

MINUTES OF THE HUNTER & CENTRAL COAST REGIONAL PANEL MEETING HELD AT LAKE MACQUARIE COUNCIL ON 02 DECEMBER 2010 AT 1.00 PM

PRESENT:

Jason Perica	Chairperson
Kara Krason	Panel Member
Peter Rees	Panel Member
John Colvin	Panel Member

IN ATTENDANCE

Adam Crampton	ADW Johnson
Chris Wharton	ADW Johnson
Lucinda de Wilde	ADW Johnson
Zac Smurthwaite	ADW Johnson
Angela Bill	Empowered Living Services
Max Pengilley	Lake Macquarie and District Historical Society Inc.

APOLOGY: Barry Johnston AND Garry Fielding

The meeting commenced at 1pm

1. Declarations of Interest - None

Kara Krason stated that she had worked with the applicant in the past, but did not have any declaration of interest in this project.

2. Business Items

ITEM 1 - 2010HCC015 Lake Macquarie DA No. DA/771/2010 – 80 Lot Residential Subdivision at 79 Marmong Street, 24 Park Parade and 15 Denman Way, Booragul.

3. Public Submissions -

- Max Pengilley addressed the panel. Mr Pengilley raised the possibility of unmarked graves being located near Quigley's grave site. He requested that a condition be placed in the consent to cover the possibility of human remains being located during construction.
- Adam Crampton addressed the panel and indicated that the site had previously been used as a high density housing estate and was highly disturbed. The civil construction works proposed for the development did not include any significant excavation works.

4. Business Item Recommendations

ITEM 1 - 2010HCC015 Lake Macquarie DA No. DA/771/2010 – 80 Lot Residential Subdivision at 79 Marmong Street, 24 Park Parade and 15 Denman Way, Booragul.

Moved John Colvin, seconded Kara Krason that DA/771/2010 for an 80 Lots Residential Subdivision at 79 Marmong Street, 24 Park Parade and 15 Denman Way Booragul be approved, subject to the amended conditions prepared at the meeting. (A copy of the amended conditions is attached to the minutes).

MOTION CARRIED BY John Colvin, Kara Krason AND Jason Perica.

Peter Rees voted against the motion by reason of perceived non-compliance with clause 7(1) of SEPP 55.

The meeting concluded at 1.45pm

Endorsed by

Jason Perica
Chair, Hunter & Central Coast Regional Planning Panel
10 December 2010

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. The Approved Development And Compliance With Conditions

Compliance with Conditions

The approval comprises the application, the plans, and the documents set out in the paragraph below and the conditions of consent. The proposed development may only proceed in accordance with these documents.

The development shall be carried out in accordance with the conditions of consent and the following documents (as may be varied by the conditions of consent):-

- A. Statement of Environmental Effects by adw Johnson Pty Ltd (May 2010)
- B. Lot Layout by adw Johnson Pty Ltd (25/10/2010).
- C. Stormwater Management Plan & Concept Engineering Plans by adw Johnson Pty Ltd (May 2010).
- D. Flood Assessment by Worley Parsons (27 April 2010)
- E. Slope Stability Assessment by Douglas Partners (June 2008).
- F. Bushfire Hazard Assessment by Barry Eadie Consulting Pty Ltd (3 April 2010).
- G. Flora, Fauna & Threatened Species Assessment by ecobiological.
- H. Landscaping Masterplan Report & associated plans by Moir Landscape Architecture.
- I. Quigley's Grave, Marmong Street, Booragul Conservation Options Report by MUSEcape Pty Ltd (12 March 2010)
- J. Visual Impact Assessment (5 May 2010)
- K. Traffic Assessment Report by BJ Bradley & Assoc (23 March 2010)
- L. Asbestos Removal Validation Report – Former Public Housing Estate, Booragul, NSW prepared by Parsons Brinckerhoff dated March 2005.

It is the responsibility of the Applicant to meet all expenses incurred in undertaking the development including expenses incurred in complying with conditions imposed by this consent.

It is the Applicant's responsibility to provide all Compliance Certificates, documentation and other evidence to verify that the conditions and requirements imposed by this consent have been complied with.

2. Environmental Management

Erosion Controls

The Applicant shall submit for approval with the Construction Certificate, a Soil and Water Management Plan for the development in accordance with Council's Development Control Plan No. 1 – and Landcom's – Managing Urban Stormwater documents (2004).

No more than 2.5 hectares of the site shall be exposed to erosion at any time.

The applicant shall arrange for a detailed record of the erosion and sediment controls on the site to be maintained during construction works. The record shall be updated on a daily basis and shall contain details on the conditions of the controls and all maintenance and cleaning undertaken.

The record must be available for inspection by the Principal Certifying Authority during normal working hours.

Plans and calculations for such erosion controls shall be submitted prior to the issue of a Construction Certificate and the works shall be completed as part of the initial construction work in the first stage of the development. Minor additional works may be approved by the Principal Certifying Authority during construction works.

Erosion Control Sign

The Applicant shall supply and erect Council's standard Erosion Control Sign as detailed in Standard Drawing No. 3403/1. The sign shall be erected in a prominent location near the entrance to the development prior to the commencement of earthworks.

Preservation of Trees

Trees and other vegetation may only be removed from the site of road, drainage, bushfire mitigation and regrading works as approved in the Construction Certificate. An application shall be made to Council in accordance with Clause 34 of Council's LMLEP 2004 for the removal of any other trees.

All reasonable measures shall be undertaken to protect all other vegetation on the site and on adjoining lands from damage during construction. Such measures shall include but not be limited to:-

- * clearly marking trees to remain
- * avoiding compaction of ground around trees to remain
- * clearly delineating the area of disturbance, and keeping all vehicles, construction materials and refuse within that area
- * limiting the number of access points.

Salvage of Trees and Shrubs

Trees and shrubs which are felled shall be salvaged for re-use, either in log form, or as a woodchip mulch for erosion control and/or site rehabilitation. Non-salvageable material such as roots and stumps shall be disposed of in an approved manner.

3. Retention of Trees Native Vegetation (Development)

All native vegetation on the site shall be retained and protected unless it:

- a. has been identified for removal on the approved plans or documentation; or
- b. has been identified for selective removal by the NSW Rural Fire Service.

An application shall be made to Council in accordance with Clause 34 of Council's LM LEP 2004 for the removal of any other trees or native vegetation. This includes application for the removal of any understorey vegetation or the stripping of ground cover vegetation that is outside those areas approved for construction.

All reasonable measures shall be undertaken to protect all other native vegetation on the site and on adjoining lands from damage during construction. Such measures shall include but not be limited to:

- installing exclusion fencing (eg; No Go tape, helicopter tape or orange mesh) around vegetation that adjoins the construction area to minimise damage to vegetation that is to be retained. Exclusion fencing is to be installed prior to commencement of works and maintained in good working order for the duration of works;
- prohibiting compaction and the placement of fill within 5 metres of trees and native vegetation that are to be retained;
- keeping all vehicles, construction materials and refuse within areas approved for buildings, structures, access ways and car parks;
- limiting the number of access points;
- Salvaging useable trees and shrubs which are felled for re-use, either in log form, or as woodchip mulch for erosion control and/or site rehabilitation. Non-salvageable material such as roots and stumps may only be disposed of at an approved site;
- Notifying all contractors, sub-contractors, and personnel of vegetation protection requirements of this condition.

4. Hollow Bearing Tree Removal

The applicant shall engage a qualified ecologist or wildlife carer to supervise the removal of any hollow bearing trees to ensure mitigation against any native animal welfare issues.

Removal of trees with habitat hollows shall be undertaken in either March, April, September or October, to minimise impact to threatened species that could breed and or hibernate within hollows on site. Any hollow-bearing trees shall be felled in one (1) to two (2) metre sections, beginning at the top of the crown. Lengths cut from the tree(s) shall be in a manner that will preserve the hollow(s) with each section inspected and appropriately treated to minimise impact to fauna.

Grassing

The Applicant shall grass areas of the site disturbed by works so as to prevent erosion. All disturbed areas shall be revegetated as soon as practical, and no later than the times specified in Landcom's – Managing Urban Stormwater documents (2004).

Kikuyu grass shall not be used in areas adjoining native bushland or in drainage lines or channels.

Landscaping Works

The Applicant shall undertake landscaping works in accordance with the plans prepared by Moir Landscape Architecture.

No planting shall take place prior to the approval of the final landscaping plan by a

Construction Certificate.

Any street trees to be planted shall be at least of a 75 – 100 litre pot size.

Correspondence shall be provided from a recognised Landscaping professional, that indicates that the landscaping works have been completed in accordance with the approved plan, prior to the issue of the **Subdivision Certificate** for that stage. All landscaping works shall be maintained for a period of twelve months.

The Applicant shall lodge a cash bond or Bank Guarantee with the Council for the sum of **\$2000.00 per stage**. The monies will be released 12 months after planting when Council is satisfied that the landscaping has established for each respective stage.

Gross Pollutant Trap

The Applicant shall design and construct permanent Gross Pollutant Traps and Trash Racks to service all stormwater drainage lines that discharge from the site to the southern creek / wetland area.

The design shall be in accordance with the requirements of DCP 1 (Volume 2 – Engineering Guidelines Part 3). Provision shall be made for maintenance access roads and maintenance vehicle parking.

Satisfactory plans and calculations for such Gross Pollutant Traps and Trash Racks shall be submitted prior to the issue of a Construction Certificate.

The applicant shall include a "Maintenance Plan" with the Construction Certificate documentation, in accordance with Council's "Stormwater Treatment Framework & Stormwater Quality Improvement Device Guidelines".

Water Quality Control Facilities

The Applicant shall design and construct permanent Stormwater Quality Facilities generally in accordance with the design and plans prepared by Adw Johnson Pty Ltd.

Plans and calculations for such Stormwater Quality Control Facilities shall be submitted for approval prior to the issue of a Construction Certificate. The plan shall include details of maintenance access and details of landscaping and species for the facility and their surrounds.

The applicant shall include a "Maintenance Plan" with the Construction Certificate documentation, in accordance with Council's "Stormwater Treatment Framework & Stormwater Quality Improvement Device Guidelines".

Noise Control

All possible steps shall be taken to silence construction equipment and the operating noise level of plant and equipment shall not give rise to "offensive noise" as defined by the Protection of the Environment Operations Act 1997.

The operating noise level of machinery, plant and equipment during construction site operations shall comply with Chapter 171 of the NSW EPA's Noise Control Manual.

Construction operations shall be confined between the hours of 7.00am to 6.00pm Monday to Friday and 8.00am to 1.00pm Saturday. If construction operations are inaudible within occupied residential properties then the work period may be extended on Saturdays to 7.00am to 1.00pm. No construction work shall take place on Sundays or Public Holidays. Should it be necessary to use mechanical rock breakers or conduct blasting then these operations shall be confined between the hours of 9.00am and 3.30pm Monday to Friday (excluding any Public Holiday).

Noise Level Restrictions

- (i) Construction period of 4 weeks and under:-
The L10 level measured over a period of not less than 15 minutes when the construction site is in operation must not exceed the background level by more than 20dB(A).
- (ii) Construction period greater than 4 weeks:-
The L10 level measured over a period of not less than 15 minutes when the construction site is in operation must not exceed the background level by more than 10dB(A).

Controlled Activity Approval

The Applicant shall comply with the Controlled Activity Approval granted by the Department of Water and Energy for this development. A copy of the Department's approval, under the Water Management Act 2000, is attached to this consent.

No Construction Certificates will be issued over any part of the site requiring a Controlled Activity Approval until a copy of the Approval has been provided to Council.

5. Provision Of Utility Services

Service of Public Utilities

The Applicant shall service all lots in the subdivision with water, sewer, underground electricity and underground telephone facilities to the requirements of and by arrangements with the relevant supply authorities and company. The applicant shall liaise with AGL in relation to the future reticulation of gas in the subdivision.

A letter of compliance from each service authority and service company shall be submitted to Council prior to the issue of a **Subdivision Certificate**.

Installation of Service Pipes

The Applicant shall ensure that all public utility service pipes, mains and conduits are laid and/or installed in all new roads and existing roads, where work is required in existing roads, as part of the construction and drainage works associated with the Subdivision.

The Applicant shall also install conduits to cater for the installation of natural gas services to each proposed lot in conjunction with road and drainage works.

A letter of compliance from each service authority and service company shall be submitted to Council prior to the issue of a **Subdivision Certificate**.

Utilities Layout

The Applicant shall submit to the Principal Certifying Authority a utilities layout plan showing the location of mains, associated installations and service conduits prior to the issue of a **Subdivision Certificate**.

6. Roads And Drainage Construction Works

Roadways and Drainage Works Standards

The Applicant shall arrange for all relevant works to be designed and constructed in accordance with the following publications (as amended or updated), as applicable:-

- a) Australian Rainfall and Runoff, 1987.
- b) AUSTROADS Guide To Traffic Engineering Practice.
- c) DCP 1 (Volumes 1 and 2) and supporting guidelines.
- d) Roads and Traffic Authority Road Design Guide.
- e) Roads and Traffic Authority Interim Guide To Signs and Markings.

- f) Managing Urban Stormwater documents (2004).by Landcom.
- g) The Constructed Wetlands Manual - Department of Land and Water Conservation, 1998.
- h) Subdivision Code

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

Details Required Prior to Commencement

Construction works in accordance with this development consent shall not commence until:-

- (a) 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 work have been endorsed with a **Construction Certificate** by :-
 - (i) Council, or
 - (ii) an appropriately Accredited certifier accredited in accordance with the Building Professionals Board Accreditation Scheme, and

An Application For A Construction Certificate Can Only Be Made To Lake Macquarie City Council For All Works On Existing Public Roads (In Accordance With Council's Authority Under The Roads Act).
- (b) the person having the benefit of the development consent:-
 - (i) has appointed a Principal Certifying Authority, and
 - (ii) has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment, and
- (c) the person having the benefit of the development consent has given at least two (2) days notice to Council of the intention to commence works.

7. Stormwater Management

Show Lots Clear of 100 Year Flood Level

The Applicant shall show by calculations and plans that all lots are clear of the 1:100 year flood level. This condition shall also apply to lots which would be affected by substantial overland flow, which may necessitate the carrying out of works to ensure properly drained and flood free conditions.

The Applicant shall supply the above calculations and plans showing the limit of the 1:100 year flood prior to the issue of a **Construction Certificate**.

Note: Lots that are not 500mm clear of the 1:100 year flood level will be subject to floor height control.

Interallotment Drainage (Engineering Plans)

The Applicant, when preparing Engineering plans for the development, shall identify any lots that do not drain directly to Council's stormwater drainage systems. For these lots the Registered Proprietor of the land shall arrange for the provision of interallotment drainage pipelines and associated easements to drain water 2 metres wide favouring the allotments served. All stormwater shall be disposed of to either an existing formed Council drainage system or a natural watercourse. Where applicable, the Applicant shall obtain for lodgement with Council written authority from affected owners agreeing to the discharge of stormwater across their properties prior to the issue of a **Construction Certificate**.

The Registered Proprietor of the land shall subsequently create easement(s) to drain water over those properties, prior to, or at the time of registration of the Final Plan of Subdivision. Council is to be the party empowered to release, vary or modify the easement.

Provision of Council Easements

The Applicant shall arrange for the creation of easements to drain water, (minimum 3 metres wide or the width of the 100 year flow path, whichever is greater), in favour of Council to the sizes and locations indicated on an approved copy of the subdivision layout plan attached hereto.

The Registered Proprietor of the land shall arrange for the creation of easements to drain water over the Crown land in favour of Council, prior to the issue of a Construction Certificate that requires drainage over or through the Crown land.

Stormwater Standards

The Applicant shall arrange for the design and construction of stormwater drainage works in accordance with the requirements of the publications and standards identified in this consent. No works shall commence on site prior to the issue of a **Construction Certificate** and all works shall be completed prior to the issue of a **Subdivision Certificate**.

8. Roadways, Accessways And Footways

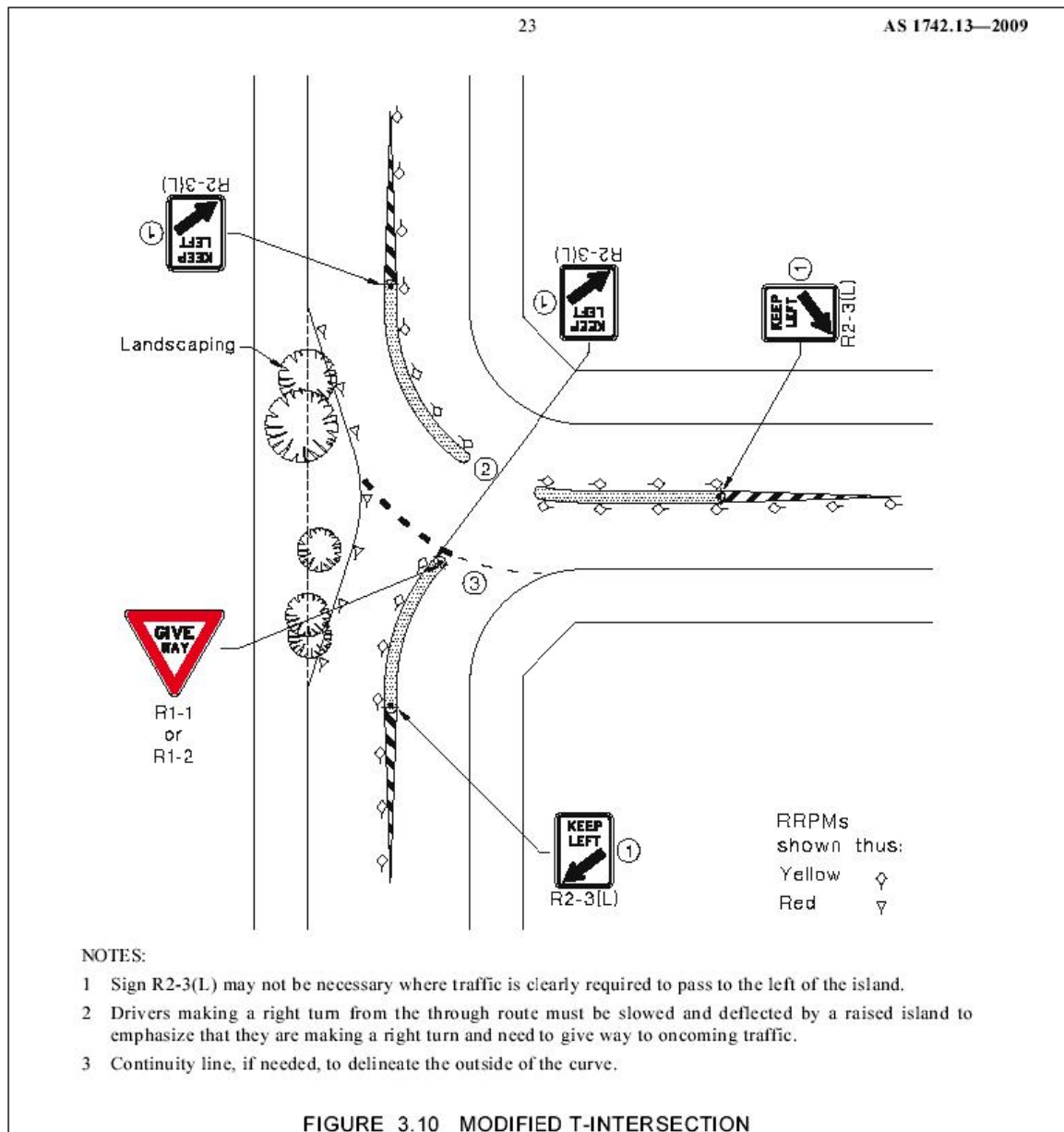
Dedication of Roads

The Applicant shall arrange, at the time of registration of the Final Plan of Subdivision, for the dedication of the proposed new roads to the public at no cost to Council.

All public roads that are to be dedicated shall be fully constructed in accordance with the standards identified in this consent.

Construction of Kerb and Gutter and Associated Works

- Marmong Street is a bus route (270 and 271). The applicant is to investigate and discuss with Hunter Valley Buses the need for additional bus stops on both sides of Marmong Street in the vicinity of the proposed intersection. Any new bus stop is to conform with the Disability Discrimination Act requirements for accessibility.
- Provide a pedestrian refuge on Marmong Street south-east of the proposed access road into the estate, providing connectivity of the shared pathway through the development with the existing shared path on Marmong Street.
- Park Parade where it bends 90 degrees at the proposed intersection with the new road (forming a T intersection) should be designed as a modified T intersection (see AS1742.13:2009 sketch below), with the new road terminating at Park Parade. The concrete islands on the sketch should be replaced with BB line marking and Raised Pavement Markers.
- At the end of the proposed road within stage 1 (adjacent to lots 111 / 112) a temporary turning facility shall be created. The turning facility shall be sized in accordance with Council's Engineering Guidelines and DCP1 and shall be sealed and drained. An easement shall be created over the turning area, in favour of the public, so as to permit vehicular movements. The easement shall be extinguished with the registration of stage 2 of the development.



No works shall commence on site prior to the issue of a **Construction Certificate**.
Linemarking and Signposting

All regulatory linemarking and sign posting on Public roads shall be submitted to Council's Traffic Facilities & Road Safety Committee. The works shall not commence until approved by the Committee.

Intersection Upgrade

The Applicant shall construct at the intersection of the proposed road and Marmong Street, kerb returns into Marmong Street and a minimum 30 metre tapers to the existing seal in Marmong Street for the left in/out turning movements from the development. The works at the intersection shall provide adequate turning area for trucks to access the development. The road embankment on the north-western side of Marmong Street near the proposed intersection, shall be regraded to improve the sight distance for vehicles utilising the intersection to the development. All works, including the kerb and gutter and associated road pavement, road shoulders including drainage and adjustment to existing constructions shall be in accordance with the provisions of the publications and standards identified in this consent.

The pavement design for the intersection shall include a geotechnical investigation to assess the capability of the existing pavement to accommodate any new turning movements. Any

costs associated with rehabilitation and sealing of the existing pavement to meet the road design ESA's shall be borne by the developer.

No works shall commence on site prior to the issue of a **Construction Certificate**.

Marmong Street Access Restriction

A restrictive covenant shall be placed on all lots that have a boundary to Marmong Street. The wording of the covenant shall be to the effect that no vehicular access shall be permitted directly to Marmong Street.

Pavement Standards

Residential road pavements shall be designed in accordance with "A Guide To The Design Of New Pavements For Light Traffic" - AUSTRROADS 1998. Main and industrial road pavements are to be designed in accordance with "Pavement Design, A Guide to the Structural Design of Road Pavements" - AUSTRROADS 1992. Designs for road pavements shall be submitted to and approved by the Council or a Private Certifier prior to road pavements being constructed. Where work is to be undertaken within a classified Main Road the pavement design shall also be submitted to the Roads and Traffic Authority for its approval prior to the commencement of works.

Traffic Control Standards

For the duration of work being carried out as part of this development, the Applicant shall ensure that traffic control is undertaken in accordance with the requirements of Australian Standards AS 1742 - Manual Uniform Traffic Control Services – Parts 1, 2 and 3.

Notification to Neighbours

Written notification shall be given by the Applicant to landowners and residents who live adjacent to the proposed development or who may be affected by the proposed works. The notification should include the expected date of commencement of works and a brief description of the works.

Haulage Routes

The Applicant shall submit to Council, in writing, details of the proposed haulage routes to be used during construction works. These details must be submitted a minimum of seven days before the commencement of haulage operations. No haulage operations shall take place prior to the approval of the routes by Council. The haulage routes shall not be varied without the approval of Council.

The Applicant shall maintain and restore the haulage route roads, as near as possible, to their original condition.

Fix Damage Caused by Construction Work

The Applicant shall make good any damage or injury caused to a public road or associated structures including drains and kerb and gutter, caused as a consequence of the works.

Notice of Commencement of Works

Construction works shall not commence until a meeting between the contractor and a representative of the Principal Certifying Authority (PCA) has taken place on site. The PCA may require up to seven 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.

Works as Executed Plan

An electronic copy of the Works as Executed Plans, certified by the Consulting Civil Engineer supervising the works or the Registered Surveyor in charge and certified by the Principal Certifying Authority, shall be supplied to the Council. Where applicable a Registered Surveyor's Certificate certifying that all pipes have been laid within the easements shown on the Final Plan of Subdivision shall also be submitted. The Works as Executed Plan shall, in addition to construction details, show limits and depths of filling, locations of service conduits and street names.

Note that a works as executed plan plotted on film will only be accepted where the original engineering design was hand drawn and not drafted using CAD software.

Street Lighting

The Applicant shall provide street lighting for the development to the satisfaction of Energy Australia and in accordance with the road classification. The road classification shall be determined by Council and Energy Australia.

The street lighting provided shall include any necessary upgrading of the lighting of the intersection of any new roads with existing roads.

Erection of Street Signs

The Applicant shall supply and erect new street name signs in accordance with the requirements of Council's standard design requirements. Note that all Private Roads shall be clearly signposted to indicate that they are Private roads and not Public roads.

Easement for Support

The Applicant shall arrange for the creation of an "easement for support" on the Final Plan of Subdivision submitted to cover all fill embankments that extend into lots if the side slopes are steeper than one (1) in three (3) and such embankments are in excess of six hundred (600)mm in height.

Submit Road Names for Approval

Proposed new road names shall be submitted to Council and approved prior to the issue of a **Construction Certificate**.

Note that Council cannot release the **Subdivision Certificate** unless the proposed public roads have been named in accordance with clause 162 of the Roads Act 1993. The Roads Act requires that the Geographical Names Board be given at least one month's notice of the proposed name(s).

Survey Control Marks Interference

The Applicant shall submit a statement from a Registered Surveyor verifying that the works did not interfere with any survey control marks OR the Applicant shall submit verification that the Survey Control Branch of the Department of Lands has been advised of any marks which will be destroyed and an undertaking that the requirements of the Survey Control Branch will be complied with.

9. Heritage – Quigley Grave

The applicant shall arrange for the "Recommended Conservation Works" as identified in Parts 4 and 7 of the "Quigley's Grave, Marmong Street, Booragul Conservation Options Report" by MUSEcape Pty Ltd dated 12 March 2010, to be undertaken. This includes restoration works to the headstone, the slab, the wrought iron fence, the kerbstones and the timber picket fence.

These works shall be completed to the satisfaction of Council prior to the release of the Subdivision Certificate for Stage 5.

A Public Positive Covenant shall be placed on proposed lot 502 requiring the owner of the lot to maintain the Grave and curtilage generally in accordance with the report above. The wording of the covenant shall be to the satisfaction of Council.

10. Bushfire Protection Measures

Bushfire Safety Authority from RFS

The Applicant shall comply with the requirements of the Bushfire Safety Authority from Rural Fire Service attached to these conditions of consent.

Compliance Bushfire Threat

Bushfire Mitigation measures shall comply with the recommendations of the report entitled "Bushfire Hazard Assessment for Residential Subdivision at Marmong Street and Park Parade Booragul NSW 2484 for Empowered Living Services" dated 3 April 2010 and prepared by Barry Eadie Consulting Pty Ltd, subject to the following amendments:

- A public positive covenant shall be placed on the titles to lots 516 & 517 inclusive to the effect that in respect of that part of each lot that is identified as being within the Asset Protection Zone, the registered proprietor shall maintain an asset protection zone to a fuel free standard such that there is minimal fine fuel (less than 2 tonnes per hectare) at ground level.
- A restriction as to user shall be placed on the titles to lots 101, 118, 201, 202, 215, 409 – 411, 505, 510 - 517 inclusive to the effect that no dwelling shall be erected on each lot unless it is of **Level 2** (or equivalent BAL) Standard as described in Australian Standard 3959-1999 "Construction of Buildings in Bushfire-Prone Areas".

11. Land Stability And Earthworks

Compliance - Geotechnical Report

The Applicant shall comply with the recommendations of the Geotechnical Report No. 39569.01 prepared by Douglas Partners dated June 2008. Any works proposed to be undertaken in relation to the application shall embody all the relevant recommendations of the Geotechnical Consultants.

All engineering plans shall be endorsed by and carry the original signatures of the Geotechnical Consultants (ie not photocopies). The endorsement shall state that the proposed works are in accordance with the recommendations of the Geotechnical Report, prior to the issue of a **Construction Certificate**.

Contamination

• Contamination Detail Investigation

Prior to the issue of a Construction Certificate the applicant shall undertake a detailed investigation of soil contamination on the site in accordance with the NSW Department of Environment and Climate Change (DECC) "Guidelines for Consultants Reporting on Contaminated Sites" and the "Managing Land Contamination: Planning Guidelines - SEPP55 - Remediation of Land".

The detailed investigation shall define the nature, extent and degree of contamination on the site and shall contain sufficient information to develop a Remedial Action Plan.

• Land Contamination Remedial Action Plan

- Prior to the issue of a Construction Certificate the applicant shall provide a Remedial Action Plan (RAP) prepared in accordance with the NSW Department of Environment and Climate Change (DECC) "Guidelines for Consultants Reporting on Contaminated Sites" and the "Managing Land Contamination: Planning Guidelines - SEPP55 - Remediation of Land".
- The RAP shall be reviewed by a NSW DECC accredited Site Auditor and include a statement issued by that auditor certifying that the RAP is practical and the site will be suitable after remediation for the proposed use, prior to issue of a Construction Certificate.

• Compliance with Remedial Action Plan

All site works shall be carried out in accordance with the terms and recommendations of the Remedial Action Plan, including but not limited to handling and disposal of materials, environmental monitoring and controls, material testing, and waste classification.

• Land Contamination Site Audit Statement

Prior to the issue of a Subdivision Certificate, a Site Audit Statement prepared by a DECC accredited Site Auditor is to be submitted to Council, which clearly demonstrates that the site is suitable for the proposed use.

Potential Acid Sulphate

The site has been identified with mapping undertaken by the Department of Environment, Climate Change and Water to be within a **Class 2 & 5** zone for acid sulphate affecting the soil.

Prior to the issue of any Construction Certificate for works within the Class 2 area, an assessment of acid sulphate soils potential shall be undertaken in the area affected by construction works. Should acid sulphate soils be present, an Acid Sulphate Soils Management Plan shall be prepared and submitted to Council. Guidance on the preparation of such a plan can be found in the NSW Acid Sulphate Soils Management Advisory Committee document titled Acid Sulphate Soils Manual (1998).

Site Classification of Lots

The Application shall arrange for a suitably experienced Geotechnical Consultant to determine the site classification of each proposed lot in accordance with AS 2870-1996. The site classifications shall be provided to Council prior to the issue of the Subdivision Certificate.

12. Small Lot Housing

A restrictive covenant shall be placed on lots 502 and 507. The intent of the restriction is to require that the only type of development permissible on the lots is "Small Lot Housing" in accordance with Council's Local Environmental Plan.

The wording of the covenant is to be to the satisfaction of Council's officers. The covenant is to be created with the registration of the Subdivision Certificate for stage 5 of the development.

13. Submission For Subdivision Certificate

There are requirements which must be satisfied before the Principal Certifying Authority may issue the Subdivision Certificate pursuant to Section 109J of the Environmental Planning & Assessment Act 1979 in respect of a subdivision.

Final Plan Submission

The Applicant shall submit an application for a **Subdivision Certificate** accompanied by the Final Plan of Subdivision, ten (10) copies, an A3 copy if filling of any lot has taken place and the location of all buildings and/or other permanent improvements indicated on one (1) full-size print. When all conditions of the Development Consent relating to this subdivision have been satisfactorily complied with the **Subdivision Certificate** will be issued.

88B Instrument

The Registered Proprietor of the land shall provide an instrument under Section 88B of the Conveyancing Act setting out terms of easements, covenants and restrictions as to user as may be required by conditions of this consent. Council is to be the party empowered to release, vary or modify those (and only those) easements and/or restrictions required by conditions of this development consent.

Compliance Certificate for Works

The Applicant shall obtain and submit a **Compliance Certificate/s** to certify that all construction works and associated development have been constructed in accordance with this Development Consent, the **Construction Certificate** and all other standards specified in this consent.

Section 50 Certificate

Prior to the issue of a Subdivision Certificate, a certificate of compliance under **Section 50** of the **Hunter Water Act 1991** for this development shall be submitted to the Principal Certifying Authority.

Advice: Council does not forward notification of the subdivision approval to the Hunter Water Corporation. It is the Applicants responsibility to make all pertinent arrangements with the Hunter Water Corporation.

Mines Subsidence Board Concurrence

The Applicant shall comply with the approval granted by the Mines Subsidence Board for this development. A copy of the Board's approval is attached to this consent.

Energy Australia Requirements

The Applicant shall ascertain and comply with the requirements of Energy Australia.

Application Fees for Required Certificates

The Applicant shall obtain any certificates as required to satisfy the conditions of this Consent.

For Council to process applications for these certificates the following fees would be payable:

Stage 1

Construction Certificate	\$2900	Plus \$50 Archival Fee	(inc GST)
Compliance Certificate	\$4200	Plus \$50 Archival Fee	(inc GST)
Subdivision Certificate	\$1995	Plus \$50 Archival Fee	(inc GST)

Stage 2

Construction Certificate	\$3000	Plus \$50 Archival Fee	(inc GST)
Compliance Certificate	\$4200	Plus \$50 Archival Fee	(inc GST)
Subdivision Certificate	\$1680	Plus \$50 Archival Fee	(inc GST)

Stage 3

Construction Certificate	\$1100	Plus \$50 Archival Fee	(inc GST)
Compliance Certificate	\$1600	Plus \$50 Archival Fee	(inc GST)
Subdivision Certificate	\$1575	Plus \$50 Archival Fee	(inc GST)

Stage 4

Construction Certificate	\$2800	Plus \$50 Archival Fee	(inc GST)
Compliance Certificate	\$4000	Plus \$50 Archival Fee	(inc GST)
Subdivision Certificate	\$1785	Plus \$50 Archival Fee	(inc GST)

Stage 5

Construction Certificate	\$3300	Plus \$50 Archival Fee	(inc GST)
Compliance Certificate	\$4700	Plus \$50 Archival Fee	(inc GST)
Subdivision Certificate	\$1785	Plus \$50 Archival Fee	(inc GST)

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

Where the development includes construction works valued at \$25,000.00 or more, the applicant must pay the Long Service Levy, as detailed in the Building and Construction Industry Long Service Payments Scheme. The Levy must be paid prior to the issue of the Construction Certificate. The Levy may be paid directly to the Long Service Payments Corporation or to Council as agent for the Corporation. The Levy rate is 0.35% of the cost of building and construction works.

The above application fees are subject to change each financial year without notice and confirmation should be obtained from Council prior to the lodgement of any application.

14. Contribution To Provision Of Services (Sec. 94)

- (a) In accordance with the provisions of Section 94 of the Environmental Planning and Assessment Act 1979 and the Lake Macquarie Section 94 Contributions Plan No. 1 – City Wide - Toronto Catchment 2004 (as amended), the monetary contributions in the attached Contributions Schedule shall be paid to Council for the purposes identified in that Schedule.
- (b) From the date this determination is made until payment, the amounts of the contributions payable under the preceding clause will be indexed and adjusted at the close of business on:
 - 14 August,

- 14 November,
- 14 February, and
- 14 May

in each year in accordance with the Consumer Price Index published by the Australian Bureau of Statistics and the provisions of the Lake Macquarie Section 94 Contributions Plan No. 1 – City Wide - Toronto Catchment 2004 (as amended).

The first date for indexation and adjustment shall be the date above which is closest to but follows the date on which the Notice of Determination becomes effective.

- (c) The contributions payable will be the amounts last indexed and adjusted in accordance with Clause (b) 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 those in clause (a) above.
- (d) The contributions shall be paid to Council as follows:
 - Development applications involving subdivision – prior to the release of the Subdivision Certificate.
 - Development applications involving building work – prior to the release of the first Construction Certificate.
 - Development applications involving both subdivision and building work – prior to the release of the Subdivision Certificate or first Construction Certificate, whichever occurs first.
 - Development applications where no Construction Certificate or Subdivision Certificate is required – prior to the release of the development consent or prior to issue of the first Certificate of Occupancy, whichever occurs first.

Please note that should payment be made by cheque or electronic transfer the release of any documentation will be subject to the clearing of those funds.

Consumer Price Index details are available from Council's Community Planning Department and the Australian Bureau of Statistics.

A copy of the Lake Macquarie Section 94 Contributions Plan No. 1 – City Wide - Toronto Catchment 2004 (as amended) is available for inspection at the Council's Administrative Building during Council's ordinary office hours.

CONTRIBUTION FEE SCHEDULE

DESCRIPTION	FEE AMOUNT
Stage 1	
Toronto Catchment - OSA Land	\$123,236.32
Toronto Catchment - RF - Capital	\$92,351.12
Toronto Catchment - CF - West Lake - Capital	\$36,017.95
Toronto Catchment - CF - West Lake - Land	\$9,227.05
Toronto Catchment - Management	\$2,800.78
Stage 2	
Toronto Catchment - OSA Land	\$115,534.68

Toronto Catchment - RF - Capital	\$86,579.18
Toronto Catchment - CF - West Lake - Capital	\$33,766.63
Toronto Catchment - CF - West Lake - Land	\$8,650.36
Toronto Catchment - Management	\$2,625.35

Stage 3

Toronto Catchment - OSA Land	\$107,832.03
Toronto Catchment - RF - Capital	\$80,807.23
Toronto Catchment - CF - West Lake - Capital	\$31,515.32
Toronto Catchment - CF - West Lake - Land	\$8,073.67
Toronto Catchment - Management	\$2,450.93

Stage 4

Toronto Catchment - OSA Land	\$123,236.32
Toronto Catchment - RF - Capital	\$92,351.12
Toronto Catchment - CF - West Lake - Capital	\$36,017.95
Toronto Catchment - CF - West Lake - Land	\$9,227.05
Toronto Catchment - Management	\$2,800.78

Stage 5

Toronto Catchment - OSA Land	\$123,236.32
Toronto Catchment - RF - Capital	\$92,351.12
Toronto Catchment - CF - West Lake - Capital	\$36,017.95
Toronto Catchment - CF - West Lake - Land	\$9,227.05
Toronto Catchment - Management	\$2,800.78

Attachments to Conditions of Consent
Attachment 1 – Mine Subsidence Board Approval Letter

In reply please send to: Newcastle District Office
Our reference: FN95-00560L0
Your reference: 237938
Contact: Sue Delves (02) 4908 4364

25 JUN 2010

SM



ADW JOHNSON
UNIT 7
335 HILLSBOROUGH ROAD
WARNERS BAY NSW 2282

23 June 2010

Dear Sir or Madam

SUBDIVISION APPLICATION NO. TSUB10-01051L1
LOT 465, 466 & 468 DP 774186 NO 79 MARMONG ST BOORAGUL
CREATING: LOTS 101-118, 201-215, 301-314, 401-416 & 501-517

The Mine Subsidence Board has granted its approval for this subdivision, subject to:

- (a) the number, size and boundaries of lots being substantially as shown on the approved plan, and
- (b) notification being made to the Board of any changes to lot numbering and of the registered DP number.

The Mine Subsidence Board's approval is required for the erection of all improvements.

As a guide to persons intending to erect improvements on this property, the Board has adopted the following surface development guidelines subject to them being erected on reinforced concrete footings and/or slabs to comply with AS 2870. The following improvements are limited to a maximum length of 30 metres.

1. Single or two storey timber or steel framed improvements clad with weatherboards or other similar materials.
2. Single or two storey brick veneer improvements.
3. Full masonry and other types of improvements will be considered for this property under the Board's 'Graduated Guidelines for Residential Construction'. The improvements will be subject to length restriction and may require engineering design. Details of the requirements may be obtained from the Board's technical staff.

NEWCASTLE

Ground Floor
NSW Government Offices
117 Bull Street
Newcastle West 2302
PO Box 488G Newcastle 2300
Telephone: (02) 4908 4300
Facsimile: (02) 4929 1032
DX 4322 Newcastle West

PICTON

100 Angley Street
Picton 2571
PO Box 40 Picton 2571
Telephone: (02) 4677 1967
Facsimile: (02) 4677 2040
DX 26053 Picton

SINGLETON

The Central Business Centre
Unit 6, 1 Pitt Street
Singleton 2330
PO Box 524 Singleton 2330
Telephone: (02) 6572 4344
Facsimile: (02) 6572 4504

WYONG

Suite 3 Fieldway Court
30 Hely Street
Wyong 2259
PO Box 157 Wyong 2259
Telephone: (02) 4352 1646
Facsimile: (02) 4352 1757
DX 7317 Wyong

HEAD OFFICE

PO Box 489G
Newcastle 2300
Telephone: (02) 4908 4395
Facsimile: (02) 4929 1032



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Free Call 1800 248 083

S 8 (Auto) Apr 2008

PUTTING SERVICE AND THE NEEDS OF PEOPLE FIRST

File No: FN95-00560L0

Architectural plans submitted to the Mine Subsidence Board for approval must show the location and detailing of articulation/control joints in brickwork to comply with the requirements of the Building Code of Australia and best building practices.

This approval is valid for two (2) years from the date of this letter.

During planning and design of proposed improvements, applicants should consult with our staff.

Yours faithfully



S Delves
for Phil Alexander
District Manager

S 8 (Auto) Apr 2008

Attachment 2 – NSW Rural Fire Service Bush Fire Safety Authority

All communications to be addressed to:

Headquarters
15 Carter Street
Lidcombe NSW 2141

Headquarters
Locked Bag 17
Granville NSW 2142

Telephone: 8741 5175

Facsimile: 8741 5433

e-mail: development.assessment@rfs.nsw.gov.au



The General Manager
Lake Macquarie City Council
Box 1906
Hunter Reg Mail Ctr NSW 2310

Your Ref: DA/771/2010
Our Ref: D10/1138
DA10070270575 MM

ATTENTION: Development Assessment & Compliance
Department

27 July 2010

Dear Sir / Madam

**Integrated Development for 468, 466 & 465/774186 79 Marmong St, Quigley
Grave, 24 Park Pde & 15 Denman Way Booragul 2284**

I refer to your letter dated 25 June 2010 seeking general terms of approval for the above Integrated Development in accordance with Section 91 of the 'Environmental Planning and Assessment Act 1979'.

This response is to be deemed a bush fire safety authority as required under section 100B of the 'Rural Fires Act 1997' and is issued subject to the following numbered conditions:

Water and Utilities

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building.

1. Water, electricity and gas are to comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

Access

The intent of measures for public roads is to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area.

2. Public road access shall comply with section 4.1.3 (1) of 'Planning for Bush Fire Protection 2006'.

General Advice – consent authority to note

Page 1 of 2

This approval is for the subdivision of the land only. Any further development application for class 1,2 & 3 buildings as identified by the 'Building Code of Australia' may be subject to separate application under section 79BA of the EP & A Act and address the requirements of 'Planning for Bush Fire Protection 2006'.

For any queries regarding this correspondence please contact Michael Murrell on 8741 5175.

Yours sincerely



Corey Shackleton
A/Team Leader Development Assessment and Planning

The RFS has made getting information easier. For general information on 'Planning for Bush Fire Protection, 2006', visit the RFS web page at www.rfs.nsw.gov.au and search under 'Planning for Bush Fire Protection, 2006'.

Attachment 3 – General Terms of Approval NSW Office of Water



Office
of Water

The General Manager
Lake Macquarie City Council
Box 1906
Hunter Reg Mail Ctr NSW 2310

Contact: Algis Sutas
Phone: 02 4348 5014
Fax: 02 4348 5012
Email: algis.sutas@water.nsw.gov.au

Our ref: 20 ERM2010/0718
Our file:
Your ref: DA/771/2010

RECEIVED

22 JUL 2010

LAKE MACQUARIE
CITY COUNCIL

Attention: Development Assessment & Compliance Department

20 July 2010

Dear Sir/Madam

Re: Integrated Development Referral – General Terms of Approval DA/771/2010 - Residential Subdivision, 79 Marmong Street, 24 Park Parade, 15 Denman Way, Booragul NSW 2284, Lot 465, 466 & 468 DP 774186.

I refer to your recent letter regarding an Integrated Development Application (DA) proposal for the subject property. Attached, please find the NSW Office of Water's General Terms of Approval (GTA) for 'works' requiring a Controlled Activity Approval under the *Water Management Act 2000* (WMA), as detailed in the subject DA.

Please note Council's statutory obligations under section 91A(3) of the *Environmental Planning and Assessment Act, 1979* (EPAA) which requires a consent, granted by a consent authority, to be consistent with the GTA proposed to be granted by the approval body.

If the proposed development is approved by Council, the NSW Office of Water requests that these GTA be included (in their entirety) in Council's development consent. Please also note the following:

- The NSW Office of Water should be notified if any plans or documents are amended and these amendments significantly change the proposed development or result in additional 'works' on waterfront land (ie in or within 40 metres from top of highest bank of a watercourse, foreshore, or lake). Once notified, the NSW Office of Water will ascertain if the amended plans require review or variation/s to the GTA. This requirement applies even if the proposed 'works' are part of Council's proposed consent conditions and the 'works' do not appear in the original documentation.
- The NSW Office of Water should be notified if Council receives an application to modify the consent conditions. **Failure to notify may render the consent invalid.**
- The NSW Office of Water requests notification of any legal challenge to the consent.

Under Section 91A(6) of the EPAA, Council must provide the NSW Office of Water with a copy of any determination/s including refusals.

As a controlled activity (ie the 'works') cannot commence before the applicant obtains a Controlled Activity Approval, the NSW Office of Water recommends that the following condition be included in the development consent:

"The Construction Certificate will not be issued over any part of the site requiring a Controlled Activity Approval until a copy of the Approval has been provided to Council".

"The Construction Certificate will not be issued over any part of the site requiring a Controlled Activity Approval until a copy of the Approval has been provided to Council".

The attached GTA are not the Controlled Activity Approval. The applicant must apply (to the NSW Office of Water) for a Controlled Activity Approval after consent has been issued by Council but before the commencement of any 'works'.

Finalisation of a Controlled Activity Approval can take up to 8 weeks from the date the NSW Office of Water receives all documentation (to its satisfaction). Applicants must complete and submit (to the undersigned) an application form together with any required plans, documents, the appropriate fee and security (ie bond, if applicable) and proof of Council's development consent.

Application forms for the Controlled Activity Approval are available from the undersigned or from the NSW Office of Water's website
<http://www.water.nsw.gov.au/Water-Licensing/Approvals/Controlled-activities/default.aspx>

The NSW Office of Water requests that Council provide a copy of this letter to the applicant.

Yours Sincerely



Algis Sutas
Senior Licensing Officer
NSW Office of Water
Gosford



General Terms of Approval – for works requiring a Controlled Activity Approval under the Water Management Act 2000

Our Reference		20 ERM2010/0718	File No:	
Site Address		79 Marmong Street, 24 Park Parade, 15 Denman Way, Booragul NSW 2284 Lot 465 & 468 DP 774186		
DA Number		DA/771/2010		
LGA		Lake Macquarie City Council		
Number	Condition			
Plans, standards and guidelines				
1	These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to DA/771/2010 and provided by Council: (i) Statement of Environmental Effects for Proposed Residential Subdivision, Lot 465, 466 & 468 DP 774186, Marmong Street, Booragul. Prepared by ADW Johnson Pty Ltd dated May 2010. Any amendments or modifications to the proposed controlled activities may render these GTA invalid. If the proposed controlled activities are amended or modified the NSW Office of Water must be notified to determine if any variations to these GTA will be required.			
2	Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAA) under the Water Management Act from the NSW Office of Water. Waterfront land for the purposes of this DA is land and material in or within 40 metres of the top of the bank or shore of the river/identified.			
3	The consent holder must prepare or commission the preparation of: (i) Erosion and Sediment Control Plan (ii) Soil and Water Management Plan			
4	All plans must be prepared by a suitably qualified person and submitted to the NSW Office of Water for approval prior to any controlled activity commencing. The following plans must be prepared in accordance with the NSW Office of Water guidelines located at www.dwe.nsw.gov.au/water_trade/rights_controlled.shtml (i) Riparian Corridors (ii) Outlet structures			
5	The consent holder must (i) carry out any controlled activity in accordance with approved plans and (ii) construct and/or implement any controlled activity by or under the direct supervision of a suitably qualified professional and (iii) when required, provide a certificate of completion to the NSW Office of Water.			
Rehabilitation and maintenance				
6	The consent holder must carry out a maintenance period of one (1) year after practical completion of all controlled activities, rehabilitation and vegetation management in accordance with a plan approved by the NSW Office of Water.			
7	The consent holder must reinstate waterfront land affected by the carrying out of any controlled activity			

Our Reference	20 ERM2010/0718	File No:	
Site Address	79 Marmong Street, 24 Park Parade, 15 Denman Way, Booragul NSW 2284 Lot 465 & 468 DP 774186		
DA Number	DA/771/2010		
LGA	Lake Macquarie City Council		
Number	Condition		
	in accordance with a plan or design approved by the NSW Office of Water.		
Reporting requirements			
8	The consent holder must use a suitably qualified person to monitor the progress, completion, performance of works, rehabilitation and maintenance and report to the NSW Office of Water as required.		
Access-ways			
9	The consent holder must not locate ramps, stairs, access ways, cycle paths, pedestrian paths or any other non-vehicular form of access way in a riparian corridor other than in accordance with a plan approved by the NSW Office of Water.		
Disposal			
10	The consent holder must ensure that no materials or cleared vegetation that may (i) obstruct flow, (ii) wash into the water body, or (iii) cause damage to river banks; are left on waterfront land other than in accordance with a plan approved by the NSW Office of Water.		
Drainage and Stormwater			
11	The consent holder is to ensure that all drainage works (i) capture and convey runoffs, discharges and flood flows to low flow water level in accordance with a plan approved by the NSW Office of Water; and (ii) do not obstruct the flow of water other than in accordance with a plan approved by the NSW Office of Water.		
12	The consent holder must stabilise drain discharge points to prevent erosion in accordance with a plan approved by the NSW Office of Water.		
Erosion control			
13	The consent holder must establish all erosion and sediment control works and water diversion structures in accordance with a plan approved by the NSW Office of Water. These works and structures must be inspected and maintained throughout the working period and must not be removed until the site has been fully stabilised.		
Excavation			
14	The consent holder must ensure that no excavation is undertaken on waterfront land other than in accordance with a plan approved by the NSW Office of Water.		
15	The consent holder must ensure that any excavation does not result in (i) diversion of any river (ii) bed or bank instability or (iii) damage to native vegetation within the area where a controlled activity has been authorised, other than in accordance with a plan approved by the NSW Office of Water.		
END OF CONDITIONS			