



15 December 2020

ALLAMBI YOUTH SERVICES INCORPORATED  
PO Box 555  
WARNERS BAY NSW 2282

## **Application to Modify Development Consent Notice of Determination**

Pursuant to Section 4.55 of the Environmental Planning and Assessment Act 1979 and Clause 122 of the Environmental Planning and Assessment Regulation 2000.

Development Application No: DA/2152/2008/A  
Property Address: LOT 12 SEC B DP 2252, 57 Carrington Street, WEST WALLSEND NSW 2286  
Original Proposal: Commercial Premises  
Modification sought: Correct Council error in Description of Development  
Determination Status: Amended Approval  
Determination Date: 15 December 2020  
Consent to operate from: 11 June 2009  
Consent to lapse on: 11 June 2012

### **Conditions of Consent**

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

### **Reason for The Imposition of Conditions**

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

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

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

# 1. Prescribed Conditions

|     |                                                                                                                                                                                                                                                                                                          |                                                                                                                                                                     |
|-----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| (a) | The work must be carried out in accordance with the requirements of the Building Code of Australia.                                                                                                                                                                                                      |                                                                                                                                                                     |
| (b) | In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences. |                                                                                                                                                                     |
| (c) | A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:                                                                                                                                                             |                                                                                                                                                                     |
|     | (i)                                                                                                                                                                                                                                                                                                      | showing the name, address and telephone number of the Principal Certifying Authority for the work, and                                                              |
|     | (ii)                                                                                                                                                                                                                                                                                                     | showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and |
|     | (iii)                                                                                                                                                                                                                                                                                                    | stating that unauthorised entry to the work site is prohibited.                                                                                                     |
|     | Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.                                                                                                                               |                                                                                                                                                                     |
| (d) | Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the council) has given the Council written notice of the following information:                    |                                                                                                                                                                     |
|     | (i)                                                                                                                                                                                                                                                                                                      | in the case of work for which a principal contractor is required to be appointed:                                                                                   |
|     | a.                                                                                                                                                                                                                                                                                                       | the name and licence number of the principal contractor, and                                                                                                        |
|     | b.                                                                                                                                                                                                                                                                                                       | the name of the insurer by which the work is insured under Part 6 of that Act,                                                                                      |

|  |      |                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                          |
|--|------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------|
|  | (ii) | in the case of work to be done by an owner-builder:                                                                                                                                                                                                                                                                                                                                     |                                                                                                                          |
|  |      | a.                                                                                                                                                                                                                                                                                                                                                                                      | the name of the owner-builder, and                                                                                       |
|  |      | b.                                                                                                                                                                                                                                                                                                                                                                                      | if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit. |
|  |      | If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under (d) becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information. |                                                                                                                          |
|  | (e)  |                                                                                                                                                                                                                                                                                                                                                                                         |                                                                                                                          |
|  | (i)  | For the purposes of section 80A (11) of the Act, it is a prescribed condition of development consent that if the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:                                               |                                                                                                                          |
|  |      | a.                                                                                                                                                                                                                                                                                                                                                                                      | protect and support the adjoining premises from possible damage from the excavation, and                                 |
|  |      | b.                                                                                                                                                                                                                                                                                                                                                                                      | where necessary, underpin the adjoining premises to prevent any such damage.                                             |
|  | (ii) | The condition referred to in (e) (1) does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.                                                                                                                                                 |                                                                                                                          |

## 2. Approved Documentation

This development consent incorporates plans/and or documents referenced and stamped:

(a) Development Consent No. DA/2152/2008

(b) Plans Reference:

| Drawings; prepared by: de Witt Consulting; Project no. 1316 |           |                                                    |               |
|-------------------------------------------------------------|-----------|----------------------------------------------------|---------------|
| Drawing No.                                                 | Issue     | Name of Plan                                       | Date          |
| Page 2 LMCC D01503816                                       | Not Given | Ground Floor- Floor Plan                           | June 2, 2009  |
| Page 3 LMCC D01503816                                       | A         | Proposed Disability Access<br>Driveway and Carpark | May 28, 2009  |
| Page 4 LMCC D01503816                                       | A         | Proposed Disability Access<br>Driveway and Carpark | May 28, 2009  |
| Page 4 LMCC D01437019                                       | Not Given | Figure 22 Circulation Space in Water Closets       | July 22, 2008 |

(c) Document Reference:

| Document                           | Reference                  | Author            | Date          |
|------------------------------------|----------------------------|-------------------|---------------|
| Statement of Environmental Effects | Job 1316<br>LMCC D01313384 | DeWitt Consulting | December 2008 |

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

- (i) Any amendments in RED on the approved plans or documents;
- (ii) Any notes, markings, or stamps on approved plans or documents;
- (iii) Any conditions contained in this consent;
- (iv) Any minor alterations to the development by the PCA limited to securing compliance with the Building Code of Australia and Australian Standards, that do not change the physical form of the approved development

### 3. Lighting

Lighting of the land shall be designed so as to ensure minimal glare onto adjoining properties or roadways. The design of the lighting shall comply with the relevant Australian Standard.

### 4. Hours of Operation

Following commencement of occupation, the office shall operate generally between the times stated as follows:

Mondays to Fridays 9:00 AM to 5:00 PM

Saturdays 9:00 AM to 5:00 PM

Sundays and Public Holidays 9:00 AM to 5:00 PM

The Community Facility may be utilised for intermittent staff training during weekdays, weekends and holidays between the hours of 9:00 AM to 8:00 PM.

### 5. Construction Certificate

Prior to the commencement of work for the construction of a building or structure, it will be necessary to obtain a Construction Certificate.

A Construction Certificate is obtained by completing the approved form and submitting to Council or an accredited certifying authority for approval.

**Note:** If the application is approved by a certifying authority that is separate from Council it will be necessary to lodge the Construction Certificate and other approved documents with Council a minimum two days prior to the commencement of work.

## **6. Occupation Certificate**

Prior to the occupation and/or use of a new or altered building, an Occupation Certificate must be issued by the accredited certifier.

Where Council is the accredited certifier, an occupation certificate will be produced after a satisfactory completion inspection using the information contained in:

- (a) the application for Construction Certificate; and,
- (b) using the information required in accordance with clause 149 of the Environmental Planning & Assessment Regulation 2000 held by Council.

Where the Occupation Certificate has been issued by a certifying authority other than Council, a copy of the Occupation Certificate is to be submitted to Council with the supporting documentation within 2 days from the date of determination of the Occupation Certificate together with the document registration fee as set out in Council's pricing policy.

## **7. Hoardings**

The applicant is required to apply to Council's Asset Management Department for approval to install hoarding, site fencing or overhead protective structures over or adjoining a public place i.e. a footpath or a Public Reserve. No work on hoarding is to commence until written approval is obtained. This does not apply to site fencing on the property boundary or within private property

Fees are payable as set out in Council's Pricing Policy.

## **8. Construction Site Safety Fencing**

Construction site safety fencing must be provided around the construction area to prevent unauthorised access to the construction site.

## **9. Building Waste**

Suitable provision for the containment of building waste materials generated by the building process, shall be provided within the boundaries of the building site prior to any construction work being commenced above natural or excavated ground level, as follows: -

- (a) Such containment measures are to be either by means of a screened area of silt stop fabric or shade cloth, having dimensions of 2.4 x 2.4 x 1.2 metres high OR equivalent size waste disposal bin;
- (b) The provision of a suitable enclosure or bin shall be maintained for the term of the construction to the completion of the project;
- (c) The enclosure or bin shall be regularly cleaned to ensure proper containment of the building wastes generated on the construction site.

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

## **Demolition**

Demolition work shall be carried out only between the hours of 7.00am to 5.00pm Mondays to Fridays and 8.00am to 5.00pm Saturdays. No work is to be carried out on Sundays or public holidays.

Council's road and footpath is not to be damaged or obstructed at any time.

No trees shall be removed from the site, unless approved by Council and shown on the approved plans.

Erosion and sediment control measures shall be installed and maintained in accordance with Council's Development Control Plan No. 1, a copy of which is available from Council's Administrative Offices.

The site is to be grassed and otherwise rendered erosion resistant immediately upon completion of demolition.

Temporary toilet facilities shall be provided during the course of demolition in accordance with Council's requirements ie. chemical closet or temporary sewer connection. Separate application shall be made to council where a chemical closet is proposed.

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

Demolition work, as defined within Chapter 10 of the Occupational Health and Safety Regulation 2001, must be undertaken by a licensed contractor.

## **10. Clause 94 Consideration**

After considering Clause 94 of the Environmental Planning and Assessment Regulation 2000, it is considered appropriate to require the existing building to be brought into partial conformity with the Building Code of Australia for fire safety. The following items shall be included in the application for a Construction Certificate.

- (a) Smoke Hazard Management complying with performance requirements EP2.1 and EP2.2,
- (b) Fire Hydrants complying with EP 1.3. Note; If Street Hydrants are proposed to be utilised certification to AS 2419.1-2005 will be required from a qualified Hydraulic Consultant in terms of flow, pressure and location.
- (c) Emergency Lighting to clauses E4.2 and E4.4.
- (d) Exit Signage to clauses E4.5, E4.6 and E4.8.
- (e) Portable Fire Extinguishers to clause E1.6.
- (f) Operation of latch (door hardware) to clause D2.21.
- (g) Access and Sanitary Facilities for People with a Disability to Part D3 and clause F2.4 to the ground floor proposed Office.

NOTE: The requested information is not exhaustive and therefore does not preclude the accredited certifier from requesting additional information prior to the issue of a Construction Certificate.

## 11. Asbestos

If asbestos is encountered during construction or demolition work, measures must be in place in accordance with WorkCover NSW guidelines. Work must not commence until all the necessary safeguards required by WorkCover NSW are fully in place.

You must be licensed to remove and handle asbestos, if asbestos greater than 10m<sup>2</sup> is proposed to be removed. **Failure to comply with this can result in fines being issued.**

Contractors who are licensed for asbestos disposal by WorkCover NSW must only carry out the removal and disposal of asbestos from demolition and construction sites.

Prior to commencing work on demolition sites where buildings containing asbestos are to be demolished, a commercially manufactured sign containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring 400mm x 300mm (see below) is to be erected in a prominent visible position on the site in accordance with AS1319 "Safety Signs for the Occupational Environment".



The applicant shall notify adjoining residents in writing five (5) working days prior to the demolition of asbestos buildings.

Asbestos waste must only be disposed of at a landfill authorised to receive such waste. Council's Awaba Waste Management Facility can accept asbestos, for a fee, which must be safely secured in accordance with the relevant guidelines. At least 24 hours prior notice must be given to allow an area to be prepared for disposal. The Awaba Waste Management Facility can be contacted on (02) 4959 3337.

## 12. Advisories

The applicant has presented the development application to Council as a Community Facility on the ground floor. Council has been advised by the applicant that the first floor is intended for use as a group home; an activity permitted without consent under the provisions of Division 11 Housing, Subdivision 2 Group Homes of State Environmental Planning Policy (Infrastructure) 2007.

As adjoining property owners have indicated concerns about operating characteristics of the group home, Council requests that the applicant prepare and maintain an information sheet containing the contact details of supervising person(s) at the facility. The information sheet should be available to any party requesting such from the Community Facility office during normal business hours.

## **Right of Appeal**

If you are dissatisfied with this decision (including a determination on a review under Section 8.2), Section 8.9 of the Environmental Planning and Assessment Act 1979 gives you the right to appeal to the Land and Environment Court within six months after:

- (a) the date on which you receive this notice, or
- (b) the date on which that application is taken to have been determined in accordance with the regulations made under Section 8.11, 4.55(6) or 4.56(3).

Section 4.55 of the Environmental Planning and Assessment Act 1979, does not give a right of appeal to an objector who is dissatisfied with the determination of the Council to grant consent to a development application, unless the application is for designated development (including designated development that is integrated development). The objector may, within 28 days after the date on which the notice of the determination was given in accordance with the regulations, and in accordance with rules of the court, appeal to the Court.

## **Right of Review**

Section 8.2 of the Environmental Planning and Assessment Act 1979 provides that the applicant may request the Council to review the modified determination. The request must be made in writing (or on the review application form) within 28 days after the date as specified in this notice of determination. **(See exclusions note below).**

**Exclusions:** A request to review the determination of a modified development application pursuant to Section 8.2 of the Environmental Planning and Assessment Act 1979 can only be undertaken where the consent authority is Council, other than:

- (a) A determination to modify a complying development certificate, or
- (b) A determination in respect of designated development, or
- (c) A determination made by the Council under Section 4.34 in respect of an application by the Crown.
- (d) A determination that is taken to have been made because the Council has failed to determine an application.

## **Planning Assessment Commission**

The Planning Assessment Commission has not conducted a public hearing in respect of this application.

## **Advisory Notes:**

### **Hunter Water Requirements**

The owner is required to comply with the requirements of the Hunter Water Act 1991, relevant to the development. If you require further information, please contact Hunter Water on 1300 657 657.

Should you require further information, please contact the undersigned on 4921 0399 or by e-mail on [gmathews@lakemac.nsw.gov.au](mailto:gmathews@lakemac.nsw.gov.au).

Yours faithfully

A handwritten signature in black ink, appearing to read 'Glen Mathews', with a long horizontal stroke extending to the right.

Glen Mathews  
**Development Planner**  
**Development Assessment and Certification**