

DATE OF DETERMINATION	20 December 2020
PANEL MEMBERS	Alison McCabe (Chair), Juliet Grant, Susan Budd and Scott Anson
APOLOGIES	Justin Hamilton
DECLARATIONS OF INTEREST	Sandra Hutton declared a conflict of interest as her employer, ADWJ, is involved in another development application in the Lake Macquarie local government area for the same applicant. Jason Pauling declared a conflict of interest as his employer has related interests in the near vicinity of the site.

Public meeting held by teleconference on 8 December 2020, opened at 3:10pm and closed at 4:55pm.

MATTER DETERMINED

PPS-2013HCC016 – Lake Macquarie City Council – DA/1284/2013 at 9A, 69 and 82 Myall Road, Cardiff – residential subdivision (as described in Schedule 1).

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

The application was lodged in 2013. Consequently, the application relies on a number of saved provisions arising from either savings provisions in newer instruments or by virtue of being deferred from the newer instrument. The saved or differed policy framework relates to:

- Land use zoning and permissibility (LMC LEP 1984 and LMC LEP 2004);
- Biodiversity considerations (SEPP44, TSC 1995, s5A EPA Act 1979);
- Variation to development standard – (SEPP No. 1 Development Standards apply).

The application also relies on a SCC certificate issued under clause 19 of SEPP (Infrastructure) 2007. The application is a Crown Application. A number of the original reports have been updated since lodgement of the application.

The Panel in their deliberation required further clarification from Council regarding:

- Road widening
- SEPP 55 contamination
- Landscaping buffer to Myall Road
- RFS requirements
- Review of conditions – avoid double up and include some specifying further detail
- Biodiversity Stewardship Agreement

A SEPP No. 1 objection to the development standard to the minimum lot size of lands zoned 7(2) Conservation zone under the LMC LEP 2004 has been submitted. The Panel is satisfied with this objection, noting that the lands are to be consolidated into a conservation lot having an area of less than 40 hectares.

The proposal relies on a Biodiversity Stewardship Agreement (BSA) to be established. While there appears to be some broad in-principle agreement between Landcom and the Biodiversity Conservative Trust (BCT), these discussions have not progressed since 2019, nor has the required documentation been prepared.

The proposal broadly involves development over approximately one (1) third of the site with the remaining two (2) thirds identified as biodiversity offset to be managed through a BSA. The assessment has been updated to consider the current biodiversity regime.

The development of the site will also require upgrade to the intersection at Myall Road, as either a roundabout or signalised intersection. These works are to be the subject of a separate approval process – but are required to be in place before the issue of any subdivision certificate. The Panel understands the extent of these offsite works and notes the Biodiversity Assessment has taken these works into consideration.

The Panel has considered the further memo from Council regarding contamination and is satisfied, based on the information provided, that the land is suitable for residential development and that given the nature of contamination, appropriate conditions of consent can be imposed.

On balance, the Panel is satisfied the environmental impacts of this development can be adequately managed and mitigated and considers the protection of two (2) thirds of the site for biodiversity purposes is a reasonable outcome.

The Panel however considers the biodiversity outcomes need to be better resolved before any consent is operational.

To this end a Deferred Commencement consent is proposed.

The Panel also requires that the density limitations in the SCC are included as a condition of the consent – binding further development.

A number of conditions have changed from those in the original report, to require more specificity – and relate to road widening, landscape buffers and RFS requirements.

The Panel cannot impose the set of conditions without agreement of Landcom. While the Panel preferred to impose a two (2) year period for the Deferred Commencement conditions given the age of the application, s4.53(6) of the *EPA Act 1979* does not permit this. Landcom requested a five (5) year lapsing period for the Deferred Commencement. The draft conditions were circulated and the Panel has obtained Landcom's agreement in writing as required by s4.3(1)(b) *EPA Act 1979*.

Application to vary a development standard SEPP No. 1.

Following consideration of a written request from the applicant, the Panel is satisfied that:

- a) the applicant's written request is well founded;
- b) compliance with the development standard is unreasonable and unnecessary in the circumstances of the case;
- c) the granting of consent is consistent with the aims of the policy.

Development application

The panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979* subject to the conditions in Schedule 2.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel determined to uphold the SEPP 1 objection to the minimum subdivision standard, and approve the application for the reasons outlined in the Council assessment report and the additional following reasons.

1. The traffic impacts on the development can be reasonably mitigated.

2. The environmental impacts are mitigated through the Biodiversity outcomes for the proposed development.
3. The proposed development is compatible with the surrounding environment.

CONDITIONS

The development application was approved subject to the conditions at Schedule 2. The conditions differ from the Council assessment report in the following way:

- Deferred Condition 1 - Biodiversity Conservation Trust / Vegetation Management Plan – the requirement to enter into an agreement with the BCT has been now made a “Deferred Commencement” condition. Similarly the approval of the VMP that describes the management of those lands.
- Deferred Condition 2 - VMP - The matters to be address in the VMP have been expanded to also include:-
 - Public access management;
 - Trail rehabilitation and maintenance;
 - Vegetation establishment due to pothole rectification
 - Domestic animal management
- Condition 2 to 4 - inclusion of full wording of GTA’s from Integrated Authorities.
- Condition 29 - Boundary impacts – additional requirements have been included where works are adjacent to retained bushland and the potential need for an arborist report to inform these works.
- Condition 31 - Utility Services – additional requirements on no clearing of vegetation within offset lots for services provision.
- Condition 39 - Hollow bearing Tree Removal condition has been expanded to explicitly mention the removal of owl hollows within the development footprint.
- Condition 55 and 56 - Heritage – conditions included to highlight requirements should any unexpected heritage items be discovered.
- Condition 58 - Landscape Covenant – a condition added to require a five metre wide landscaping buffer to lots 67 and 68 fronting Myall Road.
- Condition 68 – Density Restriction – Restriction imposed on yields in accordance with SCC.
- Condition 74 - Rural Fire Service – Condition updated to prescribe the requirements of the RFS in relation to clearing and APZ provisioning.
- Condition 76 - Dedication of Road Widening - Condition updated to include description of land to be dedicated as road widening.
- Condition 80 - Prohibition on the keeping of domestic cats.
- Removal of doubled up conditions relating to Retention of Trees and native vegetation.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from all those wishing to address the Panel. The Panel notes that issues of concern included:

- Gillian Crescent linkage
- Loss of bushland and associated ecology
- Traffic and congestion
- Stormwater management
- Future public housing or medium density housing

- Reasonable access to existing bushland for recreational purposes

The Panel considers that concerns raised by the community have been adequately addressed in the assessment report and no new issues requiring assessment were raised in the public meeting. The Panel notes that in addressing these issues, changes to conditions to bring forward biodiversity outcomes and added detail provided to road widening, landscaping buffers and density requirements have been included.

PANEL MEMBERS	
 Alison McCabe (Chair)	 Juliet Grant
 Susan Budd	 Scott Anson

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPS-2013HCC016 – Lake Macquarie City Council – DA/1284/2013
2	PROPOSED DEVELOPMENT	Subdivision consisting of 66 residential lots, three future development lots and 3 conservation lots plus roads, drainage and associated infrastructure.
3	STREET ADDRESS	9A Myall Road, Garden Suburb 69 and 82 Myall Road, Cardiff
4	APPLICANT OWNER	Elton Consulting New South Wales Land and Housing Corporation (Landcom)
5	TYPE OF REGIONAL DEVELOPMENT	Crown development over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ <i>Coal Mine Subsidence Compensation Act 2017</i> ○ <i>Rural Fires Act 1997</i> ○ <i>Water Management Act 2000</i> ○ State Environmental Planning Policy No. 19 – Bushland in Urban Areas ○ State Environmental Planning Policy No. 44 - Koala Habitat Protection ○ State Environmental Planning Policy No. 55 – Remediation of Land ○ State Environmental Planning Policy (Infrastructure) 2007 ○ State Environmental Planning Policy (State and Regional Development) 2011 ○ Lake Macquarie Local Environmental Plan 1984 ○ Lake Macquarie Local Environmental Plan 2004 ○ Lake Macquarie Local Environmental Plan 2014 • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Lake Macquarie Development Control Plan 2014 • Planning agreements: Nil • Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i> • Coastal zone management plan: Nil • The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality • The suitability of the site for the development • Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations • The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Council assessment report: 1 December 2020 • SEPP 1 Objection to minimum allotment size: 30 November 2020 • Supplementary assessment memorandum: 11 December 2020 • Written submissions during public exhibition: 37 • Verbal submissions at the public meeting: <ul style="list-style-type: none"> ○ Mark Wyburn, David Lamotte, Michelle Fraser, Steve Warham, Martin Gray, Guy Finn and Bob Sherwood ○ On behalf of the applicant – Gaven Taing, Phil Conacher and Sophie Butcher • Documents tabled at the public meeting (summaries of speaker presentations): three

		<ul style="list-style-type: none"> • Email dated 17 December 2020 from Landcom accepting conditions • Email dated 17 December 2020 from Landcom regarding Deferred Commencement lapsing period
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Applicant Briefing: 9 February 2017 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Michael Leavey (Chair), Susan Budd, Lindsay Fletcher, Sandra Hutton and John Gilbert ○ <u>Council assessment staff</u>: Greg Field ○ <u>Applicant representatives</u>: Charles Bartlett <p><u>Note</u>: Applicant briefing was requested to provide the Panel with clarification and to respond to issues</p> • Briefing: 3 June 2020 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Alison McCabe (Chair), Juliet Grant, Justin Hamilton and Jason Pauling ○ <u>Council assessment staff</u>: Heath Robertson, David Pavitt, Elizabeth Lambert, Amy Regado and Michael Little • Site inspections: <ul style="list-style-type: none"> ○ Alison McCabe (Chair): 25 July 2020 ○ Juliet Grant: October 2020 ○ Scott Anson: 3 December 2020 • Applicant Briefing: 4 November 2020 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Alison McCabe (Chair), Juliet Grant and Jason Pauling ○ <u>Council assessment staff</u>: David Pavitt, Sarah Warner and Amy Regado ○ <u>Applicant representatives</u>: Sophie Butcher, Gaven Taing, Kemal Hughes, Phil Conacher and Jake McManis ○ <u>Department of Planning, Industry and Environment representatives</u>: Leanne Harris <p><u>Note</u>: Applicant briefing was requested to provide the Panel with clarification and to respond to issues</p> • Final briefing to discuss council's recommendation: 8 December 2020 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Alison McCabe (Chair), Juliet Grant, Susan Budd and Scott Anson ○ <u>Council assessment staff</u>: David Pavitt, Sarah Warner, Amy Regado and Elizabeth Lambert ○ <u>Department of Planning, Industry and Environment representatives</u>: Jane Gibbs, Leanne Harris, Carolyn Hunt and Lisa Foley
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report

SCHEDULE 2

Part A

Conditions of Deferred Commencement

Pursuant to Section 4.16(3) of the *EP and A Act 1979*, development consent is granted subject that this consent is not to operate until the applicant satisfies the Council, in accordance with the Environment Planning and Assessment Regulation 2000, as to all matters specified below as deferred commencement conditions.

If the evidence is not produced within five (5) years of the date of determination this deferred commencement consent is of no effect, the consent does not operate and no Subdivision Works Certificates can be issued. No development can lawfully occur under this consent unless it operates. This consent does not operate until Council has acknowledged compliance with the deferred commencement conditions in writing.

1. Conservation Offset Mechanism

- A Biodiversity Stewardship Agreement (BSA) shall be established in accordance with the *Biodiversity Conservation Act 2016* for all land identified as 'Proposed Conservation Agreement Area' on Figure 1.1 of 'Addendum Biodiversity Assessment Report Prepared For DA/1284/2016 Proposed 72 Lot Residential Subdivision Myall Road Cardiff (Conacher Consulting (2018))';
- A Vegetation Management Plan (VMP) for the BSA site shall be produced and must be to the satisfaction of the Biodiversity Conservation Trust (BCT) and Council;
- All biodiversity credits generated from the established BSA site shall be retired to the Biodiversity Conservation Trust and evidence of this must be provided to the BCT and Council;
- A covenant shall be placed on the title of the affected lands identifying that they are the subject of a BSA site offset and that the land cannot be developed. The wording of the covenant shall be to the satisfaction of the BCT and Council and evidence of the creation of this covenant on title shall be produced;
- Funds shall be transferred to the BCT for the purposes of undertaking the biodiversity actions identified in the BSA. The quantum of these funds shall be to the satisfaction of the BCT and evidence of this transfer shall be provided to Council and the BCT.

2. Vegetation Management Plan

A person qualified in natural vegetation management, ecology or bush regeneration shall be retained to prepare a Vegetation Management Plan (VMP) for the biodiversity offset site to the satisfaction of the Biodiversity Conservation Trust and Council. Evidence that the VMP has been submitted, to and approved by the BCT is to be provided to Council's Development Planner Flora and Fauna.

The VMP shall include, but not be limited to:

- Details as to fencing and conservation signage on site boundaries,
- Public access and the management of access to the site and within the site;
- The management of access by private vehicles and motorbikes;
- The management of opportunistic waste dumping;

- The management of domestic animals;
- Trail rehabilitation and maintenance;
- Weed monitoring and treatment as required,
- Revegetation of disturbed areas with local endemic species characteristic of native vegetation communities onsite,
- Establishment of regular monitoring and response program to protect and enhance habitat for threatened forest owls, squirrel glider and *Tetratheca juncea*,
- Monitoring of VMP works and of key threatened species within the biodiversity offset area. The BCT is to be consulted in this regard, key species include the powerful owl, squirrel glider, *Tetratheca juncea* and threatened microbats;
- Fire management,
- Pest management;
- Asset Protection Zone management and identification;
- Management of edge effects from the development site including containment of batters, fencing and landscaping species. Note that no civil works from the development are to impact the biodiversity offset lands or other lands ;
- Installation of nest boxes and monitoring;
- Vegetation establishment for mine subsidence pothole rectification;
- Fauna structures.

Part B

Conditions of Consent

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

Reason for the Imposition of Conditions

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

To encourage:

- a) 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;
 - i. The promotion and co-ordination of the orderly and economic use of development of land;
 - ii. The protection, provision, and co-ordination of communication and utility services;
 - iii. The provision of land for public purposes;
 - iv. The provision and co-ordination of community services and facilities;
 - v. 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;
 - vi. Ecologically Sustainable Development; and

- vii. 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.
- c) To provide increased opportunity for public involvement and participation in environmental planning and assessment.

Administrative Conditions

1. The Approved Development and 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 Elton Consulting dated 2 November 2020
- b) Lot Layout by PAA Design dated 31 May 2018
- c) Master Plan by PAA Design dated January 2013
- d) Concept Civil Design Drawings by SMEC dated 21 January 2013
- e) Traffic Impact Assessment by Better Transport Futures dated February 2013
- f) Addendum Biodiversity Assessment Report prepared for DA/1284/2016 Proposed 72 Lot Residential Subdivision Myall Road Cardiff by Conacher Consulting 2018
- g) Biodiversity Assessment Report by Conacher Environmental Group dated May 2013
- h) Biodiversity Offsets Report by Conacher Environmental Group dated March 2013
- i) Vegetation Management Plan by Conacher Environmental Group dated June 2013
- j) Report on Additional Threatened Forest Owl Surveys & Assessments by Conacher Consulting dated October 2017
- k) Geotechnical Assessments for the North and South Precincts by Douglas Partners, Ref 49427.02 dated October 2011
- l) Mine Subsidence Pothole Assessment by Douglas Partners dated September 2010
- m) Methodology for Remediating Potholes by Douglas Partners dated July 2013
- n) Quantitative Assessment of the Risk to Public Safety from Pothole Subsidence by Douglas Partners dated March 2015
- o) Preliminary Contamination Assessment by Douglas Partners dated October 2011
- p) Preliminary Contamination Assessment by Douglas Partners dated November 2012
- q) Preliminary Contamination Assessment by Douglas Partners dated August 2020
- r) Stormwater Drainage Study by SRB Consulting Civil Engineers dated June 2012
- s) Water Cycle Management Strategy by BMT WBM dated August 2013
- t) Aboriginal Heritage Due Diligence Reports (North & South) by RPS dated June 2012.

- u) Visual Impact Assessment by PAA Design dated January 2013
- v) Infrastructure Assessment by Bannister and Hunter Pty Ltd dated June 2012
- w) Social Impact Assessment by Community Dimensions Pty Ltd dated January 2013
- x) Bushfire Threat Assessment by Conacher Consulting dated July 2020.
- y) Landscaping Plan by Terras Landscape Architects Dated January 2013

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

It is the responsibility of the person having the benefit of the consent to provide all compliance certificates, documentation and other evidence to verify that the conditions and requirements imposed by this consent have been complied with.

General Terms of Approval and Concurrence Requirements

2. Subsidence Advisory NSW – General Terms of Approval

GENERAL TERMS OF APPROVAL

Plans, standards and guidelines	
1.	<p>These General Terms of Approval (GTAs) only apply to the subdivision development described in the plans and associated documentation relating to DA/1284/2013 and provided to Subsidence Advisory NSW.</p> <p>Any amendments or subsequent modifications to the development may render these GTAs invalid.</p> <p>If the proposed development is amended or the development consent modified, Subsidence Advisory NSW must be notified to determine if any variations to these GTAs are required.</p>
2.	<p>This approval expires 5 years after the date the approval was granted if construction work has not physically commenced.</p>
3.	<p>Subsidence Advisory NSW is to be notified of any changes to lot numbering and the registered DP number.</p>
4.	<p>Locate and remediate safety risk posed by any shafts, drifts and potholes or sinkholes. A report is to be submitted for Subsidence Advisory NSW's acceptance that this has been completed.</p> <p>Note that Subsidence Advisory NSW records indicate the eastern portion of proposed lot 72 is located over shafts, drifts and that there is a high potential for uncharted shallow abandoned mine workings.</p>
Site Works	
5.	<p>Approval under Clause 22 of the <i>Coal Mine Subsidence Compensation Act 2017</i> is also required for the erection of all improvements on the land. As a guide, improvements shall comply with Subsidence Advisory NSW nominated Surface Development Guidelines, or otherwise assessed on merit.</p>

3. NSW Rural Fire Service – General Terms of Approval

The New South Wales Rural Fire Service (NSW RFS) has reviewed the submitted amended information. General Terms of Approval are now re-issued, under Division 4.8 of the *Environmental Planning and Assessment Act 1979*, and a Bush Fire Safety Authority, under section 100B of the *Rural Fires Act 1997*, are now issued subject to the following conditions.

Asset Protection Zones

Intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.

1. At the issue of a subdivision certificate that area of the Southern Precinct consisting of the 66 residential allotments and the 2 superlots for future single or medium density housing, must be managed as an inner protection area (IPA) in accordance with the requirements of Appendix 4 of *Planning for Bush Fire Protection 2019*. When establishing and maintaining an IPA the following requirements apply:

- tree canopy cover should be less than 15% at maturity;
- trees at maturity should not touch or overhang the building;
- lower limbs should be removed up to a height of 2m above the ground;
- tree canopies should be separated by 2 to 5m;
- preference should be given to smooth barked and evergreen trees;
- large discontinuities or gaps in vegetation should be provided to slow down or break the progress of fire towards buildings;
- shrubs should not be located under trees;
- shrubs should not form more than 10% ground cover; and clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation.
- grass should be kept mown (as a guide grass should be kept to no more than 100mm in height); and
- leaves and vegetation debris should be removed.

2. A 10 metre asset protection zone (APZ) must be applied to all proposed perimeter Lots fronting the bush fire hazard, excluding Lot 68. The APZ must be managed as an inner protection area (IPA) in accordance with the requirements of Appendix 4 of *Planning for Bush Fire Protection 2019*. A restriction on the land use, in accordance with section 88B of the *Conveyancing Act 1919*, shall be placed on these lots requiring the provision of the 10 metre APZ / front boundary setback and prohibits the construction of buildings other than class 10 structures within the APZ. The Council shall be the authority empowered to release, vary or modify the instrument.

3. A 29 metre asset protection zone (APZ) must be applied to the western boundary of proposed Lot 68. A restriction on the land use, in accordance with section 88B of the *Conveyancing Act 1919*, shall be placed on Lot 68 that requires the provision of the 29 metre APZ / boundary setback and prohibits the construction of buildings other than class 10 structures within the APZ. The Council shall be the authority empowered to release, vary or modify the instrument.

Access – Public Roads

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

4. Public road access must comply with the general requirements of Table 5.3b of *Planning for Bush Fire Protection 2019*.

Water and Utility Services

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.

5. The provision of water, electricity and gas must comply with Table 5.3c of *Planning for Bush Fire Protection 2019*.

4. Water NSW – General Terms of Approval

General Terms of Approval (GTA) for works requiring a controlled activity approval under the *Water Management Act 2000 (WM Act)*:

- The 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 (which includes (i) the bed of any river together with any land within 40 metres inland of the highest bank of the river, or (ii) the bed of any lake, together with any land within 40 metres of the shore of the lake, or (iii) the bed of any estuary, together with any land within 40 metres inland of the mean high water mark of the estuary).
- Once notified, the 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 do not appear in the original documentation.
- The Office of Water should be notified if Council receives an application to modify the development consent and the modifications change any activities on waterfront land.
- The Office of Water requests notification of any legal challenge to the 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.

Plans, Standards and Guidelines	
1.	<p>These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to DA/1284/2013 and provided by Council:</p> <ul style="list-style-type: none"> (i) Statement of Environmental Effects prepared by Elton Consulting and Dated 1st August 2013 (ii) Subdivision Master Plan Prepared by Peter Andrews & Associates, dated 25th February 2013 <p>Any amendments or modification to the proposed controlled activities may render these GTA invalid.</p> <p>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.</p>
2.	<p>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.</p>

3.	The consent holder must prepare or commission the preparation of: <ul style="list-style-type: none"> (i) Works Schedule (ii) Erosion and Sediment Control Plan (iii) Riparian Area Vegetation Management Plan as described in the Biodiversity Assessment Report prepared by Conacher Environmental Group dated May 2013
4.	All plans must be prepared by a suitable qualified person and submitted to the 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's guidelines located at www.water.nsw.gov.au/Water-Licensing/Approvals/default.aspx <ul style="list-style-type: none"> (i) Vegetation Management Plans (ii) Laying pipes and cables in watercourses (iii) Riparian Corridors (iv) In-stream works (v) Outlet structures (vi) Watercourse crossings
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 two (2) years after practical completion of the controlled activities, rehabilitation and vegetation management in accordance with a plan approved by the NSW Office of Water.
7.	N/A
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.
Security Deposits	
9.	The consent holder must provide a security deposit (bank guarantee or cash bond) – equal to the sum of the cost of complying with the obligations under any approval – to the NSW Office of Water as and when required.
Access-ways	
10.	N/A
11.	The consent holder must not locate ramps, stairs, access ways, cycle paths, pedestrian paths or any other non-vehicular form of access in a riparian corridor other than in accordance with a plan approved by the NSW Office of Water.
Bridge, causeway, culverts, and crossing	
12.	N/A

13.	N/A
Disposal	
14.	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	
15.	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.
16.	The consent holder must stabilise drain discharge points to prevent erosion in accordance with a plan approved by the NSW Office of Water.
17.	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 be removed until the site has been fully stabilised.
Excavation	
18.	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.
19.	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.
Maintaining River	
20.	N/A
21.	N/A
River Bed and Bank Protection	
22.	The consent holder must clearly mark (with stakes using a GPS or peg out survey), protect and maintain a riparian corridor with a minimum width of 10 metres measured horizontally landward from the highest bank of the river for the length of the site directly affected by the controlled activity in accordance with a plan approved by the NSW Office of Water.
23.	N/A
Plans, Standards and Guidelines	
24.	N/A
25.	N/A
26.	N/A
27.	N/A

5. Contribution Toward Provision or Improvement of Amenities or Services

In accordance with the provisions of the *Environmental Planning and Assessment Act 1979* – Sect 7.11 and the Lake Macquarie City Council *Development Contributions Plan Glendale Contributions Catchment - 2015*, the monetary contributions in the attached Contributions Schedule shall be paid to Council for the purposes identified in that Schedule.

From the date this determination is made until payment, the amounts of the contributions payable under the preceding clause shall be indexed and adjusted at the close of business on:

- a) 14 August,
- b) 14 November,
- c) 14 February, and
- d) 14 May;

in each year in accordance with indexation provisions within the Contributions Plan and Directions issued under the *Environmental Planning and Assessment Act 1979* – Sect 7.17. The first date for indexation shall occur on the first abovementioned date after the Notice of Determination becomes effective.

The contributions payable shall be the amounts last indexed and adjusted in accordance with the above. However, if no amount has been indexed and adjusted because the first date for indexation and adjustment has not arrived, the contributions payable shall be those as set out in the table below.

The contributions shall be paid to Council as follows:

- a) Development Applications involving subdivision – prior to the release of the Subdivision Certificate;
- b) Development Applications involving building work – prior to the release of the first Construction Certificate;
- c) Development Applications involving both subdivision and building work – prior to the release of the Subdivision Certificate or first Construction Certificate, whichever occurs first;
- d) Development Applications where no Construction Certificate or Subdivision Certificate is required – prior to the commencement of any construction work or prior to any occupation, whichever occurs first;
- e) Complying Development Certificates - prior to any work authorised by the application or certificate commencing.

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

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

Indexation details are available from Council's Development Contribution Section.

A copy of the Lake Macquarie City Council *Development Contributions Plan Glendale Contributions Catchment - 2015* is available on Council's website, or a copy is available at Council's Administrative Building during Council's opening hours.

CONTRIBUTION FEE SCHEDULE

DESCRIPTION	FEE AMOUNT
GE-Open Space & Recreation Facilities-Capital-CPI	\$925,147.18
GE-Open Space & Recreation Facilities-Land-LVI	\$185,438.27
GE-Open Space & Recreation Facilities-Land-CPI	\$5,037.64
GE-Roads-Capital-R003/R005/R008/R009/R011-CPI	\$63,381.23
GE-Roads-Land-R005/R008-LVI	\$335.78
GE-Public Transport Facilities-CPI	\$5,760.50
GE-Community Facilities-Capital-CPI	\$241,135.65
GE-Community Facilities-Land-LVI	\$31,472.27
GE-Plan Preparation & Administration-CPI	\$49,537.63
	TOTAL \$1,507,246.15

Conditions to be satisfied prior to the issue of the Subdivision Works Certificate

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

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

6. Erosion and Sediment Control Plan

An Erosion and Sediment Control Plan shall be prepared in accordance with the requirements of *Development Control Plan 2014 and Guidelines*. The plan shall be submitted to Council for approval.

7. Erosion Controls

An Erosion and Sediment Control Plan (ESCP) or Soil and Water Management Plan (SWMP) shall be prepared in accordance with *Development Control Plan 2014 and Guidelines*. The plan shall include plans and full calculations for all erosion and sediment control measures. The plan shall be submitted to Council for approval.

The plan shall be accompanied by a Statement of Compliance to certify that:

- a) The plan has been developed by an appropriately qualified and experienced professional in erosion and sediment control;
- b) The plan complies with the requirements for the area of disturbance as per *Development Control Plan 2014*;
- c) The plan and associated documents, calculations and drawings, have been prepared to a standard which, if properly implemented, shall achieve the water release criteria of 50mg/L of Total Suspended Solids (TSS); and
- d) All erosion and sediment control measures are in accordance with *Development Control Plan 2014*.

8. Landscaping Works

A Landscaping Plan shall be prepared in accordance with the requirements of *Development Control Plan 2014 and Guidelines*. The plan shall generally be in accordance with the plan prepared by terras landscape architects, dated January 2013 and have regard to the recommendations of the Visual Impact Assessment by PAA Design dated January 2013. Street trees shall be a minimum of 75 litre pot size and be protected by Council's standard tree guard (or approved equivalent).

The Landscaping Plan shall be submitted to Council for approval as a part of the Subdivision Works Certificate application.

9. Gross Pollutant Trap

A design shall be submitted to Council for Gross Pollutant Traps. The design shall be in accordance with the requirements of *Development Control Plan 2014 and associated Guidelines*. Provision shall be made for maintenance access roads and maintenance vehicle parking.

An Operation and Maintenance Plan for the Gross Pollutant Traps shall be submitted. The Operation and Maintenance Plan shall be in accordance with the *Stormwater Quality Improvement Device (SQID) Guidelines*.

10. Water Quality Control Facilities

A design shall be submitted for permanent Stormwater Quality Facilities generally in accordance with the design and plans prepared by SMEC. The design shall be prepared in accordance with the requirements of *Development Control Plan 2014 and Guidelines*.

The design shall include details of the extent and location of fencing, provide details of maintenance access and details of landscaping and species for the facility and its surrounds.

The design shall be modified so as to remove the proposed sediment forebays and replace them with appropriately sized Gross Pollutant Traps with maintenance access provisions.

The plans for the facility shall detail the construction stages, i.e. the plans shall detail the design of the facility as a sediment basin and the plans shall detail the design of the facility in its final form.

An Operation and Maintenance Plan prepared in accordance with *Stormwater Quality Improvement Device (SQID) Guidelines* shall be submitted for approval.

Construction sequencing for the Stormwater Quality Facilities shall be as follows:-

- a) Phase 1 – The facility shall be constructed to operate as a sediment basin initially. All final inlet and outlet structures shall be installed at this stage (unless alternate arrangements have

been agreed by Council). The facility shall be maintained as a sediment basin until 80% of the lots draining to it have had housing constructed or a period of two years has passed since the release of the Subdivision Certificate.

- b) Phase 2 – A bond or bank guarantee shall be lodged with Council for the works to complete the SQID. The bond or guarantee shall be to the value determined in accordance with *Subdivision Bonds and Guarantees Policy* and shall have regard to the value of the capital of the landscaping works and 2 years maintenance.
- c) Phase 3 – Once the catchment has been substantially developed (80% of the lots or two years whichever is the lesser), the sediment basin shall be decommissioned and the final approved facility constructed and landscaped.

11. Roadways and Drainage Works Standards

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

- a) *Australian Rainfall and Runoff, 2019.*
- b) *Development Control Plan 2014* and supporting guidelines.
- c) *AUSTROADS Guide to Road Design Guide.*
- d) *Roads and Maritime Services Delineation Guidelines.*
- e) *Managing Urban Stormwater documents (2004)* by Landcom.
- f) *The Constructed Wetlands Manual* - Department of Land and Water Conservation, 1998.
- g) *WSUD Technical Design Guidelines for South East Queensland.*
- h) *Healthy Waterways – Water by Design Guidelines.*
- i) Australian Standards including, but not limited to:-
 - i. *AS1428 - Design for Access and Mobility, Part 1 General Requirements for Access and Part 4 Tactile Indicators,*
 - ii. *AS2890 - Off Street Parking*

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

12. Show Lots Clear of 100 Year Flood Level

Stormwater designs and calculations shall be submitted to show 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.

Note: Lots that are not 500mm clear of the 1:100 year flood level shall be subject to floor height control and shall be identified as Flood Control Lots.

13. Stormwater Detention Required

Stormwater designs and calculations shall be submitted to Council to show that the development does not increase the peak stormwater discharge or limits of upstream and downstream flooding for floods over the range of 1:1 years to 1:100 years by the inclusion of stormwater detention controls.

Designs shall incorporate maintenance access roads and fencing in accordance with Council's standard requirements.

14. Disposal of Stormwater to a Watercourse or Council Easement

Stormwater shall be disposed of to either an existing Council drainage system or natural watercourse.

Where stormwater works shall be located on private property, that is not part of the development site, written authority shall be obtained from the land owner for the works and for the subsequent creation of an easement. The written authority to discharge stormwater across the property and agreement to create an easement for drainage shall be provided to Council.

15. Interallotment Drainage (Engineering Plans)

The engineering plans for the development shall identify any lots that do not drain directly to Council's stormwater drainage systems. For those lots, provision shall be made for interallotment drainage pipelines and associated easements to drain water two 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 stormwater works shall be located on private property, that is not part of the development site, written authority shall be obtained from the land owner for the works and for the subsequent creation of an easement.

16. Stormwater Standards

A design shall be submitted for stormwater works in accordance with the requirements contained in *Development Control Plan 2014 and Guidelines*. The stormwater design shall meet the requirements of the publications and standards identified in this consent.

17. Linemarking and Signposting

The engineering design plans submitted shall include details of any proposed linemarking and sign posting.

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

18. Adjustments for Myall Road Intersection

The subdivision road geometric layout and pavement thickness, materials and seal adjacent to the proposed intersection at Myall Road shall be designed to meet to final design configuration of the intersection.

19. Pavement Standards

Residential road pavements shall be designed in accordance with *A Guide To The Design Of New Pavements For Light Traffic* - AUSTRROADS 2006. Main and industrial road pavements shall be

designed in accordance with *Pavement Design, A Guide to the Structural Design of Road Pavements* - AUSTRROADS 2012.

Designs for road pavements shall be prepared by a geotechnical consultant and shall be submitted to Council.

Where work shall be undertaken within a classified Main Road the pavement design shall also be submitted to the Roads and Maritime Services for its approval prior.

20. Submit Road Names for Approval

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

21. Bushfire Safety Authority from Rural Fire Service

All the requirements contained in the Bushfire Safety Authority issued by the NSW Rural Fire Service shall be incorporated into the engineering design plans for the development.

A copy of the RFS approval is attached to this consent.

Non – Perimeter Roads

The Lot layout shall be revised to the satisfaction of Council to facilitate on road parking within the non-perimeter roads. To achieve this outcome, the road reserve for the non-perimeter roads shall be widened by at least a metre so as to provide sufficient width for an 8 metre wide carriageway to be incorporated into the civil design / works. The adjacent lots shall be reduced in depth to accommodate this.

No Parking signage will be required to be erected on one side of the non-perimeter roads so as to maintain an available carriageway width of 5.5 metres at all times. Hydrants shall be installed on the no parking side of the carriageway.

Perimeter Roads

The design of the perimeter road shall be modified to the satisfaction of Council to incorporate parking bays to the bushland side of the carriageway. The design shall ensure that an 8 metres wide carriageway is available in addition to the parking bays.

No Parking signage shall be erected on the "lot" side of the carriageway.

Hydrants shall be installed on the no parking side of the carriageway.

22. Compliance with the Geotechnical Report

All recommendations contained in the Geotechnical Reports No. 49427.02 prepared by Douglas Partners dated October 2011 shall be incorporated into the engineering design for the subdivision. All works proposed to be undertaken shall embody the relevant recommendations of the Geotechnical Report.

All engineering plans shall be endorsed by a suitably qualified Geotechnical Consultant. The endorsement shall state that the proposed works are in accordance with the recommendations of the aforementioned Geotechnical Report.

23. Contamination RAP

Prior to issue of any Subdivision Works Certificate, a Remediation Action Plan (RAP) shall be prepared and a copy of the RAP provided to Council.

The RAP shall be prepared by a suitably qualified and experienced contaminated land consultant, to the satisfaction of Council and in accordance with:

- (a) "Guidelines for Consultants Reporting on Contaminated Sites" (NSW Office of Environment and Heritage 2011)
- (b) "Managing Land Contamination Planning Guidelines SEPP 55–Remediation of Land" (Department of Urban Affairs and Planning and NSW EPA 1998).

24. Compliance Certificate for Works

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

25. Application Fees for Required Certificates

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

Subdivision Works Certificate	Please contact Council for fees	Plus \$80 Archival Fee	(inc GST)
Compliance Certificate	Please contact Council for fees	Plus \$80 Archival Fee	(inc GST)

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

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

The above fees are current for the **2020/2021** financial year and are subject to change each financial year without notice. Confirmation of the relevant fee shall be obtained from Council prior to the lodgement of any application.

26. Vegetation Management Plan

Implementation of the VMP shall commence prior to any construction work commencing and shall be carried out in perpetuity as prescribed by the VMP..

Written approval from Council's Development Planner Flora and Fauna shall be obtained and submitted to the Certifying Authority demonstrating that VMP outcomes, including the VMP works schedule and nest box requirements have been met, prior to the issue of the first Subdivision Certificate.

27. Contaminated Land Remediation Action Plan

Prior to the issue of a Subdivision Works Certificate, a Remediation Action Plan (RAP) shall be prepared and a copy of the RAP provided to Council.

The RAP shall be prepared by a suitably qualified and experienced contaminated land consultant, to the satisfaction of Council and in accordance with:

- a) *Guidelines for Consultants Reporting on Contaminated Sites* (NSW Office of Environment and Heritage 2011)
- b) *Managing Land Contamination Planning Guidelines SEPP 55–Remediation of Land* (Department of Urban Affairs and Planning and NSW EPA 1998).

28. Subdivision Works Certificate for Works

An application for a Subdivision Works Certificate and the associated fee shall be submitted to Council.

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

Conditions to be satisfied prior to the commencement of works

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

29. Retention of Trees and Native Vegetation

All native trees and vegetation on the site shall be retained and protected in accordance with *Development Control Plan 2014 Guidelines – Tree Preservation and Native Vegetation Management Guidelines* (Section 6) and the *Australian Standard AS4970-2009 – Protection of Trees on Development Sites* unless it:

- a) has been identified for removal on the approved plans or documentation; or
- b) has been identified for selective removal, or is exempt under the 10/50 Clearing Entitlement Area as deemed by the NSW Rural Fire Service.

Exclusion fencing shall be installed around all native vegetation that shall be retained on and adjoining the site to minimise damage, prior to the commencement of works. The person having the benefit of the consent shall notify Councils Development Planner Flora and Fauna when exclusion fencing has been installed. Vegetation exclusion fencing shall be maintained in good working order for the duration of works.

If any works within the development precinct(s) are proposed that are adjacent to the development precinct boundaries and may impact native trees within the conservation lots or other adjacent land. The works shall be redesigned to the satisfaction of Council so as to not impact those trees. An arborist report may be required to inform the design solution.

30. Nest Box Installation

A qualified ecologist or wildlife carer shall supervise installation of nest boxes.

Unless otherwise agreed with the BCT and Councils Development Planner Flora Fauna, nest boxes shall be installed:

- a) At a ratio of 1:1 for every hollow bearing tree removed;
- b) At least two weeks prior to clearing and maintained for two years;
- c) At least four metres above ground;
- d) Of a design suitable for species that may be residing in trees marked for removal;
- e) Of a durable material (ie; marine ply or equivalent).
- f) Of a design that is consistent with NSW Government 2011, Biodiversity Guidelines: *Protecting and managing biodiversity on RTA projects - Guide 8: Nest boxes*, prepared by Roads and Traffic Authority, September 2011 and NSW Government 2008, *Guidelines for the design, construction and placement of nestboxes*, prepared by Department of Environment, Climate Change and Water, Biodiversity Conservation Section.
- g) At an orientation that is suitable for the species that the nest box has been designed. Micro bat nest boxes shall be orientated at a north to north westerly aspect. Bird and mammal boxes shall be orientated at an east facing aspect;
- h) In a manner that minimises damage to the trees and surrounding vegetation; and
- i) With a unique number affixed that can be read from the ground.

A plan shall be provided showing the location of nest boxes in relation to the development. The number affixed to the bottom of each nest box shall also be shown on the plan.

31. Service of Public Utilities

Arrangements shall be made with the relevant supply authorities and companies for the servicing of all lots in the subdivision with water, sewer, underground electricity and underground telecommunications facilities. Where available, reticulated gas shall be provided to the lots by arrangements with the local gas authority.

Where required by the Commonwealth Government's *Fibre in New Development's Policy*, the applicant shall arrange for the installation of optical fibre cabling in accordance with the NBN Co. Limited's specification.

No clearing of vegetation shall occur within the lots proposed as conservation offset lots for the provision of services to the development.

32. Details Required Prior to Commencement

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

- a) a Subdivision Works Certificate has been issued by :-
 - i. Council, or
 - ii. an appropriately Accredited certifier accredited in accordance with the *Building Professionals Board Accreditation Scheme*, and
- b) the person having the benefit of the development consent:-

- i. has appointed a Certifying Authority, and
 - ii. has notified the consent authority and 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 days notice to Council of the intention to commence works.

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

Where Council is the Certifying Authority for a subdivision, an application for a Subdivision Works Certificate can only be made to Council.

A fee for applications for Subdivision Works Certificates shall be required to be paid in accordance with Council's fees and charges for Subdivision Works Certificates.

33. Dilapidation Survey Report

A dilapidation survey report shall be prepared by a suitably qualified person and lodged with Council. The dilapidation survey report shall cover public infrastructure including roads and stormwater drainage on the roads adjoining the development and along any approved haulage routes. Where existing buildings may be damaged by the proposed works, these buildings shall be included in the report.

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

34. Construction Management Plan

The contractor engaged to undertake the construction works shall provide a Construction Management Plan (CMP) or Integrated Project Management Plan (IPMP) to Council, a minimum of seven days prior to commencing any works.

The Plan shall be submitted to the City Projects Department at the following email address projectmanagementpat@lakemac.nsw.gov.au.

The Plan shall set out the construction approach for the works and should seek to minimise disruption to the local community.

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

Health and Safety

- a) Public safety, amenity and site security;
- b) Traffic Control and Management;
- c) Pedestrian management;
- d) Construction hours;
- e) Noise control;
- f) Contractor vehicle parking;
- g) Locating existing utilities and services;
- h) Health and Safety requirements.

Environment

- a) Air quality management;
- b) Erosion and sediment control- base information, monitoring and management;
- c) Waste management;
- d) Material stockpiling;
- e) Vegetation management;
- f) No go zones;
- g) Heritage management (if applicable).

Quality

- a) Submission of current insurance certificates;
- b) Work method description;
- c) Construction equipment to be used;
- d) Inspection and testing requirements;
- e) CCTV survey of pipework;
- f) Earthworks methodologies;
- g) Haulage routes;
- h) Retaining structure construction methodologies;
- i) Concrete jointing methodologies;
- j) Subsoil drainage installation methodologies;
- k) Stormwater drainage infrastructure installation methodologies;
- l) Stormwater Quality Improvement Device installation methodologies;
- m) Road construction methodologies;
- n) Accessways and footway construction methodologies;
- o) Landscaping installation methodologies;
- p) Utility and services installation methodologies
- q) Construction and installation methodologies of other structures not otherwise covered above.

All works on site shall be undertaken in accordance with the Plan. Upon receipt of the CMP/IPMP Council is not approving the document or works proposed in the document. The contractor is responsible for any area where the Plan fails to comply with Councils Engineering Construction Guidelines, standards and all other applicable legislation

35. Notification to Neighbours

Written notification shall be provided to landowners and residents who live adjacent to the proposed development or who may be impacted by the proposed works. The notification shall be provided a minimum of seven days prior to commencement of works. The notification shall include the expected date of commencement of works and a brief description of the works.

36. Haulage Routes

The Applicant shall submit to Council, in writing, details of the proposed haulage routes to be used during construction works. These details shall 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.

37. Notice of Commencement of Works

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

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

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

38. Ausgrid Requirements

Ausgrid's requirements for the installation of an electricity service to the development shall be identified. All of Ausgrid's requirements shall be satisfied.

Conditions to be satisfied during demolition and construction works

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

39. Hollow Bearing Tree Removal

A qualified ecologist or wildlife carer shall supervise 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, October, November to minimise impact to threatened species that could breed and or hibernate within hollows on site.

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

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

Forest Owl High Priority Trees identified in the *Report on Additional Threatened Forest Owl Surveys & Assessment For DA/1284/2013 Myall Road Cardiff* (Conacher Consulting, 2017), that are to be removed, are to be clearly marked and inspected prior to removal. An owl specialist is to be engaged to advise of the best approach for tree removal should a large forest owl be detected residing in the high priority tree during these pre-clearance inspections. Advice provided by the owl specialist is to be forwarded to and approved by Councils Development Planner Flora Fauna prior to removal, this approved advice is then to be implemented during the removal of these high priority trees.

Written confirmation shall be provided to Council's Development Planner Flora and Fauna confirming compliance with this condition and species detected during hollow bearing tree removal.

40. Erosion and Sediment Control Plan

Sediment and Erosion Control works shall be carried out in accordance with the approved Erosion and Sediment Control Plan and no work shall commence until the erosion and sediment control works specified in the plan are in place and their placement has been approved by the Certifying Authority.

41. Erosion Controls

All works and requirements identified in the approved Erosion and Sediment Control Plan shall be installed as part of the initial construction works in the first stage of the development. The erosion and sediment control works shall be maintained and a detailed record of the erosion and sediment controls on the site shall be updated during construction works. The record shall be updated on a daily basis and shall as a minimum contain details on the conditions of the controls and all maintenance and cleaning undertaken.

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

Minor additional works shall be approved by the Certifying Authority during construction works.

42. Erosion Control Sign

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

43. Preservation of Trees

All reasonable measures shall be taken to protect trees and other vegetation on the site and on adjoining lands from damage during construction. Trees and vegetation shall only be removed from those areas identified in the approved Subdivision Works Certificate. An application shall be made to Council in accordance with Clause 5.9 of *Lake Macquarie Local Environmental Plan 2014* for the removal of any other trees.

Tree and vegetation protection measures shall include but not be limited to:-

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

44. Salvage of Trees and Shrubs

Prior to land clearing, the development shall facilitate the recovery and reuse of native vegetation suitable for the revegetation of disturbed areas on the site, where practical.

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.

45. Grassing and Revegetation

All areas of the site disturbed by works shall be revegetated to prevent erosion. All 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.

Opportunities to recover and re-use plants to be impacted are also to be pursued as agreed with Council.

46. 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 shall 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

- a) Construction period of four weeks and under:-

The L10 level measured over a period of not less than 15 minutes when the construction site is in operation shall not exceed the background level by more than 20dB(A).

- b) Construction period greater than four weeks:-

The L10 level measured over a period of not less than 15 minutes when the construction site is in operation shall not exceed the background level by more than 10dB(A).

47. Installation of Service Pipes

All public utility service pipes, mains and conduits shall be installed in all new roads and existing roads, (where work is required in existing roads), as part of the construction works associated with the subdivision.

Conduits to cater for the installation of natural gas services shall be installed to service each lot in conjunction with road and drainage works.

48. 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*.

49. Street Lighting

Street lighting shall be provided for the development to the satisfaction of Ausgrid and in accordance with the road classification. The road classification shall be determined by Council and Ausgrid.

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

50. Compliance with the Geotechnical Report

All recommendations contained in the Geotechnical Reports No. 49427.02 prepared by Douglas Partners dated October 2011 that relate to construction inspections and testing shall be completed and recorded.

51. Earthworks Standards

All earthworks shall be undertaken in accordance with the standards specified in Table 5.1 of *Australian Standard AS 3798 - 2007 Guidelines on Earthworks for Commercial and Residential Developments*.

The inspection and testing of fill shall be at the responsibility level set out below, as defined in Section 8 of *AS 3798-2007*.

Fill Area	Responsibility Level
Water retaining embankments	1
Road embankments (greater than 2m high)	1
Road embankments (less than 2m high)	2*
Residential allotments	1
Industrial/Commercial allotments	1

* Level 1 may be used if desired by the applicant.

52. Fauna Movement Structures

Structures such as glider poles and/or rope bridges shall be provided to link patches of habitat within the biodiversity offset area. Structures shall be provided to provide fauna connectivity over proposed Road 3/Gillian Crescent extension unless otherwise agreed with the BCT and Councils Development Planner Flora Fauna. Input from a squirrel glider expert shall be obtained and included in the design, placement and to confirm the number and type of these structures.

The installations must be designed in consultation with the BCT and Councils Development Planner Flora Fauna and with consideration to site constraints including power lines and traffic/public safety requirements, have regard to any requirement of the Council, and be certified by a practicing structural engineer. Fauna movement structures shall be installed within three months of vegetation clearing commencing, and maintained in perpetuity.

53. Contaminated Land Remediation and Validation

The site shall be remediated in accordance with the approved Remediation Action Plan (RAP).

54. Retention of Trees and Native Vegetation

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

- a) maintaining exclusion fencing around vegetation that adjoins the construction area to minimise damage to vegetation that shall be retained;
- b) prohibiting compaction and the placement of fill within five metres of trees and native vegetation that shall be retained;
- c) keeping all vehicles, construction materials and refuse within areas approved for buildings, structures, access ways and car parks;
- d) limiting the number of access points;
- e) 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 shall only be disposed of at an approved site;
- f) notifying all contractors, sub-contractors, and personnel of vegetation protection requirements of this condition.

A separate application shall be made to Council in accordance with the guidelines referenced above 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.

55. Excavation – Non-Indigenous Relics

The person having the benefit of the consent shall notify any contractors and persons involved in undertaking subsurface disturbance works, that it is an offence under Section 156 of the *Heritage Act 1977* to disturb or excavate land on which a person has discovered or exposed a relic unless disturbance or excavation is subject of an approved Excavation Permit.

Should any relics be discovered, all excavations or disturbance to the area shall cease immediately and the Heritage Council of NSW shall be notified in accordance with Section 146 of the *Heritage Act 1977*.

All necessary approvals shall be obtained from the Heritage Council of NSW and copies provided to Council prior to works recommencing.

56. Aboriginal Heritage

The person having the benefit of the consent shall notify any contractors and persons involved in undertaking subsurface disturbance works, that it is an offence under Section 86 of the *National Parks and Wildlife Act 1974* to harm or desecrate an Aboriginal object unless that harm or desecration is subject of an approved Aboriginal Heritage Impact Permit (AHIP).

Should any objects be discovered, all excavations or disturbance to the area shall cease immediately and the Department of Premier and Cabinet - Heritage NSW shall be notified.

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

Conditions to be satisfied prior to the issue of a Subdivision Certificate

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

57. Landscaping Works

All landscaping works shall be completed in accordance with the approved Landscape Plan. Correspondence shall be provided from a recognised landscaping professional, that confirms that the landscaping works have been completed in accordance with the approved plan.

All landscaping works shall be maintained for a period of 24 months.

The person having the benefit of the consent shall lodge a cash bond or Bank Guarantee with Council. The bond or guarantee shall be to the value determined in accordance with the *Subdivision Bonds and Guarantees Policy* and shall have regard to the value of the capital of the landscaping works and two years maintenance (the value of the bank guarantee or bond shall be determined in consultation with Council).

The monies shall be released 24 months after planting and when Council is satisfied that the landscaping has established.

58. Landscaping Covenant

A restriction on the land in accordance with s88B of the *Conveyancing Act 1919* shall be placed on the northern boundary of lots 67 and 68 requiring a five metre wide landscaping buffer. The buffer shall be planted and maintained on the lots upon development of the lots. The landscaping shall provide for screening of the development on those lots when viewed from Myall Road in accordance with the recommendations of the Visual Impact Assessment by PAA Design dated January 2013. The Council shall be the authority empowered to release, vary or modify the instrument. The instrument shall be submitted with the subdivision certificate.

59. Gross Pollutant Trap

All works associated with the Gross Pollutant Trap shall be completed in accordance with the approved design. Prior to the handover of any Gross Pollutant Traps (GPT) to Council, the GPT shall be inspected and maintained in Council's presence as a means of providing Council's maintenance personnel with an induction on the maintenance requirements of the device.

60. Water Quality Control Facilities

A bond or bank guarantee shall be submitted to Council for the outstanding works on the Water Quality Control Facility and for two years maintenance of the facility. The bank guarantee shall be released no less than two years after the completion of the facility and establishment of landscaping.

Prior to the release of the bank guarantee a handover inspection checklist (see *SQID Guidelines*) shall be submitted to Council and all landscaping shall be established in accordance with the approved plan to Council's satisfaction.

61. Service of Public Utilities

A letter of compliance from each service authority and service company shall be submitted to Council prior to the issue of a Subdivision Certificate. The letters shall confirm that the relevant service is available to all lots.

If the development is located within an area where NBN services are available, a letter of compliance from the NBN shall be required for all subdivisions.

If reticulated gas is not available for connection, communication with the local gas authority that confirms this is the case shall be provided to Council.

Note: Applications for two lot or dual occupancy subdivisions shall not require letters of compliance to be submitted to Council from Ausgrid or Telstra.

62. Dilapidation Survey Report

A final dilapidation survey report shall be prepared at the completion of the works to ascertain if any structural or cosmetic damage has occurred to the properties or infrastructure specified in the earlier report. A copy of the report shall be submitted to Council prior to the issue of the Subdivision Certificate.

Any damage identified in the dilapidation survey report shall be repaired prior to the issue of the Subdivision Certificate.

63. Disposal of Stormwater to a Watercourse or Council Easement

An easement for drainage shall be created over all stormwater works that impact on a private property. The easement shall identify the properties benefitted and burdened. Council shall be a party benefitted if the stormwater system carries any stormwater from a public area. Council shall be identified as the party that can release, vary or modify the easement.

The easement shall be created prior to, or at the time of registration of the Final Plan of Subdivision.

64. Interallotment Drainage (Engineering Plans)

An easement for drainage shall be created over all interallotment drainage pipelines. The easement shall identify the properties benefitted and burdened.

Council shall be identified as the party that can release, vary or modify the easement.

The easement shall be created prior to, or at the time of registration of the Final Plan of Subdivision.

65. Provision of Council Easements

Easements for drainage shall be created in favour of Council at the locations:

- a) shown on an approved copy of the Subdivision Works Certificate plans; or
- b) indicated in red on an approved copy of the Subdivision Works Certificate plans; and
- c) over any stormwater pipeline that carries stormwater from a public area.

The easement shall have a minimum width of three metres or the width of the 100 year flow path, whichever is greater. The easement shall benefit Council.

Council shall be identified as the party that can release, vary or modify the easement.

The easement shall be created prior to, or at the time of registration of the Final Plan of Subdivision.

66. Dedication of Roads

The final Plan of Subdivision shall make provision for the proposed new roads to be dedicated to Council. The dedication shall take place 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.

67. Intersection Operational

The intersection works at Myall Road and Gynea Drive shall be installed and be operational prior to the release of any Subdivision Certificate that creates any residential lots within the development.

68. Density Restriction

1. The maximum number of dwellings permitted on Lot 67 and 68 is 14.
2. The maximum number of dwellings permitted on Lot 69 is to be no more than 25.

69. Fix Damage Caused by Construction Work

Any damage or injury to a public road, utility services, street trees, stormwater drainage or associated infrastructure caused as a consequence of the development works shall be repaired as close as possible to its original condition.

It is the developer's responsibility to prove that damage was pre-existing or not caused by the development works.

70. Works as Executed Plan

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

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.

71. Erection of Street Signs

New street name signs shall be supplied and erected in accordance with the requirements of Council's standard design requirements. All private roads shall be clearly signposted to indicate that they are private roads and not public roads.

72. Easement for Support

An easement for support shall be created on the Final Plan of Subdivision submitted to Council for all fill embankments that extend into lots if the side slopes are steeper than one in three and such embankments are in excess of one metre in height.

73. Submit Road Names for Approval

Proposed new road names shall be submitted to Council for approval.

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 names.

74. Bushfire Safety Authority from Rural Fire Service

All the requirements contained in the Bushfire Safety Authority issued by the NSW Rural Fire Service shall be completed and incorporated into the Final Plan of Subdivision and 88B Instrument for the subdivision.

A copy of the RFS approval is attached to this consent.

Specifically:

- a) At the issue of a subdivision certificate that area of the Southern Precinct consisting of the 66 residential allotments and the 2 superlots for future single or medium density housing, must be established and managed as an inner protection area (IPA) in accordance with the requirements of Appendix 4 of Planning for Bush Fire Protection 2019. When establishing and maintaining an IPA the following requirements apply:
 - i. tree canopy cover should be less than 15% at maturity;
 - ii. trees at maturity should not touch or overhang the building;
 - iii. lower limbs should be removed up to a height of 2m above the ground;
 - iv. tree canopies should be separated by 2 to 5m;
 - v. preference should be given to smooth barked and evergreen trees;
 - vi. large discontinuities or gaps in vegetation should be provided to slow down or break the progress of fire towards buildings;
 - vii. shrubs should not be located under trees;
 - viii. shrubs should not form more than 10% ground cover; and
 - ix. clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation.
 - x. grass should be kept mown (as a guide grass should be kept to no more than 100mm in height);
 - xi. leaves and vegetation debris should be removed.

- b) A 10 metre asset protection zone (APZ) must be applied to all proposed perimeter Lots fronting the bush fire hazard (ie Lots 1, 7, 8, 9, 14 – 17, 24 – 27, 34 – 37, 42 – 45, 50 – 53 and 59 – 66). The APZ must be managed as an inner protection area (IPA) in accordance with the requirements of Appendix 4 of Planning for Bush Fire Protection 2019. A restriction on the land use, in accordance with section 88B of the *Conveyancing Act 1919*, shall be placed on these lots requiring the provision and maintenance of the 10 metre APZ / front boundary setback and prohibits the construction of buildings other than class 10 structures within the APZ. The Council shall be the authority empowered to release, vary or modify the instrument.

- c) A 29 metre asset protection zone (APZ) must be applied to the western boundary of lot 68. A restriction on the land use, in accordance with section 88B of the *Conveyancing Act 1919*, shall be placed on lot 68 requiring the provision and maintenance of the 29 metre APZ / boundary setback and prohibits the construction of buildings other than class 10 structures within the APZ. The Council shall be the authority empowered to release, vary or modify the instrument

75. Dedication of Road Widening

The final Plan of Subdivision shall make provision for the dedication of the land along the southern side of Myall road to accommodate the existing road and footpath area of Myall Road along with any land required for the construction of the proposed roundabout.

The dedication shall take place at no cost to Council. This is to include dedication of land shown as "10m wide landscape buffer" on the PAA Design lot layout as road widening.

76. Earthworks Standards

A report prepared by a suitably experienced Geotechnical Consultant shall be submitted that certifies that all earthworks and filling have been completed in accordance with the requirements of Australian Standard *AS 3798-2007 Guidelines on Earthworks for Commercial and Residential Developments*. The report shall contain a plan showing the location, depth and classification of all filling in relation to the proposed new lot boundaries.

77. Site Classification of Lots

A suitably experienced Geotechnical Consultant shall determine the site classification of each proposed lot in accordance with *AS 2870-2011* (as revised). A report setting out the site classifications for each lot shall be provided to Council.

78. Final Plan Submission

An application for a Subdivision Certificate accompanied by an original copy of the Final Plan of Subdivision and Deposited Plan Administration Sheet shall be submitted to Council. The location of all buildings and/or other permanent improvements shall be indicated on one additional plan.

When all conditions of the Development Consent have been satisfied the Subdivision Certificate may be issued.

79. House Numbering

A minimum of four weeks prior to lodgement of the Subdivision Certificate with Council, the person having the benefit of the consent shall provide a draft Final Plan of Subdivision to Council's Land Information section by email to enar@lakemac.nsw.gov.au. Council shall then provide house numbering for the lots within the subdivision for inclusion on the Survey Plan in accordance with Clause 60 of the *Surveying and Spatial Information Regulation 2012*.

80. Restriction on Keeping of Domestic Animals

A restriction shall be placed on the title of the residential and future development lots to the effect that the keeping of domestic cats on the properties is to be prohibited.

81. 88B Instrument

An instrument under Section 88B of the *Conveyancing Act* shall be submitted to Council. The 88B Instrument shall set out terms of easements and/or restrictions as to user as may be required by conditions of this consent. Council shall be the party empowered to release, vary or modify those (and only those) easements and/or restrictions required by conditions of this development consent.

82. Compliance Certificate for Works

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

83. Section 50 Certificate

A certificate of compliance under Section 50 of the *Hunter Water Act 1991* for this development shall be submitted to Council.

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

84. Subsidence Advisory NSW Concurrence

The development shall be undertaken in strict compliance with the approval granted by Subsidence Advisory NSW. A copy of the approval is attached to this consent.

85. Ausgrid Easements

Ausgrid's requirements for the provision of easements and sites for electricity infrastructure shall be identified and complied with.

The location of easements and sites for electricity infrastructure shall be identified on the Final Plan of Subdivision and associated Section 88B Instrument.

A letter of concurrence from Ausgrid shall be provided to confirm that all necessary electrical infrastructure has been supplied and is operational.

86. Application for Subdivision Certificate

An application for a Subdivision Certificate shall be submitted to Council. The following fee shall apply for the Subdivision Certificate application.

Subdivision Certificate	\$155.00/lot (min fee \$430.00)	Plus \$80 Archival Fee	(inc GST)
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Applications for this certificate shall be lodged on the approved application form and be accompanied by the appropriate fee.

The above fees are current for the **2020/2021 financial year** and are subject to change each financial year without notice. Confirmation of the relevant fee shall be obtained from Council prior to the lodgement of any application.

87. Contaminated Land Remediation and Validation

A suitably qualified and experienced Contaminated Land Consultant shall validate the site has been remediated. Validation shall be provided in accordance with the *Guidelines for Consultants Reporting on Contaminated Sites* (NSW Office of Environment and Heritage 2011). The validation report shall include a clear statement the consultant considers the site to be suitable for the approved use.

Note: Certification from the person who carried out remediation works shall be provided to Council in accordance with the requirements of Clause 18 of *State Environmental Planning Policy No 55 - Remediation of Land*.