

DATE

**23 JUNE 2023**

CLIENT

**GRAPHITE ENERGY**

PROJECT

**LAKE SUSTAINABLE ENERGY PRECINCT  
8247 WYALONG ROAD, LAKE CARGELLIGO**

DOCUMENT TITLE

**RESPONSE TO RECOMMENDED CONDITIONS**





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23 June 2023

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#### FEE PROPOSAL

#### **DA2022/50 PROPOSED LAKE SUSTAINABLE ENERGY PRECINCT - LOT 3 DP 858374 AND LOT 102 DP 1253582, LAKE CARGELLIGO**

Thank you for forwarding the recommended conditions of consent to be tabled with the Western Regional Planning Panel for the determination of the Graphite Energy Lake Sustainable Energy Precinct as proposed under DA2022/50. It is requested that Council consider amending the draft conditions as follows:

##### Draft Condition 5:

It is requested that Condition 5 be amended to remove details of the payment of the building and construction industry long service levy as a condition of consent. It is not a legal requirement for the long service levy to be imposed as a condition of consent and potentially places the project at financial risk due to the high upfront payment stipulated in the draft condition. It is Graphite Energy's intention to contribute to the NSW Long Service Levy for the relevant costs associated with each stage of development as detailed in the Construction Certificate. Graphite Energy is happy for a notation to be included at the end of Condition 5 that requires the applicant to provide evidence to the certifier of payment of the relevant long levy service levy required to be paid at the time of the lodgement of a Construction Certificate.

It is also requested that Council give consideration to allowing Graphite Energy to pay the required Section 7.12 Contributions on a pro-rata basis for each stage of the development under the respective construction certificates. In accordance with Sections 1.15 and 1.17 of the Lachlan Section 7.12 Contributions Plan, Graphite Energy is not seeking to undertake periodic payments under each Construction Certificate, rather it is requested that a percentage of the total contribution fee be paid in full prior to the issue of the respective Construction Certificate.

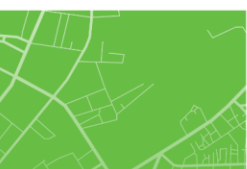
It is noted that Condition 5 requires the payment of the planning reform (Plan First) fee prior to the issue of any Construction Certificate. As per Section 266 of the Environmental Planning and Assessment Act 1979, the Plan First fee is to be set aside from the fee paid under the DA and is not leviable in association with a Construction Certificate. Graphite Energy is prepared to pay the fee on the provision it has not already been calculated in the DA fee that has been paid.

It is requested the Condition 5 be reworded as follows:

#### **5. Payment of Security Deposits, Levies and Contributions**

The fees listed below must be paid in accordance with the conditions of this consent:

- Payment of building and construction industry long service levy - Prior to the issue of the relevant Construction Certificate the applicant must pay the applicable long service levy to the Long Service Corporation under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 and provide proof of this payment to the principal certifier.





- Public liability insurance - Prior to the commencement of any works on Council land including a public road, the applicant is to obtain Public Liability Insurance in the minimum amount of \$20 million. This insurance is to note Council's interest and is to remain current for at least the period from the issue of the Construction Certificate until the issue of a Compliance Certificate / Occupation Certificate for the works. Documentary evidence of the Certificate of Currency is to be provided to Council prior to the issuing of any Construction Certificate for access.
- Payment of development contributions - A proportionate percentage monetary contribution is to be paid to Council based on the value of the works under the submitted Construction Certificate, pursuant to Section 7.12 of the Environmental Planning and Assessment Act 1979, prior to the issue of the relevant Construction Certificate.
  - (i) This condition is imposed in accordance with the provisions of Lachlan Shire Section 7.12 Contributions Plan. A copy of the document is available on Council's website or may be inspected at Council's Administration Building.
  - (ii) The amount of contribution payable under this condition has been calculated at the date of consent. In accordance with the provisions of the Contributions Plan, this amount shall be indexed at time of actual payment in accordance with the Consumer Price Index. Indexation of contributions for payment occurs quarterly. Any party intending to act on this consent should contact Council prior to the date of payment to determine the indexed amount payable.

#### Draft Condition 15

It is requested that the requirement for sealing of the vehicular access between Lake Cargelligo Road and the property boundary be allowed to be undertaken as part of the completion of Stage 1 Works, given this first stage of development involves construction of one shed only with minimal traffic generation (<10 vehicle trips per day) during the construction phase. It is noted this access is currently being used for heavy vehicle haulage by Water NSW as part of the reinforcement of the Lake Cargelligo dam wall project, with haulage from this access due to be completed by the end of 2023 which would coincide with Graphite Energy's program for the completion of the Stage 1 Shed. It is requested that the draft condition be amended to require sealing of the access prior to the issue of an Occupation Certificate for the Stage 1 Shed.

Should you have any queries, please do not hesitate to contact me on 0428254299.

Michael Carter

**Director**

