

27 November 2023

Dylan Mitchell
Principal Development Planner
Port Stephens Council

Submitted via NSW Planning Portal

Response to Draft Conditions of Consent
DA 16-2023-259-1 – 36, 38 and 40 Elkin Avenue, Heatherbrae
Alterations and Additions to Hunter River High School

Dear Dylan,

I refer to the draft conditions of consent issued on Tuesday 21 November 2023, for the above Development Application for Alterations and Additions to Hunter River High School.

In accordance with Section 4.33 (1)(b) a consent authority must not impose a condition on its consent to a Crown Development application, except with the approval of the applicant or the minister. The applicant, being Schools Infrastructure NSW, has reviewed the draft conditions and provides the attached response.

The response requests a number of amendments to the draft conditions. Where no amendments are proposed, these are to be considered as acceptable.

If you have any questions regarding this letter, please don't hesitate to contact me on 0420 660 085 or rjohnston@barrplanning.com.au.

Yours sincerely,



Rebecca Johnston
Director – Planning Manager

IRRAWANG HS - DA DRAFT CONDITIONS REVIEW

27/11/2023

Cond. #	Condition	Final Decision	Final Comments
1 (00)	General Conditions of Consent		
1 (02)	Approved plans and supporting documentation – Development must be carried out in accordance with the following approved plans and supporting documentation (stamped by Council), except where the conditions of this consent expressly require otherwise. In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail. In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails. Note: an inconsistency occurs between an approved plan and supporting documentation or between an approved plan and a condition when it is not possible to comply with both at the relevant time.	Amend Condition	Amend conditions to resolve discrepancies. <u>List:</u> 13098 DA-1-101 13098 DA-1-100_D_NLH - Ground - GA Plan_EJE Architecture_6/9/2023. Waste Management Plan_-_The APP Group_1 February 2023 -.
2 (00)	Prior to Commencement of Works		
2 (01)	Crown Certification - The following information must be provided to the Crown Certifier: a)Landscape Plans – The approved landscape plans identified in condition 1.0(2) of this consent are to be submitted to the Crown certifier incorporating the following amendments: I.Shade tree plantings within the north-west and south-west corners of the car park. Species selection is to be consistent with the Port Stephens Council Tree Technical Specification dated September 2014. II.Screening shrubs are to be added between the car park and the southern boundary at the Pacific Highway. The screening shrubs are to run parallel to and for the entire length of the car park.	Amend Condition	Amend wording as show below in red: Crown Certification - The following information must be provided to the Crown Certifier: a)Landscape Plans – The approved landscape plans identified in condition 1.0(2) of this consent are to be submitted to the Crown certifier incorporating the following amendments: I.Shade tree plantings within the north-west and south-west corners of the car park. Species selection is to be consistent with the Port Stephens Council Tree Technical Specification dated September 2014. II.Screening shrubs are to be added between the car park and the southern boundary at the Pacific Highway. The screening shrubs are to run parallel to and for the entire length of the car park.
2 (02)	2)Civil engineering plans – Civil engineering plans prepared by a qualified Engineer, indicating drainage, roads, access ways, earthworks, pavement design, street lighting, details of line-marking, traffic management, water quality and quantity facilities including stormwater detention and disposal, must be prepared in accordance with the approved plans and Council’s Infrastructure Specifications and include the following: a)Overland flows across the entire hydraulic catchment/s are to be controlled, up to and including the 1% Annual Exceedance Probability design rainfall event, so as to not create inundation of buildings or nuisance. Discharges of existing overland flow paths may be via infiltration or level spreading so as to not concentrate flows or otherwise create nuisance impacts offsite. Details demonstrating compliance must be provided to and approved by the Crown Certifier prior to the issue of Crown certification for any drainage works. Note. Under the Roads Act 1993, only the Roads Authority can approve commencement of works within an existing road reserve.	Amend Condition	Amend wording as show below in red: 2) Civil engineering plans – Civil engineering plans prepared by a qualified Engineer, indicating drainage, roads, access ways, earthworks, pavement design, street lighting, details of line-marking, traffic management, water quality and quantity facilities including stormwater detention and disposal, must be prepared in accordance with the approved plans and Council’s Infrastructure Specifications and include the following: a) Overland flows across the entire hydraulic catchment/s for the new development are to be controlled, up to and including the 1% Annual Exceedance Probability design rainfall event, so as to not create inundation of buildings or nuisance. Discharges of existing overland flow paths that are impacted by the development may be via infiltration or level spreading so as to not concentrate flows or otherwise create nuisance impacts offsite. Details demonstrating compliance must be provided to and approved by the Crown Certifier prior to the issue of Crown certification for any drainage works. Note. Under the Roads Act 1993, only the Roads Authority can approve commencement of works within an existing road reserve.
2 (04)	Stormwater system Operation and Maintenance Procedure Plan – An Operation and Maintenance Plan for the stormwater system must be prepared by a qualified engineer detailing a regular maintenance programme for pollution control devices, covering inspection, cleaning and waste disposal. Details demonstrating compliance must be provided to the Crown Certifier.	Amend Condition	Move to section 06 (Prior to the Commencement of Use).

2 (07)	Car parking details (if applicable) – Before the certification of Crown Building Work, a suitably qualified engineer must review the plans which relate to parking facilities and provide written evidence, to the Crown Certifier’s satisfaction, that it complies with the relevant parts of AS 2890 Parking Facilities- Off-Street Carparking and Council’s development control plan.	Amend Condition	Amend wording as show below in red : Car parking details (if applicable) – Prior to the commencement of any carpark related works Before the certification of Crown Building Work , a suitably qualified engineer must review the plans which relate to parking facilities and provide written evidence, to the Crown Certifier’s satisfaction, that it complies with the relevant parts of AS 2890 Parking Facilities- Off- Street Carparking and Council’s development control plan .
2 (09)	Section 7.12 development contributions - A monetary contribution is to be paid to Council, pursuant to Section 7.12 of the Environmental Planning & Assessment Act 1979 and the Port Stephens Local Infrastructure Contribution Plan 2020. The total amount payable will be adjusted at the time the payment is made, in accordance with the provisions of that Plan. Section 7.12 contributions will be calculated with reference to the capital investment value (CIV) of the development, determined in accordance with clause 25J of the Environmental Planning and Assessment Regulation 2021, and the levies specified in the Port Stephens Local Infrastructure Contributions Plan 2020 as outlined below: Capital Investment ValueLevy Rate (% of CIV) Up to and including \$100,000Nil More than \$100,000 and up to and including \$200,0000.5% More than \$200,0001% The payment of the Fixed Local Infrastructure Contribution levy, is to be accompanied by a Cost Summary Report Form setting out an estimate of the CIV in accordance with Schedule 1 of the Port Stephens Local Infrastructure Contributions Plan. A copy of the Plan and Cost Summary Report Forms are available on Council’s website at https://www.portstephens.nsw.gov.au/, alternatively contact Council on 02 9228 055. Where the estimated cost of carrying out the whole of the development is more than \$1,000,000, the Cost Summary Report Form must be completed by a Quantity Surveyor who is a Registered Associate member or above, of the Australian Institute of Quantity Surveyors. This condition cannot be taken to be satisfied until a payment has been made in accordance with the CIV stated on a cost summary report submitted to Council in accordance with this condition. Payment of the above amount must apply to Development Applications as follows: a)Building work only - prior to the certification of Crown Building Work.	Remove Condition	The Department does not agree to a condition of consent requiring it to pay developer contributions under section 7.12 of the Environmental Planning and Assessment Act 1979. Planning Circular D6 represents the consistently held view that the Department of Education, as a Crown authority, provides critical community infrastructure and that to levy any developer contribution on provision of public education facilities increases the cost of such infrastructure for all taxpayers in the State.
2 (16)	Demolition work – All demolition works are to be carried out in accordance with Australian Standard AS 2601 ‘The demolition of Structures’. All waste materials are to be either recycled or disposed of to a licensed waste facility. Any asbestos containing material encountered during demolition or works, is to be removed in accordance with the requirements of Safe Work NSW and disposed of to an appropriately licenced waste facility. Evidence is to be provided to the Crown Certifier demonstrating that asbestos waste has been disposed of in accordance with this condition.	Amend Condition	Amend wording as show below in red: Demolition work – All demolition works are to be carried out in accordance with Australian Standard AS 2601 ‘The demolition of Structures’. All waste materials are to be either recycled or disposed of to a licensed waste facility. Any asbestos containing material encountered during demolition or works within buildings / structures, is to be removed in accordance with the requirements of Safe Work NSW and disposed of to an appropriately licenced waste facility. Evidence is to be provided to the Crown Certifier demonstrating that asbestos waste generated from buildings / structures has been disposed of in accordance with this condition.
5 (00)	During Works		Council to check numbering sequence.

5 (12)	Unexpected finds contingency (general) – Should any suspect materials (identified by unusual staining, odour, discolouration or inclusions such as building rubble, asbestos, ash material, etc.) be encountered during any stage of works (including earthworks, site preparation or construction works, etc.), such works must cease immediately until a qualified environmental specialist has been contacted and conducted a thorough assessment. In the event that contamination is identified as a result of this assessment and if remediation is required, all works must cease in the vicinity of the contamination and Council must be notified immediately. Where remediation work is required, the applicant will be required to obtain consent for the remediation works.	Amend Condition	Amend wording as show below in red: Unexpected finds contingency (general) – Should any suspect materials (identified by unusual staining, odour, discolouration or inclusions such as building rubble, asbestos, ash material, etc.) be encountered during any stage of works (including earthworks, site preparation or construction works, etc.), such works must follow an unexpected find protocol prepared by a qualified environmental specialist. In the event that contamination is identified as a result of this assessment and if remediation is required, Council must be notified immediately and remediation works are to be carried out in accordance with a remedial action plan prepared a qualified environmental specialist.
5 (16)	Uncovering relics or Aboriginal objects - While demolition or building work is being carried out, all such works must cease immediately if a relic or Aboriginal object is unexpectedly discovered. The applicant must notify the Heritage Council of NSW in respect of a relic and notify the Secretary of the Department of Planning, Industry and Environment and the Heritage Council of NSW in respect of an Aboriginal object. Building work may recommence at a time confirmed by either the Heritage Council of NSW or the Secretary of the Department of Planning, Industry and Environment. In this condition: •“relic” means any deposit, artefact, object or material evidence that: (a)relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and (b)is of State or local heritage significance; and •“Aboriginal object” means any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains.	Amend Condition	Amend wording as show below in red: Uncovering relics or Aboriginal objects - While ground excavation, demolition or building work is being carried out, all such works must cease immediately if a relic or Aboriginal object is unexpectedly discovered and the area around the unexpected find must be protected. The applicant must notify the Heritage Council of NSW in respect of a relic and notify the Secretary of the Department of Planning, Industry and Environment and the Heritage Council of NSW in respect of an Aboriginal object. Building work may recommence at a time confirmed by either the Heritage Council of NSW or the Secretary of the Department of Planning, Industry and Environment. In this condition: •“relic” means any deposit, artefact, object or material evidence that: (a)relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and (b)is of State or local heritage significance; and •“Aboriginal object” means any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction and includes Aboriginal remains.
6 (00)	Prior to the Commencement of Use		Council to check numbering sequence.
6 (03)	Services – Evidence is to be provided to Council demonstrating that the following reticulated services are available to each lot: a)Electricity; b)Water; c)Sewer; and Should any of the above reticulated services not be available to the development site, a detailed statement is to be provided explaining why connection of the relevant service is not possible or practical.	Amend Condition	Amend wording as show below in red: Services – Evidence is to be provided to Council demonstrating that the following reticulated services are available to each lot any building subject to this application: a)Electricity; b)Water; c)Sewer; and Should any of the above reticulated services not be available to the development site, a detailed statement is to be provided explaining why connection of the relevant service is not possible or practical.
7 (00)	Ongoing Use		Council to check numbering sequence.
AN (00)	Advice Note(s):		