) system is to be regularly inspected and maintained to achieve the outcomes as designed.