

Draft Conditions

Development Consent No: DA/11/2017

Property Address: Lots 3, 4, 10 & 11 Sec B DP 585, Lots A & B DP 400644,
Lots 4, 5, 6 & 8 DP 12898, Lots 1 & 2 DP 353066, Lots A &
B DP 339105
5, 7, 9 & 11 Edgar Street, BELMONT NSW 2280, 2, 4, 6, 8
& 10 Sharp Street, BELMONT NSW 2280, 32, 36, 38, 40 &
42 Brooks Parade, BELMONT NSW 2280

Description of Development: Mixed Use Development And Demolition Of Existing
Structures

DRAFT CONDITIONS

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

1. Prescribed Conditions

- (a) The work must be carried out in accordance with the requirements of the *Building Code of Australia*.
- (b) In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
- (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

- (d) Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - (i) in the case of work for which a principal contractor is required to be appointed:
 - a. the name and licence number of the principal contractor, and
 - b. the name of the insurer by which the work is insured under Part 6 of that Act,
 - (ii) in the case of work to be done by an owner-builder:
 - a. the name of the owner-builder, and
 - b. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under (d) becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

2. Inspections

The person having the benefit of the consent shall ensure that critical stage inspections are carried out and notify the Principal Certifying Authority giving adequate notice of the time that each stage of the building/development is ready for inspection.

Note: Failure to have a critical stage inspection conducted by the PCA will constitute a breach of the *Environmental Planning and Assessment Act 1979*. Penalties may apply.

Additional inspections required under other legislation:

- Inspection of Vehicular Access to Property across Footpath (prior to pouring concrete) – Section 138 Roads Act 1993

3. Approved Documentation

The development consent incorporates this schedule of conditions and the plans and documents referenced and stamped as follows:

(a) Plans Reference:

Plans prepared by: Coeve Design; Project. Brooks Parade			
Name of Plan	Drawing Number	Issue	Date

(b) Document Reference:

Document	Reference	Author	Date
Amended Statement of Environmental Effects	2013/0524	Monteath Powys	28/08/2017

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

- (i) Any amendments made by Council on the approved plans or documents;
- (ii) Any notes, markings, or stamps on approved plans or documents, and
- (iii) Any conditions contained in this consent.

4. Construction Certificate

Prior to the commencement of building work or subdivision work, a Construction Certificate shall be obtained.

Note: If the Construction Certificate is issued by a Principal Certifying Authority that is not Council it will be necessary to lodge the Construction Certificate and other approved documents with Council within two days of such approval. (Clause 142(2) EPA Regulation 2000).

5. Stormwater Easement

A report by a suitably qualified Engineer is to be submitted to Council for approval demonstrating works adjacent to the easement meets the objectives of Council's Policy for Building Over or Adjacent to a Drainage Easement. Where any influence over the easement is to be removed piers and beams maybe required as determined by the Engineer.

Any piers along the drainage easement boundary are to have a minimum depth equal to the level of the invert of the stormwater pipe or culvert and is to comply with Council's guideline for Building Over or Adjacent to a Drainage Easement. No fill or retaining walls shall be placed in the easement.

6. Roads & Maritime Approval

The first or any construction certificate must not be released without Roads & Maritime having issued its General Terms of Approval for the development. Documentation must be submitted with the Construction Certificate demonstrating compliance with the General terms of Approval.

7. Occupation Certificate

The development shall not be occupied or used prior to the issuing of a Final Occupation Certificate or Interim Occupation Certificate by the Principal Certifying Authority. Where an Interim Occupation Certificate has been issued, only that part of the building to which the Certificate applies may be occupied or used.

8. Commencement of Works

No demolition or construction works are to commence prior to the issuing of the a Construction Certificate.

9. Separate Approval Required for Use of Development

This development consent does not authorise the occupation or use of the areas approved as Commercial/Retail under this consent. Occupation or use of the building shall be subject to a separate development consent or Complying Development Certificate.

10. Prior to the issue of the First Occupation Certificate

Prior to the issue of the First Occupation Certificate, the earthworks, retaining walls and driveways shall be completed to the satisfaction of the Principal Certifying Authority.

11. Commencement of the Use of the Land

The approved use of the land shall not commence until all relevant conditions of this consent have been complied with and a Final or Interim Occupation Certificate has been issued. Where an Interim Occupation Certificate has been issued, only that part of the building to which the Certificate applies may be occupied or used.

12. Building Height

The development is approved with a maximum height:

- Block B 20m excepting the lift overrun which is 22m
- Block C 20m excepting the lift overrun which is 22m
- Block D 20.6m excepting the plant and lift overrun which is 22.3m

With regard to Block A, amended drawings detailing a maximum building height of 20m excepting the lift overrun at 22m is to be submitted to Council for approval. The first or any construction certificate must not be released by the Principal Certifying Authority without evidence of Council having approved the revised drawings.

13. Design Amendments

Prior to the release of the first or any Construction Certificate, the person having the benefit of the development consent is to submit to Council for approval plans incorporating the following amendments:

- a) Deletion of the proposed access lift off Brooks Parade and its replacement with accessible ramps at 1 in 14 grade. at
- b) Amended Landscape Plans by Forum Urban Sanctum (Drawing No. US 40813LP). The plans are to address the changes as required by the development consent.
- c) A Traffic Management Plan providing details of regulatory signage, inclusive of the entry from the development onto the Edgar Street roundabout.

14. Kerb and Guttering

Kerb and guttering, road pavement, shoulder sealing and associated drainage works shall be reconstructed along the full length of the street frontage at the cost of the

person having the benefit of the consent. No works shall commence prior to the issue of the Construction Certificate.

An approval under s138 of the Roads Act 1993 shall be obtained from Council prior to the issue of any Construction Certificate for those works.

Prior to the issue of a Compliance Certificate/Occupation Certificate a certificate shall be issued by the Principal Certifying Authority stating that the work has been undertaken in accordance with the DCP 2014 Engineering Guidelines

15. Concrete Footpath

Concrete footpaths shall be constructed/reconstructed along the full length of the street frontage, in accordance with the Belmont Streetscape Master Plan, at the cost of the person having the benefit of the consent.

An approval under s138 of the Roads Act 1993 shall be obtained from Council prior to the issue of any Construction Certificate for those works. No works shall commence prior to the issue of a Construction Certificate.

Prior to the issue of the final Occupation Certificate a certificate shall be issued by the Principal Certifying Authority stating that the work has been undertaken in accordance with the Belmont Streetscape Master Plan.

16. Floodplain management related requirements – Flooding

The proposed Medium Density development has been assessed against Council's flood planning levels and DCP requirements and if approved, should meet the following flood planning criteria:-

1. All residential and commercial floors/rooms shall be constructed to a minimum flood planning level of 2.82m AHD
2. All unsealed electrical installations associated with the development, eg. pumps, motors, power points, switches, etc shall be placed at or above 2.82m AHD;
3. The coping entrance to the basement car park shall be constructed to preclude entry of floodwater at levels up to 2.82m AHD;
4. Basement car park addition requirement to implement a failsafe means of evacuation and a pump out system to remove flood waters.

17. Geotechnical Report Compliance

The recommendations of the Geotechnical Report No. RGS01385.1 - AA prepared by Regional Geotechnical Solutions dated 30 August 2016 shall be complied with. Any works undertaken in relation to the development shall embody all the relevant recommendations of the Geotechnical Report.

Where the geotechnical report requires inspections, a geotechnical engineer shall inspect the works at the stages as specified in that report.

Prior to the issue of the first Construction Certificate, the engineering plans shall be certified as being designed in accordance with the approved Geotechnical Report by a suitably qualified structural / civil engineer.

18. Stormwater Disposal - Stormwater Detention and Harvesting

Prior to the release of the Construction Certificate the person having the benefit of this consent is to submit to Council for approval a Stormwater Management Plan in accordance with DCP 2014. The Principal Certifying Authority must not release the first or any Construction Certificate without evidence of Council having approved a Stormwater Management Plan for the development.

Note, the Stormwater Management Plan must not have the outlet pipe work from the stormwater tank adjacent to Sharp Street discharging to the kerb and gutter.

The Stormwater Detention and Harvesting system submitted with any Construction Certificate shall be in accordance with the approved plans and must comply with the following:

- (a) Stormwater shall be disposed of through a piped system designed in accordance with Australian Standard AS 3500 by a suitably qualified professional. Qualifications shall be in accordance with Part DQS.06 of DCP 2014 Engineering Guidelines.
- (b) Stormwater detention measures shall be constructed and maintained to ensure that the development does not increase upstream or downstream flood levels.
- (c) Detention storage shall be calculated and designed in accordance with "Australian Rainfall and Runoff 1987" and the Lake Macquarie City Council guideline – "Handbook for Drainage Design Criteria" and shall conform to the specifications and standards contained in DCP 2014 Engineering Guidelines.
- (d) Stormwater harvesting measures shall be constructed and maintained in accordance with the DCP 2014 Water Cycle Management Guideline. Stormwater drainage plans shall include details of the harvesting system (eg rainwater tank and pump details plus reticulation diagrams).

Prior to the issue of an Interim or Final Occupation Certificate, whichever occurs first:

- (e) All drainage works shall be carried out generally in accordance with the approved Construction Certificate plans.
- (f) A **Works As Executed Plan** is to be submitted to the Principal Certifying Authority that shows any changes (in different colour) to the approved Construction Certificate plans and endorsed by a registered surveyor.
- (g) Certification by the engineer, is to be submitted to the Principal Certifying Authority that any changes comply with the requirements (a), (b), (c) and (d) as shown above. **Note:** This may be shown on the Works As Executed Plan.

Stormwater Harvesting

The person entitled to act on this consent shall include stormwater plans and supporting calculations for the development with the Construction Certificate application in accordance with the following:

- (h) Stormwater shall be disposed of through a piped system designed in accordance with Australian Standard AS 3500 by a suitably qualified professional. Qualifications shall be in accordance with Part DQS.06 of DCP 2014 Engineering Guidelines.
- (i) Stormwater harvesting measures shall be constructed and maintained in accordance with the requirements of the DCP 2014 Water Cycle Management Guideline. Stormwater drainage plans shall include details of the harvesting system (eg rainwater tank and pump details plus reticulation diagrams).

Engineering certification shall be provided that shows that all drainage works have been carried out in accordance with the approved plans before the issue of any Occupation Certificate.

19. Vehicles Access Crossing and Kerb Layback

A paved vehicular access from the property boundary to the street shall be installed in accordance with DCP 2014 Engineering Guidelines and Councils Standard Drawings: EGSD-103, EGSD-201 or EGSD-104 (available from Councils website) where applicable.

An approval under s138 of the Roads Act 1993 shall be obtained from Council prior to the issue of any Construction Certificate for those works.

Prior to the commencement of work the person having the benefit of the consent shall contact Council for footpath levels so that a suitable driveway can be constructed to provide vehicular access onto the site.

Prior to the issue of any Occupation Certificate, the paved crossing shall be completed for the building, at the owner's cost.

Any disused kerb and gutter and footpath crossing shall be removed and replaced with full kerb and gutter to match adjoining kerb and gutter to the satisfaction of Council.

20. Erosion and Sediment Control

The Soil and Water Management Plan (SWMP) is to be submitted to Council for approval prior to the release of the first or any construction certificate. The Principal Certifying Authority must not issue the first or any Construction Certificate without evidence of Council having approved the SWMP for the development.

The plan shall contain information required for the area of disturbance of the development or its distinct and separate stages in accordance with DCP 2014, and include a statement *“Materials, whether liquid or solid, removed from any ESC measure, including dewatering of any excavation, during maintenance or decommissioning shall be disposed of in a manner that does not cause ongoing soil erosion or water pollution. This may include hydrocarbons or heavy metals.”*

The final plan shall include a signed and dated Statement of Compliance stating (in full):

- i) This plan has been developed, certified and signed off by an appropriately qualified and experienced professional in erosion and sediment control;
- ii) The plan complies with the requirements for the area of disturbance in accordance with DCP 2014;
- iii) The plan and associated documents, calculations and drawings, have been prepared to a standard which, if properly implemented, will achieve the water release criteria of 50mg/L of total suspended solids (TSS); and
- iv) All erosion and sediment control measures are in accordance with DCP 2014.

The final ESCP / SWMP and the Statement of Compliance shall be provided to Council with the Construction Certificate documentation in accordance with clause 142(2) of the Environmental Planning and Assessment Regulation (NSW) 2000.

All erosion and sediment controls shall be appropriately managed throughout the development to prevent pollution until the land is considered erosion resistant.

Any pollution from site shall be cleaned up immediately and appropriate repairs made to onsite controls.

21. Fix Damage Caused by Construction Works

Any damage or injury caused to a public road or associated structures including footpaths, drains, kerb and gutter and utility services caused as a consequence of the construction works shall be made good at the cost of the person with the benefit of the consent.

Any disused kerb and gutter and footpath crossing shall be removed and replaced with full kerb and gutter in accordance with Council's standards to match finished adjoining kerb and gutter. All replacement works are to be completed to the satisfaction of Council prior to the issue of an Occupation Certificate at the cost of the person with the benefit of the consent.

22. Disability Access Requirements

Access for people with disabilities must be provided from the building(s) to kerb ramps and footpaths along the street frontage, by means of a continuous path of travel in accordance with Australian Standard AS 1428.1.

Note: Additional legislation exists to promote the provision of services, which enable people with a disability to maximise their potential, further their integration in the community and achieve positive outcomes.

The following legislation may be relevant:

- The NSW Disability Services Act 1993
- The Commonwealth Disability Discrimination Act 1992
- NSW Anti Discrimination Act 1977.

For further information please consult:

- Human Rights and Equal Opportunity Commission
- NSW Anti Discrimination Board.

23. Tactile Indicators

The development shall have tactile indicators installed in accordance with AS 1428.4.

Note: The areas of the development to have tactile indicators installed are varied and include kerb ramps and footpaths along the street frontage; carpark pedestrian crossings (street frontage and internal); lifts; stairways and ramps.

24. Dilapidation Survey Report

Prior to the commencement of works (including demolition) on the land, a dilapidation survey report prepared by a suitably qualified practising engineer, of properties and

existing public infrastructure potentially affected by the proposed development, shall be lodged with Council and submitted to the Principal Certifying Authority. The dilapidation survey report shall locate the area within which the damage may be potentially caused to nearby and neighbouring properties as a result of the carrying out of demolition or construction works pursuant to this consent. The report is to include a description of the location and nature of any existing observable defects to the properties and existing public infrastructure, including a photographic record.

A final Dilapidation Survey Report shall be prepared by a suitably qualified practising engineer at the completion of the works to ascertain if any structural or cosmetic damage has occurred to the properties specified in the earlier report. A copy of the report shall be submitted to Council the Principal Certifying Authority and owners of potentially affected properties and public infrastructure prior to the issue of the Final Occupation Certificate.

25. Roads & Maritime under the Roads Act 1993

The person having the benefit of the development consent is to obtain an approval under the Roads Act 1993 from Roads & Maritime prior to commencement of construction work.

26. Controlled Activity under the Water Management Act 2000

The person having the benefit of the development consent is to obtain a Controlled Activity Approval under the Water Management Act 2000 from NSW Water prior to commencement of construction work.

27. Positive Covenant

- A. The raised walkway along the northern boundary encroaches Council's drainage easement. A Positive Covenant in favour of Council shall be created on the property title, requiring any costs related to dismantling, removal, and subsequent re-assembling, re-installation, or re-instatement of the proposed structure to be borne by the property owner. The Positive Covenant will include all cost to repairs or replacement of the drainage structure if affected by the development. The applicant shall provide Council with a Deed of Agreement indemnifying Council for any damage to related structures. The walkway shall be supported clear of the drainage easement.

The Principal Certifying Authority must not release the first or any Construction Certificate until the Positive Covenant has been registered by NSW Land & Property Information.

- B. A Positive Covenant in favour of Council shall be created on the property title providing public access over the walkway adjoining the drainage channel. The Positive Covenant will include all costs to repairs or replacement of the walkway to be borne by the property owner. The person having the benefit of the development consent must provide Council with a Deed of Agreement indemnifying Council for any damage to related structures. The walkway shall be supported clear of the drainage easement, requiring any costs related to dismantling, removal, and subsequent re-assembling, re-installation, or re-instatement of the proposed structure.

The Principal Certifying Authority must not release the first or any Construction Certificate until the Positive Covenant has been registered by NSW Land & Property Information.

28. Management of Site - Erosion Prevention and Sediment Control

All disturbed areas shall be revegetated or rendered erosion resistant in accordance with DCP 2014 Guidelines – Erosion Prevention and Sediment Control Guidelines as soon as practical, and no later than the timeframes specified in Managing Urban Stormwater: Soils and Construction “The Blue Book” 4th Edition, Landcom, 2004.

29. Topsoil and Stockpiles of Materials

Topsoil shall only be stripped from approved areas. It may be stockpile onsite for re-use during site rehabilitation and landscaping. Stockpiles of any material including but not limited to, soil, sand, aggregate, and spoil, stored on the site that is capable of being moved by water shall be stored clear of any drainage line or easement, natural watercourse, footpath, kerb, and/or road surface. Suitable erosion and sediment controls shall be installed. The stockpile shall be treated so its surface is resistant to water and wind erosion. No stockpiles shall be located on the public footpath or road reserve without prior written approval from Council.

30. Category 3 Landscaping

Landscaping shall be implemented/installed in accordance with the approved landscape plans and documentation as prepared Forum Urban Sanctum in Drawing No. US 40813LP.01.

All landscape works shall be carried out by members of the Landscape Contractors Association of Australia and implemented under the full supervision of the appropriately qualified landscape consultant until the Landscape Compliance Report is received by the Principal Certifying Authority.

Landscaping as proposed as per approved plans must conform to landscaping and typical minimum planting densities 'once mature' comprising shrubs at a minimum 1 plant/m² and groundcovers/low planting at a minimum 2 plants/m² pending species selected within all nominated open areas dedicated to planting.

A hard garden retaining edge (Timber or concrete edge) to all garden bed areas adjoining lawn or pathway/hardstand surfaces must be implemented and all landscaping to be covered with minimum 75mm Mulch to aid plant establishment.

Nominated Street Trees addressing street/ Public Road reserve (only) must be planted at minimum 75L Pot size.

At the completion of landscape works, the landscape consultant who prepared the documentation shall submit to the Principal Certifying Authority a Landscape Compliance Report prior to issue of Occupation Certificate that establishes satisfactory completion of the landscaping works approved by this consent.

All landscaping shall be permanently maintained in good condition in accordance with the adopted DCP 2014 Guidelines – Landscape Design Guidelines.

31. Public Domain Works – Street Trees

All landscape works within the Public Domain (road reserve) shall be coordinated with Council's Project Manager during the construction period. Contact details for Council's Coordinator of Project Management, City Projects contactable on 49210333

Witness or hold points must be communicated in an appropriate time (minimum 7 days prior to commencement of landscape works within the public domain) with Council's Coordinator of Project Management for the following inspections (where applicable) to be carried out by Council's Project Manager:

- Commencement of Public Domain Works (witness point).
- Set out of tree pits (witness point).
- Excavation of tree pits with regard to Council's Street Tree planting detail and specifications (hold point).
- Tree delivery prior to installation (hold point). Note: .if desired, arrangements may be made to inspect trees prior to delivery to assist in avoiding rejection due to poor quality (NB inspection will still be required on site prior to installation).
- Commencement of tree planting (witness point).
- Completion of tree planting, including installation of any guards / grates (witness point).

The following submissions must be submitted in a timely manner by the Contractor to Council's Project Manager:

- Batch Certificates for all imported soil in accordance with AS4419 -2003.
- Certification that nominated street tree complies with the guidance given in the publication *Specifying Trees: a guide to assessment of tree quality* by Ross Clark (NATSPEC, 2003).

Manufacturer's warranty and maintenance information for all proprietary products.

32. Acid Sulphate Management Plan

All works on site shall be undertaken in compliance with the recommendations of the Preliminary Acid Sulphate Soil Assessment Management Plan dated 30 August 2016 written by Regional Geotechnical Solutions reference RGS01385.1 - AA.

33. Service Infrastructure Prohibited External of Development

Proposed water pipes, waste pipes, stack work, duct work, mechanical ventilation plant and the like must be located within the building. Details confirming compliance with this condition must be shown on construction certificate plans and detailed with construction certificate specifications. Required external vents or vent pipes on the roof or above the eaves must be shown on construction certificate plans and detailed with construction certificate specifications. External vents, roof pipes or air conditioning plant must not be visible from any place unless detailed upon development consent plans. Where there is any proposal to fit external service pipes or the like this must be detailed in an amended development (s96) application and submitted to Council for determination.

Vent pipes required by Hunter Water must not be placed on the front elevation of the building or front roof elevation. The applicant, owner, and builder must protect the appearance of the building from the public place and the appearance of the streetscape by elimination of all external services excluding vent pipes required by Hunter Water and those detailed upon the development consent plans

34. Contribution to Provision of Public Amenities and 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 – Belmont Catchment 2004 (as amended), the monetary contributions in the attached Contributions Schedule must 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 indexation provisions within the Contributions Plan. The first date for indexation will occur on the first abovementioned date after 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 commencement of any construction work or prior to any occupation, whichever occurs first;

Complying Development Certificates - prior to any work authorised by the application or certificate commencing.

It is the professional responsibility of the Principle Certifying Authority to ensure that 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 will be subject to the clearing of those funds.

Indexation details are available from Council's Community Planning Department.

A copy of the Lake Macquarie Section 94 Contributions Plan No. 1 – City Wide – Belmont Catchment 2004 (as amended) may be viewed on Council's website, or a

copy is available for inspection at the Council's Administrative Building during Council's ordinary office hours at 126-138 Main Road, Speers Point, NSW.

35. Consolidation of Lots

Prior to the issue of the first or any Construction Certificate, Lots Lots 3, 4, 10 & 11 Sec B DP 585, Lots A & B DP 400644, Lots 4, 5, 6 & 8 DP 12898, Lots 1 & 2 DP 353066 and Lots A & B DP 339105 shall be consolidated and registered at the Land and Property Information Services and a copy of the registered plan shall be provided to Council.

36. Hoarding and Construction Site Safety Fencing

Construction site safety fencing and/or hoarding shall be provided in accordance with WorkCover requirements. Such fencing and/or hoarding shall be erected wholly within the property boundary unless prior approval from Council is obtained.

Council approval is required to install hoarding, site fencing or overhead protective structures over or adjoining a public place i.e. a footpath or a Public Reserve. No work shall commence until written approval is obtained.

37. Boundary Fencing

A 1.8m high colorbond fence is to be erected along northern boundary, between the drainage channel and Edgar Street, to reduce the impact of the development on the adjoining owners. All costs associated with the removal and replacement of any fence shall be borne by the person with the benefit of the consent and not the relevant neighbouring property owners.

Fourteen days written notice shall be given to the relevant neighbouring property owner of the intention to erect the boundary fencing.

38. Advertising Structures and Signs

Development consent shall be obtained from Council prior to the erection of any advertising structures or signs on the site. This requirement does not apply to any exempt, complying, or previously approved signage.

39. Car Parking and Allocation of Spaces

A total of 169 car parking spaces shall be constructed on the site in accordance with the minimum requirements of the Australian Standard AS/NZS 2890 as current at the

time of construction, and maintained on the land in accordance with the approved plans.

The spaces shall be allocated in the following proportions:

Residential	#(Insert no. of spaces)
Residential – Visitors	15 spaces – Basement 7 spaces - Podium
Commercial	11 spaces - Podium
Disabled car spaces	13 spaces - Basement 2 spaces - Podium
Car Wash Bay	1 space - Basement

The car parking spaces are to be identified on-site by line marking and must be numbered. The car parking provided shall only be used in conjunction with the uses contained within the development and except as provided for in these conditions are not to be used other than by an occupant or tenant of the development.

The required visitor car parking spaces shall be clearly marked and signposted for the sole use by visitors.

The required disabled car parking spaces shall be clearly marked and signposted for the sole use by disabled persons.

Any strata subdivision plan relating to the development shall be consistent with the allocation of car parking in this condition.

Visitor car parking spaces shall be assigned to the common property should the development be strata subdivided.

All designated commercial and retail car parking spaces shall be available for use only by employees and clientele during the business hours of the approved development unless shown otherwise on the approved plans but are not to be used as public carparking. . No spaces shall be marked, signposted or otherwise identified as being for the sole use of staff only. Non-residential spaces shall not be fitted with any equipment serving to render the car park inaccessible at any time, such as bollards, roller doors, or the like.

All car parking spaces, line marking and signage shall be completed prior to the issue of an Interim or Final Occupation Certificate, whichever occurs first.

40. Motorbike Parking

Motorbike parking shall be provided to accommodate 9 motorbike on the site in accordance with the approved plans. The installation and dimensions of the motorbike parking shall be in accordance with the Austroads 'Cycling Aspects of Austroads

Guides' and Australian Standard AS2890.3:1993. These works shall be completed prior to the issue of the Final Occupation Certificate.

41. Bicycle Parking Racks

Secure bicycle parking/storage shall be provided to accommodate 57 bicycles on the site in accordance with the approved plans. The installation and dimensions of the bicycle parking/storage shall be in accordance with the Austroads 'Cycling Aspects of Austroads Guides' and Australian Standard AS2890.3:1993. These works shall be completed prior to the issue of the Final Occupation Certificate.

42. Parking Areas and Access Ways

All parking areas and access ways shall be designed, constructed, sealed and drained in accordance with the standards nominated in DCP 2014 Guidelines - Engineering Guidelines and the Australian Standard AS2890. All parking areas and access ways, line marking and signage shall be completed prior to the issue of an Occupation Certificate.

43. Lighting

Any lighting shall be installed to ensure minimal glare and light spill onto adjoining properties or roadways. Lighting shall comply with Australian Standard AS4282-1997.

44. External Storage of Products

The external storage or display of any products on the development site is not permitted.

45. Hours of Operation

Following commencement of occupation, the premises shall operate or trade only between the times stated as follows:

Mondays to Fridays 8am to 6pm

Saturdays 8am to 5pm

Sundays and Public Holidays 9am to 4pm

Other internal operations such as cleaning, preparation, and office administration may be undertaken outside of the above hours provided no disturbance to the amenity of the neighbourhood occurs.

46. Car Washing Bay

The designated car washing bay(s) shall be constructed clear of the designated car parking spaces and driveways and shall be accessible at all times.

The designated car washing bay(s) shall be roofed, bunded and graded to a floor sump which drains to the Hunter Water Corporations (HWC) reticulated sewer in accordance with HWC requirements.

Prior to the issue of a Construction Certificate, plans and specifications for the proposed wash bay, including bunding, drainage and the installation of any proposed oil/waste separator, shall be submitted to the accredited certifier.

47. Onsite Loading Facility

The onsite loading facility shall be constructed clear of designated car parking spaces and driveways, must be kept clear of goods and must not be used for any storage purposes, including garbage storage.

All loading operations associated with servicing the site, must be carried out within the boundaries of the site, and must not obstruct other properties, access driveways, public roads or footpaths.

48. External Material Reflection

External cladding materials such as roofs, walls and windows shall have low-reflective properties.

49. Disability Access Design Audit

A disability access design audit which has been certified by an accredited access consultant shall be submitted, certifying the development's compliance with:

- (i) the Building Code of Australia;
- (ii) the Disability Discrimination Act 1992 in relation to the provision of equity in access for disabled persons; and
- (iii) The Access Report by BCA Solutions, dated 9 August 2016.

This certification shall be submitted to the Principal Certifying Authority with the application for a Construction Certificate.

Note:

- (a) Compliance with the Building Code of Australia only, can still leave a building professional or building owner in contravention of the Disability Discrimination Act 1992.
- (b) The Association of Consultants in Access Aust Inc at www.access.asn.au may be able to provide further information.

50. Ausgrid Requirements

Prior to the issue of the first Construction Certificate, any requirements of Ausgrid shall be obtained and a copy of the such requirements shall be lodged with Council and the Principal Certifying Authority. All works shall comply with the requirements of Ausgrid.

51. Building Sustainability Index (BASIX) Certificate

The development shall be constructed in accordance with a current Building Sustainability Index (BASIX) certificate.

Should there be any changes to the specifications of the development (e.g. colour, insulation, etc), except where restricted or excluded by any condition of consent, an amended/new BASIX Certificate shall be obtained and may be relied upon as having complied with this condition.

A copy of any amended/new BASIX Certificate shall be submitted by the Principal Certifying Authority to Council within fourteen days of the receipt of the BASIX Certificate. Prior to the issue of an Interim or Final Occupation Certificate, whichever occurs first, certification of compliance with the BASIX Certificate shall be provided to the Principal Certifying Authority.

52. Native Tree Removal

Native trees may be removed only in accordance with the following:

- (a) within five metres of an approved building or structure, as measured from the outermost projection of the building to the trunk of the tree, and
- (b) within one metre of a sealed driveway to a building or structure for which approval has been granted and on the same allotment.

An approved building or structure does not include drainage, excavation, or garden shed but does include underground water storage structures, inground pools and septic tanks.

A sealed driveway is a driveway or car park with an impervious surface such as concrete, pavers, bitumen but does not include gravel.

This condition does not apply if another condition of this development consent or the approved landscaping plan requires the trees or native vegetation to be retained.

A separate application shall be made to Council for the removal or lopping of any other native tree or trees on the property.

53. Excavation and Retaining

Only retaining walls indicated on the approved plans shall be constructed under this consent.

No additional excavation/fill is to occur outside the area as shown on the approved plans.

No fill or retaining walls shall be located within any drainage easement located upon the subject property.

Retaining walls, footings and associated drainage works shall be located wholly within the subject property boundaries and shall be connected to the existing stormwater system or other approved stormwater system on the subject property.

Note: Some retaining walls are able to be erected without consent, as Exempt or Complying Development pursuant to State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (SEPP). Prior to erection of any retaining wall not approved under this consent, reference to the SEPP should be undertaken to ascertain whether approval is required.

54. Filling Importation and Compaction

Prior to works commencing, documentary evidence shall be provided to Council demonstrating that the proposed fill material is either:

- (a) Uncontaminated virgin excavated natural material (VENM) as defined under the provisions of the NSW Protection of the Environment Operations Act 1997; or
- (b) The material is from a known origin and composition, free of contamination from manufactured chemicals, process residues, building debris, sulfidic ores, or other foreign matter; or
- (c) Fill which has been characterised and validated by a suitably qualified and experienced site contamination consultant, in accordance with the NSW Office of Environment and Heritage publication "Contaminated Sites - Sampling Design Guidelines dated September 1995".

Prior to works commencing, written certification from a suitably qualified geotechnical engineer that the material is suitable for the proposed use on the site, shall be provided to Council. Only that material certified by the geotechnical engineer shall be imported to the site.

Written details are to be kept of address of the origin of the fill; quantities, dates, and times of delivery from each location; registration numbers and driver's identification details; and laboratory test results/consultants reports and available for inspection by the Principal Certifying Authority or Council upon receipt of a written request.

All fill shall be placed in accordance with the standards specified in Table 5.1 of AS 3798-2007 "Guidelines on Earthworks for Commercial and Residential Developments."

55. Building Waste

Prior to any construction work commencing, containment of building waste materials shall be provided within the boundaries of the building site, above natural or excavated ground level, by a screened area of silt stop fabric or shade cloth, having minimum dimensions of 2.4 x 2.4 x 1.2 metres high OR equivalent size waste disposal bin.

The enclosure or bin shall be maintained for the term of the construction to the completion of the development.

The enclosure or bin shall be regularly cleaned to ensure proper containment of the building wastes generated on the site.

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

56. Waste Management

All requirements of the approved Waste Management Plan must be implemented during the demolition, excavation and construction of the development.

57. No works on adjoining Public Reserve

The public reserve adjoining the site shall not be affected by site works, construction materials stockpiles, waste, building products and debris, site sheds, spoil placement or the like. No access for vehicles, machinery or goods to the site shall be gained across the public reserve without a written license from Council. All costs associated with such a license shall be payable by the person having the benefit of the consent.

58. Driveway Design and Construction –Commercial

The driveway to the garage or car parking area of the development shall be designed and constructed in accordance with the following requirements and Council Standard Drawing: EGSD-104 (available from Councils website).

- (a) The Driveway design levels at the front boundary shall be obtained from Council's Asset Management Department prior to design of the driveway.
- (b) The Driveway Longitudinal Section, incorporating the design level provided by Council and other construction details (i.e. concrete thickness and reinforcement), shall be submitted to the Principal Certifying Authority for approval with the Construction Certificate.
- (c) In accordance with AS 2890.2:2002 the maximum gradient of any driveway or ramp shall not exceed 1V:6.5H (15.4%).
- (d) Where changes of grade occur, suitable transitions shall be designed to meet the "Design Vehicle Ground Clearance Diagrams" in Figure A1 of AS2890.2:2002.

59. Works on a Road

Prior to the carrying out of any works on a road, the person having the benefit of the consent shall apply to Council for an approval under s138 of the Roads Act 1993. The road shall not be opened until the approval has been issued. The person having the benefit of the consent shall pay to Council the calculated road restoration fee (where the road surface is disturbed) prior to the issue of any occupation certificate.

The person having the benefit of the consent is given permission to open a grassed or natural surface footpath for the installation of all water services, cables, or mains. Upon completion of the work, the footpath shall be restored to its original state and ensure that there are no hazards that may impact on the public.

All precautions must be taken to protect the public while work is in progress. Traffic control shall be undertaken in accordance with Australian Standard AS1742 – Manual Uniform Traffic Control Services – Parts 1, 2 and 3.

60. Unobstructed Footpath Access

The person having the benefit of the consent shall maintain unobstructed footpath access within the public road reserve at all times. Building materials shall not be placed or stored within the road reserve.

In the case of sites where it is not possible to keep the footpath or road reserve clear during construction works written approval from Council shall be obtained prior to any closing of the road reserve or footpath area. The closure shall take place in accordance with Council's written approval. The area shall be signposted and such signposting be maintained in a way that ensures public safety at all times.

61. Demolition

Demolition may only be carried out between 7.00 am and 5.00 pm on Monday to Saturday and no demolition is to be carried out at any time on a Sunday or a public holiday.

No trees shall be removed from the site unless they are shown for removal on the approved plans, or separately approved by Council.

Erosion and sediment control measures shall be installed prior to any demolition works and maintained in accordance with DCP 2014 Guidelines - Erosion Prevention and Sediment Control Guidelines.

Temporary toilet facilities shall be provided during the course of demolition at a ratio of one toilet, plus one additional toilet for every 20 persons employed at the site.

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

Waste materials (including excavation, demolition and construction waste materials) must be managed on the site and then disposed of at a waste management facility. During construction all vehicles entering or leaving the site must have their loads covered, and must be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads.

At the completion of the works, the work site must be left clear of waste and debris and the site shall be grassed or otherwise rendered erosion resistant.

62. Site Amenities

Toilet facilities shall be available or provided at the work site before works begin and shall be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

Each toilet must:

- (a) be a standard flushing toilet connected to a public sewer, or
- (b) have an approved on-site effluent disposal system under the Local Government Act 1993, or
- (c) be a temporary chemical closet.

63. Removal, Management and Transportation of Fill

All excavated fill material that is to be removed from the site shall only be distributed to:

- (a) A NSW Office of Environment and Heritage licensed waste disposal facility. A copy of the receipts from the waste disposal facility shall be kept and shall be provided to the Principal Certifying Authority prior to the issue of an Interim or Final Occupation Certificate, whichever occurs first, or authorised officer of Council upon request; or
- (b) A site which has a current development consent for the importation of fill material. A copy of the current development consent for the site to which the material is proposed to be distributed must be provided to the Principal Certifying Authority prior to the issue of an Interim or Final Occupation Certificate, whichever occurs first, or authorised officer upon request.

All removed excavated material shall be transported and disposed of in accordance with the NSW Office of Environment and Heritage guidelines applicable at the time of removal.

64. Dust Suppression

During the extraction, removal, and transportation of material associated with the works, the person having the benefit of the consent shall ensure that airborne dust is contained within the work site or transport vehicles, and does not impact on the amenity of the surrounding environment.

Effective environmental controls and practices shall be implemented and maintained to the satisfaction of Council or the Principal Certifying Authority.

65. Asbestos

If asbestos is encountered during construction or demolition work, even if the works are partial demolition (e.g. one wall), measures must be in place in accordance with SafeWork NSW guidelines and the *Occupational Health & Safety Regulations 2001*. Work shall not commence or continue until all the necessary safeguards required by SafeWork NSW are fully in place.

Only contractors who are appropriately licensed for asbestos disposal by SafeWork NSW may carry out the removal and disposal of asbestos from demolition and construction sites.

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



The person entitled to act on this consent shall notify adjoining residents in writing five working days prior to the demolition.

Asbestos waste must only be disposed of at a landfill site authorised to receive such waste and copies of receipts received from such disposal kept and made available for inspection by Council during normal working hours and upon the giving of reasonable notice.

Note: Council's Awaba Waste Management Facility can accept asbestos for a fee, provided that the material is safely secured in accordance with the relevant guidelines. At least 24 hours prior notice must be given to allow an area to be prepared for disposal.

66. Signage – Over or Adjacent to Public Places

During the placement of signage above or adjacent to a public place (footpath, road or public reserve), pedestrian control measures to protect the public during construction, must be implemented in accordance with a Traffic Management Plan. The Traffic Management Plan is to be prepared by an accredited Traffic Controller, and approved by Council, prior to the erection of the sign.

Throughout the course of demolition and construction of any signage, Council's footpath is to be kept clear at all times to allow unobstructed access by pedestrians. Where it is not possible for Council's footpath to be kept clear, it will be necessary to make an application to Councils' Asset Management Department, to erect barricades and the like, to provide safe pedestrian access.

The contractor installing the signage must have a current public liability insurance with a reputable insurer of not less than \$20,000,000 in respect of each accident.

The owner of the signage shall maintain current public liability insurance for an amount of \$20,000,000 with a reputable insurer while ever the signage is erected over Council owned, maintained or controlled land. A copy of this insurance shall be submitted to the Principal Certifying Authority prior to the issue of an Interim or Final Occupation Certificate, whichever occurs first.

An approval shall be obtained to install hoarding, site fencing or overhead protective structures over or adjoining a public place ie. a footpath or a public reserve to the appropriate standard. Application to Council's Asset Management Department is required. No work on hoarding is to commence until written approval is obtained from Council. This does not apply to site fencing on the property boundary or within private property, that is clear of any hoarding.

Note: Fees are payable as set out in Councils' Pricing Policy.

67. Signage Requirements & Installation Certification

To ensure the safety of the public, all signage shall be installed in a secure manner in accordance with the manufacturer's specifications. The installation of the signage is not to involve measures that would cause irreversible damage to the building.

Certification from the signage installer shall be submitted prior to the issue of an Interim or Final Occupation Certificate, whichever occurs first that the signage has been adequately installed and affixed to the building in accordance with the manufacturer's details.

68. Dial Before You Dig

Prior to commencement of work, the free national community service "Dial Before You Dig" shall be contacted on 1100 regarding the location of underground services in order to prevent injury, personal liability and even death. Enquiries should provide the property details and the nearest cross street/road.



69. Noise – Ongoing Operation of Machinery, Plant and Equipment

The Laeq (15 minute) operating noise level of machinery, plant and equipment when measured at the boundary of the nearest residential premises shall comply with either the amenity or intrusiveness criteria calculated in accordance with the NSW Office of Environment and Heritage Industrial Noise Policy. For assessing amenity criteria, the area shall be categorised in accordance with the guidelines outlined in Chapter 2 of that Policy.

70. Noise - Construction Sites

The operating noise level of construction site operations, including machinery, plant and equipment when measured at any affected premises, shall be evaluated and comply with the requirements of the NSW Office of Environment and Heritage publication "Interim Construction Noise Guideline" July 2009.

Approved Construction Times

The approved hours for construction of this development are –

Monday to Friday - 7.00am to 6.00pm.

Saturday – 8am to 1pm.

No construction work shall take place on Sundays or Public Holidays.

Construction Periods in Excess of 26 Weeks

A Noise Management Plan (NMP) shall be provided to Council prior to the issue of the first construction certificate. Such plan shall be prepared with the assistance of a suitably qualified acoustic engineer, indicating whether the use of machinery, plant and equipment during those operations can be completed without causing offensive noise (as defined in the *Protection of the Environment Operations Act 1997*) in the neighbouring area. The NMP shall be complied with at all times during the construction period and shall identify any mitigation measures to control noise, noise monitoring techniques and reporting methods, likely potential impacts from noise and a complaints handling system.

Operational times may be amended with the written advice of Council's General Manager or delegate.

71. Noise - Sleep Arousal

The L1 (one minute) operating noise level during night time hours of the premises, when measured at the window of any affected residential dwelling, shall comply with the NSW Office of Environment and Heritage sleep arousal criteria, calculated in accordance with Chapter 19 of the NSW Office of Environment and Heritage Noise Control Manual.

72. Acoustic Certification

The recommendations contained in the acoustic report prepared by Spectrum Acoustics project number 14919/6440B dated 20 August 2017 shall be incorporated into the design and construction of the development.

A suitably qualified acoustic consultant shall be engaged to assist with the preparation of the final building plans and specifications to ensure compliance with any acoustic conditions and that no other noise nuisance is created to the neighbourhood.

Upon completion of the works and prior to the issue of an Interim or Final Occupation Certificate, whichever occurs first, a certificate shall be provided to the Principal Certifying Authority from a suitably qualified acoustic consultant certifying that the works have been completed in accordance with their requirements and the development or proposed use is capable of operating in accordance with the design criteria.

At 90 days of operation a suitably qualified acoustic consultant shall test, measure and certify that the development is operating, at that time, in accordance with the approved acoustic report.

73. Construction Site Vibration

Vibration on surrounding land from construction site operations shall comply with the Office of Environment and Heritage publication "Assessing Vibration: a technical guideline" February 2006.

74. Emissions

There shall be no interference with the amenity of the neighbourhood by reason of the emission of any "offensive noise" as defined in the *Protection of the Environment Operations Act 1997*, vibration, smell, fumes, smoke, vapour, steam, soot, ash or dust, or otherwise as a result of the development.

75. Washbay Construction and Operation

Any washing, degreasing or steam cleaning of vehicles, plant, engines, mechanical equipment or parts shall be carried out within an approved wash bay or vessel designated for this use, and shall not be carried out elsewhere on the site.

The wash bay shall be roofed, and the floor area bunded, graded and drained to a suitable floor sump. Wastewater shall be pumped to an oil separator for treatment and discharged to the sewer with the approval of the Hunter Water Corporation.

If sewer is not available to the premises, wastewater may be discharged to a storage tank for collection and disposal by a NSW Office of Environment and Heritage licensed waste removal contractor.

76. Garbage Storage Areas

The garbage washing and bin storage area shall be constructed of, or lined with materials that are durable, impervious to moisture, and capable of being easily cleaned.

The storage area shall be supplied with hot and cold water, roofed and the floor bunded, graded and drained to a sump, which shall be connected to the sewer in accordance with the requirements of the Hunter Water Corporation.

Construction details shall be provided to the Principal Certifying Authority prior to the issue of the first construction certificate.

Adequate facilities shall be provided in a screened location within the premises for the separate storage of recyclable and non-recyclable material and arrangements shall be made for the regular removal and disposal of those materials.

77. Loading Dock and Driveway

The loading dock and driveway shall be graded and drained to a collection sump for the control of any spillages or cleaning waste generated. Wastes shall be directed to the sewer in accordance with the requirements with the Hunter Water Corporation. Details shall be provided to the Principal Certifying Authority prior to the issue of the first Construction Certificate.

78. Excavation – Aboriginal Relics

Should any Aboriginal relics be discovered then all excavations or disturbance to the area shall cease immediately and the NSW Office of Environment and Heritage, shall be informed in accordance with Section 89A of the *National Parks and Wildlife Act 1974*.

All necessary approvals from the NSW Office of Environment and Heritage shall be obtained and a copy provided to Council prior to works recommencing.

79. Aboriginal Heritage

The person having the benefit of the consent, must 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).

CONTRIBUTION FEE SCHEDULE

DESCRIPTION	FEE AMOUNT
CWB-Belmont Catchment - OSA Land - CPI	\$679,334.69
CWB-Belmont Catchment - RF Capital - CPI	\$509,050.64
CWB-Belmont Catchment - CF - East Lake Capital-CPI	\$201,923.47
CWB-Belmont Catchment - CF - East Lake Land - CPI	\$56,159.37
CWB-Belmont Catchment - Management - CPI	\$15,437.00
	TOTAL \$1,461,905.17

DRAFT CONDITIONS