

A water access licence with a nominated water supply work is required to account for the water take.

- 60A Taking water without, or otherwise than authorised by, an access licence
- 60D Taking water otherwise than by or from water supply work or extraction point nominated in access licence

Attached is the general terms of approval for a water supply work approval under the *Water Management Act 2000*.

Thank you

Hemantha

Hemantha De Silva, CEng
Senior Water Regulation Officer (Projects)
Water NSW
L3 No. 26 Honeysuckle Drive
Newcastle NSW 2300
Phone 02 49042525

From: kerry.lee@dpi.nsw.gov.au <kerry.lee@dpi.nsw.gov.au> on behalf of Water Referrals
<water.referrals@dpi.nsw.gov.au>

Sent: Thursday, December 7, 2017 2:16 PM

To: briangibson@lakemac.nsw.gov.au

Cc: Hemantha DeSilva

Subject: Fwd: Undeliverable: DA675/2017 482 The Esplande Warners Bay

Hi Brian

As discussed this morning a number of functions relating to the delivery of water services in NSW are now held by NSW Department of Industry and WaterNSW.

This DA request would be a function that was transferred to WaterNSW. Unfortunately I have been unable to locate the DA that was sent by council so it appears it has been sent to WaterNSW for assessment. However please contact Hemantha DeSilva from WaterNSW on 4904 2525
hemantha.desilva@waterNSW.com.au

I have just spoken to Hemantha and advised that you are going to the JRPP today and he may be able to provide some general advice

Should you have any problems please give me a call

Regards
Kerry

Water Referrals

Crown Lands & Water Division | Department of Industry
10 Valentine Avenue | Parramatta NSW 2150 | PO Box 3720 | Parramatta NSW 2124
T: 1800 353 104 | F: 02 8838 7557 | E: water.referrals@dpi.nsw.gov.au
W: www.water.nsw.gov.au | www.dpi.nsw.gov.au

Requests for review or comment on reports or specific projects can be sent directly to water.referrals@dpi.nsw.gov.au for action.

This message is intended for the addressee named and may contain confidential information. If you are not the intended recipient, please delete it and notify the sender. Views expressed in this message are those of the individual sender, and are not necessarily the views of their organisation.

This information is intended for the addressee only. The use, copying or distribution of this message or any information it contains, by anyone other than the addressee is prohibited by the sender.

Any views expressed in this communication are those of the individual sender, except where the sender specifically states them to be the views of Council.

Information provided to Council in correspondence, submissions or requests (verbal, electronic or written), including personal information such as your name and address, may be made publicly available, including via Council website, in accordance with the Government Information (Public Access) Act (GIPA Act) 2009.

This message is intended for the addressee named and may contain confidential information. If you are not the intended recipient, please delete it and notify the sender. Views expressed in this message are those of the individual sender, and are not necessarily the views of their organisation.

This information is intended for the addressee only. The use, copying or distribution of this message or any information it contains, by anyone other than the addressee is prohibited by the sender.

Any views expressed in this communication are those of the individual sender, except where the sender specifically states them to be the views of Council.

Information provided to Council in correspondence, submissions or requests (verbal, electronic or written), including personal information such as your name and address, may be made publicly available, including via Council website, in accordance with the Government Information (Public Access) Act (GIPA Act) 2009.

SEPP 65 Urban Design Review Panel Recommendations

Property Details:	482, 486 and 488 The Esplanade, WARNERS BAY NSW 2282, 12, 14 and 16 King Street, WARNERS BAY NSW 2282, 1 Howard Street, WARNERS BAY NSW 2282, Lot 3 DP 32518, Lot 122 DP 578045, Lot 1 and Lot 2 DP 1116535, Lot 2 and Lot 1 DP 155951, Lot 122 DP 578045, Lot 3 DP 155951, Lot 4 DP 32518
SEPP Application No.:	SEPP65/16/2016/C
Development Application No.: (if applicable)	DA/675/2017 SEPP65/16/2016/B
Proposal:	Mixed Use Development - Commercial and Residential Apartments
Responsible Officer:	Brian T Gibson
Applicants Name:	Y.P.I YAHAV PROPERTY INVESTMENTS (WARNERS BAY)
Applicants Address:	C/- ADW Johnson Pty Ltd, 7/335 Hillsborough Rd, WARNERS BAY NSW 2282
Panel Members Present:	Philip Pollard John O'Grady Robert Denton David Ryan
Applicant/Proponents Present:	Brett Stein – ADW Johnson Craig Marler – ADW Johnson Andrew Redwin – BLOC Marcus Graham – Stewart Architects
Council Officers Present:	Brian Gibson
Apologies:	NA
Chair:	Philip Pollard
Date of Meeting:	14 February 2018

Introduction

The Design Review Panel (the Panel), comments are to assist Lake Macquarie City Council and the JRPP in their consideration of the development application.

The Panel draws the attention of applicants to the Apartment Design Guide (ADG), as published by NSW Department of Planning & Environment (June 2015), which provides guidance on all the issues addressed.

The nine design quality principles to be addressed in SEPP 65 are grouped together where relevant, to avoid the unnecessary repetition of comments.

Panel Comments

The nine design principles as set out in SEPP 65 were considered by the panel in discussion of the development application. These are: **Context & Neighbourhood Character, Built Form & Scale, Density, Sustainability, Landscape, Amenity, Safety, Housing Diversity & Social Interaction, and Aesthetics.**

Context & Neighbourhood Character	Report – 14/12/2016 The site is on the corner of the Esplanade and King Street and Howard Street Warners Bay. It is located towards the southern end of the Warners Bay town centre precinct and the design is informed by the Warners Bay Town Centre Plan. It enjoys westerly and north-westerly views across the lake and good winter solar exposure from the north. The panel considered a previous proposal for the site prepared by SHAC Architects for a previous owner. The current owner purchased the site and intellectual property pertaining the previous design, and the proposal presented represents design development undertaken by Stewart Architecture and SHAC in association. The primary points raised by the panel in response to the previous proposal have been substantially addressed, by increasing the width of the central courtyard, lowering its height as well as a range of other positive design revisions and refinements. Report - 14/06/2017 No further comment 13/09/2017 No further comment 14/02/2018 No further comment
--	--

Built Form & Scale	Report – 14/12/2016 The visual bulk of the previous proposal has been reduced and there has been a minor reduction in the overall building height, which is fully compliant with the building envelope with the minor exception of the upper 5th and 6th floors setbacks facing Howard Street. The panel considers the latter to be acceptable in the context. The proposal responds to the Warners Bay Town Centre Plan Guidelines which require a two storey scaled base to a building by presenting King Street and The Esplanade, with a two-storey high portal or framed structure which follows the site street boundaries. This element was considered to be quite attractive as it is represented in the hand drawn elevational sketches presented, but is less successful as viewed in the 3D rendering, as seen from the roundabout. In the latter, the masonry framed structure does not turn the corner comfortably, and is visually at odds with the curved format of the balustrade up-stands above. The panel understands that this 3D simply represents a process in the design development, but encourages the architects to explore further refinement of this device to better integrate it in the overall building form and to more sympathetically compliment the curved form of the balustrades. Some horizontal layering of shade or shelter for the open space between the building footprint and the frame device would assist in this respect, as would mere extensive use of climbing vines and vegetation as suggested in the elevations. Report - 14/06/2017 The panel raised some concerns in respect to the 3D renderings of the proposal and the degree to which soft landscaping of an appropriate scale can be utilized to soften the built form. Furthermore, it was noted that building above street wall height was not expressed with a mid-level form, but rather the upper floor particularly on the King Street/The Esplanade corner, was very strongly expressed. It was recommended the mid- level structure's visual expression be strengthened, particularly with a greater emphasis on the vertical elements, with the upper one or two floors to be less visually assertive. In respect to the street front treatment of the lower levels, some elevations indicate trees of a height that is comparable to the masonry form. The landscape plan should include larger scaled elements, as these are considered to contribute significantly to the amenity and external presentation of these spaces on all street frontages. It was noted that limited available footpath area
--------------------------------------	--

and practical constraints imposed by RMS requirements, mean that it is unlikely that any street planting outside the site can be achieved. It is therefore crucial that appropriately scaled soft landscaping be achieved within the site itself.

13/09/2017

Changes to the façade treatments have largely addressed the previous concerns.

The Panel notes the JRPP's request for further consideration of building separation and associated overshadowing, privacy and urban design outcomes. Comments are provided in relation to overshadowing and privacy under the heading of "amenity" below. In relation to urban design and building separation, the Panel considers there to be two aspects to determining what is appropriate in this regard. One relates to impacts and the other to visual appearance. In relation to impacts, under the "amenity" heading the Panel is seeking further analysis to confirm overshadowing impacts associated with the proposed variations to ADG setback guidelines. Until that information is received, it cannot be confirmed whether a more compliant scheme will reduce overshadowing impacts and warrant further amendment to do so.

However, notwithstanding this, the Panel has revisited the proposal in terms of its visual appearance to The Esplanade and considers that it would benefit from some further setback from the southern boundary at Level 4 of 4.5m to match the setback of level 5 and 6. This would be relatively modest, bringing that level into line with the setback for the two uppermost levels (possibly resulting in the loss of one unit).

This additional setback would provide a more balanced and comfortable relationship with the progressive side setbacks on the building to the south. This would improve the streetscape appearance of the two buildings and also improve the amenity to the southern building (even if it is not strictly necessary based on the outcomes of the further analysis requested by the Panel).

The Panel has taken a view that it is unlikely that the building to the south would be redeveloped and that the proposal needs to provide a better transition to this building.

14/02/2018

Changes to the proposal reflect recommendation provided by the JRPP and primarily relate to the interface of the

	southern extent of the Block E building with its neighbor, the extent of parking, and external glazing colouration. In assessing the previous DA scheme, the panel expressed the view that the southern setbacks of Block E provided reasonable interface in terms of privacy separations and bulk and scale/streetscape considerations. The current changes to the building now permit a 3metre landscaped setback at ground level, with an additional 3 metre setback to all floors above. This is achieved by sliding all floors above ground level to the north. Whilst not fully achieving the JRPP recommended setback at the upper levels, which is in any case in excess of the Apartment Design Guide recommendations, the additional setback is considered quite sufficient to provide a comfortable relationship between the proposal and its neighbor. The panel further considered the impacts of the 'massaging' of the block to the north by 3 metres as described above in so far as this affects the buildings presentation at the street corner and King Street. Whilst not fully compliant with recommended setbacks suggested in the Warners Bay Town Centre Plan, in respect only to the upper three levels, the panel is of the view that in this context a slightly more assertive expression of the built form was appropriate. Therefore no adverse impacts arise from this modeling of the building. It is recommended that RL's be provided at the upper floor for both internal ceiling heights and upper roof level. Ceiling heights should fully comply with the ADG recommendation of 2700mm (excepting bathrooms).
Density	Report – 14/12/2016 Density was considered appropriate to the site. Report - 14/06/2017 No further comment 13/09/2017 No further comment 14/02/2018 No further comment
Sustainability	Report – 14/12/2016 At this stage, there remain to be explored a range of inclusions such as PV panels, rainwater collection, natural

	light and ventilation to bathrooms wherever possible, and other opportunities for a more sustainable development. Report - 14/06/2017 The panel noted the project is of significant scale and as such should be able to incorporate opportunities for the above inclusions. For example – electricity for the common area lighting and pool filtration could readily be supplied by rooftop PV panels and batteries. It is recommended that adjustable solar shading is provided, particularly to west facing balconies and windows. 13/09/2017 No further comment 14/02/2018 No further comment
Landscape	Report – 14/12/2016 The proposal in its current form provides significant opportunities for high quality landscape treatment to communal open space and public domain. The panel notes that much of the landscape treatment will be on slab and encourages the applicant to explore means of including large scale canopy trees in these areas. One positive means of achieving this would be to create dropped areas in the slab in order to accommodate deep soil. Report - 14/06/2017 The panel's previous comments remain relevant regarding the need to include large-scale trees generally, and particularly within courtyard communal open space area. The applicant is again advised to explore opportunities for set-downs into the slab, if necessary at the expense of car-parking, which is noted to be in excess of Council controls. The area is also sufficiently large to permit some naturalistic mounding and level changes that would also improve the opportunity for deeper soil, and larger scaled plantings. The panel is not supportive of the extent of hard finishes and would prefer to see a much greater extent of soft landscape within the communal areas. The rigid symmetry and extensive areas of tiles and hard paving in the central courtyard were considered to be working against a more relaxed lakeside landscape approach. The evident need to introduce built elements for

	shading and privacy to the pool area reflect the lack of suitably scaled tree and large shrub inclusion in the species list. The panel notes that the central communal courtyard also provides the best opportunity along King Street for substantial tree planting that is visible from the street. This opportunity needs to be taken up and used as a tool to assist in the demarcation of public and private spaces, as opposed to reliance only upon built structure, and may result in the line of private space being set into the courtyard further. The deep soil area in south-west corner of the courtyard should be redesigned to allow primarily for planting of large scale trees. Overlooking of adjacent properties from this area must be avoided. Opportunities for tree planting within the site's ground level street setback areas need to be maximized - particularly along The Esplanade where deep soil is available. Careful selection of species is required to respond to the constraints of the built form. In addition to utilizing large scale plantings where possible, climbing plants should be included over batons and pergola structures, to provide additional green softening of the façade. Further opportunity for visually softening of the façade would be to include balcony level planters with cascading plants. 13/09/2017 The Panel notes the changes have largely responded to the issues raised by the Panel. 14/02/2018 The panel notes that the increased ground level setback to the southern boundary results in an opportunity for additional tree planting at that edge. It's recommended that trees attaining a mature height of approximately 4-6 metres should be included in that area. This larger deep-soil zone further to the east could be used for planting of 1-2 large forest scale trees. These could be deciduous if an issue arises with sunlight to properties to the south. The additional 1 metre wide strip also created on the southern boundary, should preferably be planted with smaller clean-trunked trees or large shrubs. The applicant's suggestion to use climbing plants to soften the walls in this area is also encouraged. There appears be an opportunity to delete boundary fencing in this part of the site in order to create a more open landscape zone between the buildings.
--	--

	The panel notes that the former stepped-slab planter between the two buildings and close to King Street has now been changed to a shallow podium level planter because of clearance needs below. The panel recommends that this planter should be treated in some form to provide growth conditions for a number of medium scale trees, in order to visually break up the line of the buildings along King Street. Potential means of achieving this could include a raised podium level planter or mounding of soil on the podium or a combination of the two.
Amenity	Report – 14/12/2016 High level of amenity should be achievable for all dwellings within the development. Consideration should be given to providing adjustable sun shading, in particular to the afternoon western summer sun for all units. The amenity of the adjacent apartment building to the south on The Esplanade was raised as an issue - in particular those rooms and very small balconies facing north near the common property boundary. Further information should be obtained in respect to the nature of these rooms – whether habitable or not, and some articulation and visual treatments applied to the southern wall of the proposed development. It is noted that the significant improvement over the previous proposal has been achieved via the inclusion of ground level deep soil planting to the eastern end of this common boundary. The latter will assist considerably in maintaining an attractive and functional northerly aspect from the rear courtyards of the adjacent properties. Provision should be made for the appropriate, screened location of outdoor air conditioning compressor units, giving due consideration to both the acoustic and visual impacts of this infrastructure (whether provided as part of the construction or post-fitted). Report - 14/06/2017 While the panel supports the strategy of permitting maximum sunlight into the rear courtyards of the properties to the south, which is considered to be the highest priority, it was none the less necessary for the detailed shadow impact of the proposal to be provided. The panel suggested that it was necessary to demonstrate in greater detail the nature and extent of overshadowing and any other impacts of the properties to the south. This should involve a comparison of an ADG complying envelope with the scheme as proposed, and should involve

an understanding of window openings on the northern elevations of the buildings to the south.

The panel also noted the proposed floor to ceiling height of the commercial spaces in the Howard Street block are well below the recommended dimensions. This is likely to create difficulties in providing services to the commercial spaces and may limit potential use and function of the commercial spaces. It is recommended this be revisited in any consideration of altering the 'skip stop' apartments to single level apartments and in the light of the panel's suggestion of utilizing the commercial space on the north east corner of the block as a coffee shop/café.

A further consideration in respect to this commercial space is that market demand in the area appears to be greater for small retail or commercial spaces, and it may be advantageous in respect to tenancing the areas, to allow flexibility in the design for subdivision into smaller commercial areas. This would then require consideration to servicing and access to storage, waste and recycling areas and amenities.

The panel reiterated its earlier comments in respect to location of residential air conditioning compressors and infrastructure. AC compressors if located on balconies should be enclosed in an integrated, well designed structure.

The panel's initial review of the waste management facilities on site suggest there needs to be further design development of this aspect, as it has ramifications for presentation to Howard Street and ramp gradients.

13/09/2017

The applicant has responded with quite detailed analysis of the view and overshadowing impacts to the south. Whilst this analysis has largely satisfied the Panel in relation to the absence of privacy impacts, there remain questions about shadowing impacts analysis. In particular, it was unclear what the built form of the 'complying scheme' was based in terms of building depth and ADG compliance.

The Panel considered that the analysis did not allow it to draw conclusions on the following questions:

1. Do living areas within the adjoining development receive at least 2 hours of direct sunlight as a result of the proposed development?
2. If not, is the extent of overshadowing from the proposed development to living areas to the south any worse than a 'complying development'? In this regard, a complying

	development should be demonstrated to meet applicable building depths and setbacks in accordance with the ADG. 3. Would removing elements of the proposed building that breach the ADG/DCP side setback controls as shown on the drawing set, reduce the extent of overshadowing of the living rooms to the south? Based on the outcome of this analysis, additional design modifications may be required to achieve acceptable overshadowing outcomes. 14/02/2018 The panel's previous comments in respect to amenity levels are provided within apartments are reiterated. The potential issue of privacy and overlooking of the southernmost units of block E on levels 4, 5 and 6 was raised by the JRPP, and the applicants tabled several potential design responses to screening. At level 4 a garden planter 1400mm wide was proposed as a means of separating trafficable deck area from the balcony edge – providing appropriate plantings are selected. This device was considered generally acceptable in achieving acceptable amenity for the interface at this level. In respect to levels 5 and 6, the southern balconies provide an articulation to the building's façade which is considered desirable, and given the narrowness of the balcony at this point, it is unlikely residents will linger in this area rather than the much wider and more accessible balcony directly overlooking the lake. A tabled design for a vertical louvered screen on top on the balustrades was considered to be in excess of the level of screening warranted for privacy in this location, given the substantial setback from the southern boundary, the considerable setback distance of the neighbouring property and the substantial difference in levels between habitable spaces of the adjoining developments. The panel suggested that visually lighter, less intrusive screening would be quite adequate in this location.
Safety	Report – 14/12/2016 The issue of whether the central courtyard was secured in respect to access by the public was raised, and the panel was advised that because very good casual surveillance from the adjacent apartments, one option under consideration was to have this central area visible and accessible to the public. It was noted that in any event, the swimming pool would need to be fenced, and while the panel was supportive of the desire to retain public visual and physical access, it may eventuate that at least after hours, it is necessary for this area to be secured. Rather

	than such fencing thus becoming a post construction afterthought, it was suggested that the design be undertaken such that it could be fenced if necessary without detracting from the integrity of the design. Report - 14/06/2017 The panel reiterated the need both for function and for aesthetic reasons, of clearly delineating the private, communal and public areas around the central courtyard. This needs to incorporate pool safety fencing, but also should provide security to the communal open space. To that end, consideration of potential use of structures such as planter beds as unauthorized access points to POS should be addressed. The central courtyard should be redesigned giving consideration to both landscape outcomes and safety by design principles. 13/09/2017 Whilst there has been an improvement to the differentiation of the public and private domains, the architectural drawings are still not entirely clear in some aspects, particularly in relation to access restrictions and landscape treatment along the frontage of the pool. Further refinement is considered necessary. 14/02/2018 The issue of separating pedestrian access from the basement to the ground level of block H into residential and commercial functions was discussed. The panel considers it important that residential corridors should only be accessible to residents and their invited visitors. It was suggested that if the northern elevator were made accessible to the public, and separated from the residential corridor via a locked door, this issue could be resolved. Further, it was noted that it is now proposed to provide separate toilet facilities within each commercial tenancy in block H
Housing Diversity & Social Interaction	Report – 14/12/2016 The proposal includes an appropriate mix of apartment types and a useful provision of attractive commercial and retail space. Report - 14/06/2017 Panel noted some minor deviations from recommended housing mix, but considers the proposals to be quite acceptable.

	13/09/2017 No further comment 14/02/2018 No further comment
Aesthetics	Report – 14/12/2016 The panel strongly supportive of the treatments implied in respect to the façade concepts and layering as depicted in the hand drawn elevations. This textured layering appears to have lost a degree of its refinement in conversion to the 3D rendering, and the architects were encouraged revisit the street-front ground floor frame element in particular, with a view to achieving the finer grained aesthetics implied in the hand drawn sketches and the character shown in the precedent photographs. The panel was generally supportive of the concept treatment of the corner on the upper levels and the expression of the roof form. Report - 14/06/2017 A number of issues were raised in respect to the presentation of the building in its context, some of which are discussed under the above headings. In terms of the overall treatment of the building facades, it was considered that a greater emphasis on the mid height element was desirable which should incorporate vertical element expression. The roof element of The Esplanade block, in particular at the corner of King Street, was considered to be overly expressive and detracting from the curved balustrade forms on the floors below. The upper floor or upper two floors should be less strongly expressed elevationally. Earlier presentations of schemes for the site suggested layering of the façade using screen elements and landscaping, and the panel supported a re-examination of the proposal to incorporate such layering. Inclusion of appropriately scaled trees within the site, supplemented by climbing plants on trellises and pergola structures was required. Functional sun shading to reduce summer heat loads and glare would also assist in providing visual depth, shadow and texture to the facades. It was suggested that a greater degree of contrast of materials and finishes could be applied than was suggested in the renderings, which might include the introduction of some colour. The panel noted that an earlier proposal for the site included some areas of blue ceramic tile which is an example of a possible direction. A sample board including all of the proposed materials, finishes and

	colour selections should be provided. Plans and elevations should designate all areas for substation, fire services and hydrants, gas meters and other infrastructure and ensure that it is integrated as part of the design of the building. Signage for the building, including commercial areas, should be integrated in the architectural design to avoid post-fitting of unsympathetic signage. 13/09/2017 The Panel is generally satisfied with the applicant's response to the above comments. 14/02/2018 It was noted that a suggestion had been made by the JRPP for the deletion of green tinting to the glass balustrades of the buildings. Panel had previously considered this inclusion, and considered a tinted glass beneficial both for practical reasons (heat reduction and visual screening to the balconies) and for building aesthetics. The ADG calls for balconies to be provided with visual screening, rather than extensive areas of clear glazing. Some minor changes to other material specifications involved the deletion of timber eaves/ soffit lining in lieu of a simple white painted set ceiling. The latter was considered acceptable.
--	--

Note

13/09/2017

The panel has reconsidered the current scheme in the light of amendments made since it last reviewed it and in response to the JRPP's request for further consideration to be given to certain elements, most particularly setbacks and associated impacts.

Whilst the Panel remains fundamentally satisfied with the latest iteration of the scheme, it considers some further relatively minor adjustments would improve its relationship with adjoining development to the south. The extent of these modifications will be informed by the additional analysis requested. However at least some additional setback to the southern part of level 4 is warranted, which would require the setback of building at level 4 to match the 4.5m setback of the building at level 5 and 6 from the southern boundary. This would provide a better relationship to the building to the south.

14/02/2018

Subject to the design development of the landscaping, and modification to the DA documents to reflect issues identified under the above headings, the panel was of the view that the

modifications to the previous design met the concerns raised by the JRPP, and resulted in a more amenable outcome for the neighbouring properties. The revised design, with the exception of clear balustrade glazing, was supported by the panel.

Council Reference Number	Details	No. of Pages
D08714821	Response to JRPP Recommendations – Amended Plans	59

Appendix E – Apartment Design Guide Assessment

The following table provides an assessment of the amended application against the SEPP65 Apartment Design Guide.

SEPP 65 Key Standards	Control / design criteria	Complies Y/N	Comment
Part 1 – Identifying the context			
1A Apartment building types	Hybrid developments combine different uses or building types in one development. They can incorporate community facilities and larger commercial or retail components, such as offices or a supermarket. Hybrid developments are particularly relevant for larger sites that need to respond to a change in building form and scale within the adjacent context. This approach is best used when: - located on large and/or irregular shaped sites - a combination of uses is desired to support active urban areas or centres - greater diversity of apartment types is desired - a development needs to address two or more streets with different scales and/or characters.	Yes	The proposed development is a 'Hybrid Development', combining tower elements, a courtyard and perimeter form as well as a mix of land uses.
1B Local character and context	Good design responds and contributes to its context and the desired future character of an area.	Yes	The Lower Hunter Regional Strategy identifies Warners Bay as a "Centre". The proposed mixed use development is considered contextually appropriate to the desired future character of Warners Bay.

Appendix E – Apartment Design Guide Assessment

1C Precincts and individuals sites	An individual site is a single lot or an amalgamation of several lots that can support individual or groups of RFB	Yes	The development site is an amalgamation of properties that contain older building stock in the form of low density buildings with limited economic output. The development is generally aligned with the Warners Bay Town Centre Area Plan, with public domain improvements, increased street activation, a mix of land uses that will contribute to the vibrancy of the precinct and greater housing diversity.
Part 2 – Developing the controls			

Appendix E – Apartment Design Guide Assessment

2B Building envelopes	3D volume where development should occur	No	The development generally sits within the building envelope as set by the Warners bay Town Centre Area Plan, as show below: 
2C Building height	22.9m	No	Encroachments outside the Building Envelope exist at the upper north-east and north-west corner.
2D Floor space ratio		N/A	Refer to discussion in the assessment report under Section 5 of the assessment report.

Appendix E – Apartment Design Guide Assessment

2E Building depth	12-18m	No	The proposed residential units achieve the minimum building depth, but in places exceed the maximum building depth.
2F Building separation / 3F Visual privacy	Up to four storeys (approx 12 metres): • 12m between habitable rooms/balconies • 9m between habitable and non-habitable rooms • 6m between non-habitable rooms Five to eight storeys (approx. 25 metres) • 18m between habitable rooms/balconies • 12m between habitable and non-habitable rooms • 9m between non-habitable rooms Nine storeys and above (over 25 metres) • 24m between habitable rooms/balconies • 18m between habitable and non-habitable rooms • 12m between non-habitable rooms Note: Under the ADG where applying separation to buildings on adjoining sites, half the minimum separation distance to the boundary should be applied.	Yes Yes No No	North: King Street provides adequate building separation. East: Howard Street provides adequate building separation. South: For The Esplanade tower, the Lower Ground, Upper Ground and Levels 2 and 3 have a 3m setback from the property boundary (with 492 The Esplanade being setback 2-3.5m from its boundary). Levels 4 is setback 3m from the balcony edge to the boundary and 7m from the unit wall to the boundary. Levels 6 and 7 are setback 6m from the balcony edge to the boundary and 7m from the unit wall to the boundary. The southern elevation for The Esplanade tower has only bathroom window openings. For the Howard Street tower, a varying setback of 2.2m and 4.8m from the southern boundary is proposed (thus a minimum building separation of 5.5m with 492 The Esplanade). The southern elevation has limited glazed openings in the form of kitchen and bathroom windows. Internal: the development achieves a minimum building separation of 18m for all levels and elevations. Note, the development has no blank party walls. Refer to the 'Overlooking Study' as provided by the applicant, contained in Appendix B.

Appendix E – Apartment Design Guide Assessment

2G Street setback	Street setbacks should be consistent with existing setback patterns or setbacks that achieve the desired future character of the area.	Yes	Refer to discussion regarding compliance with the DCP2014 in Section 5 of the assessment report.
Part 3 – Siting the development			
3A Site analysis	3A1 – Site analysis illustrates that design decisions have been based on opportunities and constraints of the site conditions and their relationship to the surrounding context	Yes	The applicant has submitted detailed site analysis work.
3B Orientation	3B1 – Building types and layouts respond to the streetscape and site while optimising solar access within the development	Yes	The building responds to the streetscape and site orientation. As a consequence of the two towers being oriented north-south, solar access is optimised for all units and the communal courtyard. Due to the orientation of the proposed development, solar access will be achieved centrally within the development to the south. It will however incur a reduction in solar access along its northern elevation due to overshadowing (the directly adjoining buildings fronting The Esplanade and Howard Street) throughout 21 June (refer to the applicant's analysis provided with the amended plans). Shadow diagrams have been submitted for the proposed development. Refer to Solar Views analysis provided by the applicant with the amended application, contained in Appendix B.
	3B2 – Overshadowing of neighbouring properties is minimised during mid-winter	No	
3C Public domain interface	3C1 – Transition between private and public domain is achieved without compromising safety and security 3C2 – Amenity of the public domain is retained and enhanced	Yes	The transition between private and public domain is achieved without compromising safety and security. This is provided through the separate commercial and residential entries, and the controlled access to the communal area for residents.

Appendix E – Apartment Design Guide Assessment

3D Communal and public open space	3D1 – An adequate area of communal open space is provided to enhance residential amenity to provide opportunities for landscaping Design criteria 1. Communal open space has a minimum area equal to 25% of the site. 2. Development achieves a minimum of 50% direct sunlight to the principal useable part of the communal open space for a minimum of 2 hours between 9am and 3pm on 21 June (mid winter). 3D2 – Communal open space is designed to allow for a range of activities, respond to site conditions and be attractive and inviting 3D3 – Communal open space is designed to maximise safety 3D4 – Public open space, where provided, is responsive to the existing pattern and uses of the neighbourhood	Yes Yes Yes Yes Yes Yes	The site has an area of 5101m². A communal open terrace space of 1375m² is proposed on the upper ground Level with seating, landscaping, lounge, gym, pool and BBQ. This area equates to 26% of the site area. The space is oriented to the north and therefore receives >2hrs of sunlight.
-----------------------------------	--	---	--

Appendix E – Apartment Design Guide Assessment

3E Deep soil zones	3E1 – Deep soil zones provide areas on the site that allow for and support healthy plant and tree growth. They improve residential amenity and promote management of water and air quality Design criteria: • 7% deep soil zone • Minimum dimension of 3m	Yes No Yes	A Deep Soil area of 273m² is provided centrally along the southern boundary, additional non-compliant but contiguous deep soil areas are provided along the southern boundary. Additional deep soil areas are provided along The Esplanade adjoining the residential entrances. The total compliant deep soil equates to 5.35% of the site area. Refer to discussion regarding DCP2014 under Section 5 of the assessment report.
3F Visual privacy	3F1 – Adequate building separation distances are shared equitably between neighbouring sites, to achieve reasonable levels of external and internal visual privacy 3F2 – Site and building design elements increase privacy without compromising access to light and air and balance outlook and views from habitable rooms and private open space	No	Refer to building separation discussion under Section 2 of the assessment report.
3G Pedestrian access and entries	3G1 - Building entries and pedestrian access connects to and addresses the public domain 3G2 - Access, entries and pathways are accessible and easy to identify 3G3 - Large sites provide pedestrian links for access to streets and connection to destinations	Yes Yes Yes	Pedestrian access, entries and pathways are accessible and easy to identify.
3H Vehicle access	3H1 – Vehicle access points are designed and located to achieve safety, minimise conflicts between pedestrians and vehicles and create high quality streetscape	Yes	Vehicular access is considered acceptable, refer to comment under Section 5 of the assessment report.

Appendix E – Apartment Design Guide Assessment

3J Bicycle and car parking	3J1 – Car parking is provided based on proximity to public transport in metro Sydney and centres in regional areas 3J2 – Parking and facilities are provided for other modes of transport 3J3 – Car park design and access is safe and secure 3J4 – Visual and environmental impacts of underground car parking are minimised 3J5 – Visual and environmental impacts of on-grade car parking are minimised 3J6 – Visual and environmental impacts of above ground enclosed car parking are minimised	Yes Yes Yes Yes N/A No	Refer to previous discussion under Sections 4 & 5 of the assessment report. Adequate bike parking is proposed The vehicle access points have been designed and located to achieve safety and minimise conflicts between pedestrians and vehicles. The proposed lower ground car park is screened from the street and is setback from the southern boundary.
Part 4 – Designing the building			

Appendix E – Apartment Design Guide Assessment

4A Solar and daylight access	4A1 – To optimise the number of apartments receiving sunlight to habitable rooms, primary windows and private open space Design criteria 1. Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9am and 3pm at mid winter in the Sydney Metro Area and in the Newcastle and Wollongong LGA. 2. In all other areas, living areas and private open spaces of at least 70% of apartments in a building receive a minimum of 3 hours direct sunlight between 9am and 3pm at midwinter. 3. A maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at mid winter. 4A2 – Daylight access is maximised where sunlight is limited 4A3 – Design incorporates shading and glare control, particularly for warmer months	Yes No	All units within the development receive a minimum of 3 hours solar access during mid-winter.
------------------------------	--	----------------------	---

Appendix E – Apartment Design Guide Assessment

4B Natural Ventilation	4B1 – All habitable rooms are naturally ventilated Design criteria: At least 60% of apartments are naturally cross ventilated 4B2 – The layout and design of single aspect apartments maximises natural ventilation 4B3 – The number of apartments with natural cross ventilation is maximised to create a comfortable indoor environment for residents	Yes Yes Yes	Greater than 68% of apartments are naturally cross-ventilated.
4C Ceiling heights	4C1 – Ceiling height achieves sufficient natural ventilation and daylight access Design criteria: Measured from finished floor level to finished ceiling level, minimum ceiling heights are: Habitable rooms: 2.7m Non habitable: 2.4m If located in mixed use areas: 3.3m for ground and first floor to promote future flexibility of use 4C2 – Ceiling height increases the sense of space in apartments and provides for well proportioned rooms 4C3 – Ceiling heights contribute to the flexibility of building uses over the life of the building	Yes Yes No	The site is within a mixed use area. The floor to ceiling height proposed are: - Commercial floor – min. 3.3m is achieved for commercial space in the Lakefront Tower, and a varying 2.7 to 3.3m for the Howard Street Tower. - Residential Levels –2.7m

Appendix E – Apartment Design Guide Assessment

4D Apartment size and layout	4D1 – The layout of rooms with an apartment is functional, well organised and provides a high standard of amenity Design criteria: Apartments are required to have the following minimum internal areas: Studio: 35m² One bedroom: 50m² Two bedroom: 70m² Three bedroom: 90m². Additional bathrooms increase the minimum internal area by 5m² each. Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms. 4D2 – Environmental performance of the apartment is maximised Design criteria Habitable room depths are limited to a maximum of 2.5 x ceiling height In open plan layouts the maximum habitable room depth is 8 metres from a window 4D3 – Apartment layouts are designed to accommodate a variety of household activities and needs Design criteria Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobe).	Yes Yes Yes Yes Yes Yes Yes Yes Yes Yes Yes Yes	All units exceed the minimum internal areas.
------------------------------	--	---	--

Appendix E – Apartment Design Guide Assessment

	Bedrooms have a minimum dimension of 3 metres Living rooms or combined living/dining rooms have a minimum width of: 3.6m for studio and 1 bedroom apartments 4m for 2 and 3 bedroom apartments		
4E Private open space and balconies	4E1 – Apartments provide appropriately sized private open space and balconies to enhance residential amenity Design criteria All apartments are required to have primary balconies as follows: Studio: 4m² One bedroom: 8m² - 2m depth Two bedroom: 10m² - 2m depth Three bedroom: 12m² - 2.4m depth The minimum balcony depth to be counted as contributing to the balcony area is 1m. 4E2 – Primary private open space and balconies appropriated located to enhance liveability for residents 4E3 – Private open space and balcony design is integrated into and contributes to the overall architectural form and detail of the building	Yes	All units comply.

Appendix E – Apartment Design Guide Assessment

4F Common circulation and spaces	4F1 – Common circulation spaces achieve good amenity and properly service the number of apartments 1. The maximum number of apartments off a circulation core on a single level is eight 2. For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift in 40 4F2 – Common circulation spaces promote safety and provide for social interaction between residents	Yes Yes Yes Yes	Compliance is achieved with less than 8 units off a circulation core on a single level.
4G Storage	4G1 – Adequate, well designed storage is provided in each apartment 4G2 – Additional storage is conveniently located, accessible and nominated for individual apartments	Yes	Storage is provided within the basement car park (Lower Ground) as well as in each unit. 50% or greater of the required storage volume is located within each apartment.
4H Acoustic privacy	4H1 – Noise transfer is minimised through the siting of buildings and building layout. 4H2 – Noise impacts are mitigated within apartments through layout and acoustic treatments.	Yes	Council's Environmental Management Department advised the acoustic performance of the development is compliant.
4J Noise and pollution	4J1 – In noisy or hostile environments the impacts of external noise and pollution are minimised through the careful siting and layout of buildings. 4J2 – Appropriate noise shielding or attenuation techniques for the building design, construction and choice of materials are used to mitigate noise transmission.	Yes	The building is a substantial structure and its construction schedule will most likely exceed 6 months. The applicant is required to provide a Construction Site Noise Management Plan, prepared with the assistance of a qualified Acoustic Consultant, prior to the issue of a Construction Certificate.

Appendix E – Apartment Design Guide Assessment

4K Apartment mix	4K1 – A range of apartment types and sizes is provided to cater for different household types now and into the future. 4K2 – The apartment mix is distributed to suitable locations within the building	Yes	The application proposes 24 x 1 bedroom, 56 x 2 bedrooms and 31 x 3 bedrooms units. The proposed unit mix is considered acceptable, with each level containing a mix of units.
4L Ground floor apartments	4L1 – Street frontage activity is maximised where ground floor apartments are located. 4L2 – Design of ground floor apartments delivers amenity and safety for residents.	Yes	Ground floor units are proposed facing into the internal communal courtyard.
4M Facades	4M1 – Building facades provide visual interest along the street while respecting the character of the local area. 4M2 – Building functions are expressed by the façade.	Yes	The proposed development is supported by an external schedule of colours and finishes which is considered acceptable.
4N Roof design	4N1 – Roof treatments are integrated into the building design and positively respond to the street. 4N2 – Opportunities to use roof space for residential accommodation and open space are maximised. 4N3 – Roof design incorporates sustainability features.	Yes	The proposed roof top is integrated into the development. The roof top however does not feature any roof top open space, communal space or the like.
4O Landscape design	4O1 – Landscape design is viable and sustainable 4O2 – Landscape design contributes to the streetscape and amenity	Yes Yes	The landscape design is considered viable and sustainable and contributes to streetscape and internal amenity. The deep soil area and street tree planting have been assessed with tree species recommended for the three street frontages, whilst tree forms have been adopted in the landscape plan for the planter boxes and deep soil zone.

Appendix E – Apartment Design Guide Assessment

4P Planting on structures	4P1 – Appropriate soil profiles are provided 4P2 – Plant growth is optimised with appropriate selection and maintenance. 4P3 – Planting on structures contributes to the quality and amenity of communal and public open spaces	Yes	The submitted plans show planting on structures within the communal area on the upper ground level 1, along the King Street frontage in front of the communal open space and within the front setback along The Esplanade. The planning on structures is supported.
4Q Universal design	4Q1 – Universal design features are included in apartment design to promote flexible housing for all community members. 4Q2 – A variety of apartments with adaptable designs are provided. 4Q3 – Apartment layouts are flexible and accommodate a range of lifestyle needs.	Yes	Refer to discussion under DCP 2014 in section 5 of the assessment report.
4R Adaptive reuse	4R1 – New additions to existing buildings are contemporary and complementary and enhance an area's identity and sense of place. 4R2 – Adapted buildings provide residential amenity while not precluding future adaptive reuse.	N/A	The application is not for adaptive reuse of a building.
4S Mixed use	4S1 – Mixed use developments are provided in appropriate locations and provide active street frontages that encourage pedestrian movement. 4S2 – Residential levels of the building are integrated within the development, and safety and amenity if maximised for residents.	Yes	The commercial frontage activates the streetscape and is compatible with adjoining land uses.

Appendix E – Apartment Design Guide Assessment

4T Awnings and signage	4T1 – Awnings are well located and complement and integrate with the building design. 4T2 – Signage responds to the context and desired streetscape character.	Yes	An awning is proposed along the Howard Street and The Esplanade frontages, and partly along the King Street frontage of each tower. At this stage, the development does not include any signage.
4U Energy efficiency	4U1 – Development incorporates passive environmental design. 4U2 – Development incorporates passive solar design to optimise heat storage in winter and reduce heat transfer in summer. 4U3 – Adequate natural ventilation minimises the need for mechanical ventilation.	Yes	A BASIX certificate has been submitted with the application.
4V Water management and conservation	4V1 - Potable water use is minimised. 4V2 – Urban stormwater is treated on site before being discharged to receiving waters. 4V3 – Flood management systems are integrated into site design.	Yes	Stormwater will occur in accordance with DCP2014 requirements. Council's Development Engineers are satisfied, subject to conditions of consent, with the stormwater design.
4W Waste management	4W1 – Waste storage facilities are designed to minimise impacts on the streetscape, building entry and amenity of residents. 4W2 – Domestic waste is minimised by providing safe and convenient source separation and recycling.	Yes	A separate garbage room is provided at the upper ground with direct access to Howard Street.
4X Building maintenance	4X1 – Building design detail provides protection from weathering. 4X2 – Systems and access enable ease of maintenance. 4X3 – Material selection reduces ongoing maintenance costs.	Yes	The material palette is one that makes use of high quality finishes with integral colours and patinas, that will not require constant maintenance. Refer to SEPP65 Design Review Panel comments under Section 3 of the report regarding tinting of the balustrades.

From: james wilson
Sent: Friday, 2 February 2018 8:14 AM
To: council council
Subject: DA675-2017

Dear Lake Macquaire Council

In regards to to DA675/2017, thank you for the notification of the revised development application.

My comments in summary are:

There appears to be little advance in addressing the potential pedestrian and vehicle traffic concerns as a result of the development. The traffic study included in the application seems misleading and points to unrealistic conclusions. There is a lack of data or evidence of data collection. The issues I raise as a result of increase in traffic in/out of development are:

Pedestrian safety in the area - given that it's already a busy commercial area and the numerous events that are held across the street from the development

No provisions for safe crossing on the Esplanade or King st

Unless traffic signals are install, I can't imagine it would be safe to cross the road when it's that close to the roundabout

Increase volume pedestrian traffic from the developments retail space

The already lack of parking in the immediate area, especially during events on the Warners Bay waterfront

I highlight that the sheer size and height of the development does not represent the image portrayed on the Council website, "visitlakemac" and other tourism sites showcasing the Warners Bay and Lake Macquarie area. The image of the foreshore and boardwalks will be impacted and forever be changed with this development. When carefully comparing the plans with the revised set backs to the previous ones, there is minimal improvement in the impact of the buildings structure to the surrounding homes.

The approval of this development would seem to be highly contradictory to the Councils 2015 "Warners Bay town centre master plan"

The approval of this application opens the doors to developers and provide the precedence for more of grossly oversized and tall developments on the The Esplanade.

Redacted

Redacted

Redacted

From: Pamela Young
Sent: Friday, 4 May 2018 11:58 AM
To: Brian Gibson
Cc: 'Lorraine Negra'; 'Nathan Clarke'
Subject: DA 675/2017-Water's Edge- 488 The Esplanade, Warners Bay

Redacted

Attention: Brian Gibson

The Owners Corporation SP72323 being properties are situated at 492 The Esplanade, Warners Bay and 7-9 Howard Street, Warners Bay object to clause 34 regarding the erection by the developer of Water's Edge, Warners Bay of a replacement of our colour bond fencing along the southern boundary of the properties in preference of a black batten fence.

The Owners Corporation has viewed the council's Version 4 of draft conditions which will ultimately form part of Water Edge Development Application.

34. New Boundary Fencing

The new boundary fence consisting of a black batten fence is to be erected along the southern boundary 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.

The Owners Corporation considers that the colour bond fencing is more durable and maintenance free than a black batten fence.

The Owners Corporation will not agree to the dismantling of our colour bond fencing in preference of a black batten fence. A black batten fence will not reduce the impact of the development on the adjoining owners but instead in the long term would have an impact of a more economic nature.

The Owners Corporation will only agree to a 1.8 m colour bond fence along the southern boundary between the two properties.

The Owners Corporation requests that the Council and Development Panel revise clause 34 and replace the words "black batten fence" with a 1.8 m high colour bond fence.

Please contact writer to discuss this further.

Regards

Pamela Young

Secretary of Owners Corporation SP 72323

13/492 The Esplanade, Warners Bay NSW 2282

Po Box 886, Warners Bay NSW 2282

Redacted

CONFIDENTIALITY NOTICE

This email is intended only to be read or used by the addressee. It is confidential and may contain legally privileged information. If you are not the intended recipient, any use, distribution or copying of this email is strictly prohibited.

Confidentiality and legal privilege attached to this communication are not waived or lost by reason of the mistaken delivery to you. If you have received this email in error, please delete it and notify us immediately by telephone or email.

Appendix G – Public Submissions

The following tables provide an overview of the issues raised in the submission received in response to the re-notification of the amended application. Issues from the submission have been paraphrased/summarised.

Note, refer to the assessment report to the JRPP meeting of 7 December 2017 for detail of submissions previously made and the planning comment responses.

Issue / Concern	Planning Comment
The development will increase pedestrian traffic and therefore exacerbate pedestrian safety. The application does little to address this issue, noting the lack of data or evidence in relation to the misleading/unrealistic conclusions.	It is expected the development will increase pedestrian movement. The Traffic Impact Assessment provided by a consultant traffic engineer advises the increased movements is not significant enough to provide a nexus for the provision of additional external pedestrian infrastructure to the site and near the site. The report did however identify footpaths along the frontage will need to be upgraded. The development was referred to the RMS, which required no upgrading of The Esplanade and King Street roundabout to a signalised intersection. The RMS did raise concerns with jaywalking across King Street and require that any granting of consent be conditional that a fence be placed in the King Street median. Council's Traffic Engineer advised there is no evidence to suggest that King Street provides an unsafe pedestrian environment.

Lack of provision of safe crossing on The Esplanade or King Street, warranting signals	The existing arrangements for pedestrians to cross King Street or The Esplanade are either through signalised pedestrian crossings or via pedestrian refuges. A signalised crossing is located in King Street, a minimum of 32 metres from the development. The signalised crossing in The Esplanade is a minimum of 144 metres from the development via a pedestrian refuge at King Street. A further pedestrian refuge is located in The Esplanade. Refer to comment above regarding comment by the RMS and Council's Traffic Engineer regarding pedestrian movements and related infrastructure.
The development will impact on the already deficient parking in the locality	Refer to discussion under sections 4 and 5 of the assessment report with regard to parking. The development overall provides a compliant number of car parking spaces, however is below the minimum required for commercial and visitor parking (to be combined as shared parking). It is considered the oversupply of parking for residents will free up the visitor car parking by avoiding the typical overflow which occurs at medium/high density residential developments. In addition the visitor and commercial parking will somewhat offset each other. The shared parking will also be controlled through a management plan, to be provided as a condition of consent should consent be granted. The car parking for the shared spaces is one space short of the car parking specified by the JRPP at its meeting of 7 December 2017.

The revised setbacks provide minimal improvement in the impact of the building	Sections 2, 3 and 5 of this report outline the compliance of the development with development standards and planning controls of the LEP2014, DCP2014 and the ADG. Additionally Council's DRP has reviewed the setting/context, the building bulk and massing, setbacks and aesthetics and has endorsed the proposal. This endorsement recognised the changes in the positioning of the building bulk and mass relative to the southern boundary adjoining 492 The Esplanade and the northern boundary at King Street. Through the increased setback for The Esplanade tower off the southern boundary, improved landscape outcomes inclusive of deep soil areas has occurred. The increased setback has also afforded increased solar access to the units at 492 The Esplanade, with all units achieving 3 or more hours of solar access except two which receive 2 hours of solar access which are compliant with the ADG.
--	---

The proposed development is contradictory to the 2015 Warners Bay Town Centre Master Plan	The development has been assessed against the LEP2014 and DCP, inclusive of the Warners Bay Town Centre Plan. The assessment found the development to be generally compliant with the planning controls of the Town Centre Area Plan and achieved the desired future character as expressed in the Plan. Council's SEPP65 Design Review Panel similarly assessed the proposal in the context of the LEP2014, DCP as well as the ADG. The DRP supports the amended proposal, considering it to be in context with existing development at 6 King Street and 492 The Esplanade. For details of the assessment of the amended development against the Town Centre Area Plan refer to Section 5 and Appendix E of the report, and Sections 3 and Appendix D in relation to the DRP consideration of the matter.
Sets a precedence for more grossly oversized and tall development on The Esplanade	Refer to comment above regarding an assessment under the LEP2014 and DCP. Any future proposal will be considered against the planning controls in place at the time of lodgement/assessment, and depending on the proposal may be referred to the DRP for consideration and RPP for determination.

Object to existing fence on southern boundary with 496 The Esplanade being replaced with a black batten fence	The owners corporation for 496 The Esplanade, Warners Bay, being the property adjoining to the south of the development, viewed the draft conditions and submitted an objection to the common boundary fence being replaced with a black batten screen fence. The existing fence is a 1.8 metre high colorbond fence. The owners corporation advised it will only agree to the existing fence being replaced with a 1.8 metre high colour bond fence and requested the condition be modified accordingly. The recommended conditions have been amended to reflect this change.
--	---

Draft Conditions (Version4)

Development Consent No: DA/675/2017

Property Address: Lot 122 DP 578045, Lot 1 DP 1116535, Lot 2 DP 1116535, Lot 3 DP 32518, Lot 2 DP 155951, Lot 1 DP 155951, Lot 122 DP 578045, Lot 3 DP 155951, Lot 4 DP 32518 482 The Esplanade, WARNERS BAY NSW 2282, 486 The Esplanade, WARNERS BAY NSW 2282, 12 King Street, WARNERS BAY NSW 2282, 14 King Street, WARNERS BAY NSW 2282, 16 King Street, WARNERS BAY NSW 2282, 1 Howard Street, WARNERS BAY NSW 2282, 488 The Esplanade, WARNERS BAY NSW 2282

Description of Development: Mixed Use Development (Residential Flat Building, Commercial Premises And Associated Works)

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: Stewart Architecture; Project Number. 1635			
Name of Plan	Drawing Number	Issue	Date
Location & Drawing Schedule	DA000	H	7/03/2018
Plan -Site	DA007	H	7/03/2018
Development Summary	DA011	D	7/03/2018
Plan - Basement 1	DA101	J	7/03/2018
Plan - Lower Ground	DA102	K	7/03/2018
Plan - Upper Ground	DA103	L	7/03/2018
Plan - Level 2	DA104	J	7/03/2018
Plan - Level 3	DA105	J	7/03/2018
Plan - Level 4	DA106	J	7/03/2018
Plan - Level 5	DA107	J	7/03/2018
Plan - Level 6	DA108	J	7/03/2018
Plan - Level 7	DA109	J	7/03/2018
Plan - Roof	DA110	J	7/03/2018
Elevations – West/North	DA201	J	7/03/2018
Elevations – North/South	DA202	I	7/03/2018
Elevations - Internal	DA203	J	7/03/2018
Sections	DA301	J	7/03/2018
Sections	DA302	K	7/03/2018
Perspective	DA401	G	7/03/2018
Perspective	DA402	I	7/03/2018

Perspective	DA403	H	7/03/2018
Perspective	DA404	H	7/03/2018
Perspective	DA405	H	7/03/2018
Perspective	DA406	E	7/03/2018
Perspective	DA407	F	7/03/2018

Landscape Plans prepared by: Terras Landscape Architects; Project Number. 11159.5			
Name of Plan	Drawing Number	Issue	Date
Trees Removal	3	C	16/04/2018
Concept Plan	5	F	16/04/2018
Perspective 1	6	F	16/04/2018
Perspective 2	7	F	16/04/2018
Design Elements	8	F	16/04/2018
Plant Palette	9	F	16/04/2018
Concept Plan – Upper Ground	10	F	16/04/2018
Concept Plan – Level 02	11	F	16/04/2018
Perspective 1	12	F	16/04/2018
Perspective 2	13	F	16/04/2018
Perspective 3	14	F	16/04/2018
Perspective 4	15	F	16/04/2018
Sections	16	F	16/04/2018
Design Elements – Pavement	17	F	16/04/2018
Design Elements - Lighting	18	C	16/04/2018
Plant Palette	19	C	31/07/2017

(b) Document Reference:

Document	Reference	Author	Date
Statement of Environmental Effects		ADW Johnson	
Response to Council & SEPP Commentary		Stewart Architecture	
Preliminary Fire Safety Engineering Review	CA170039	Defire	21/11/2017
Landscape Design Report	11159.5	Terras Landscape Architecture	16/04/2018
Email Correspondence		ADW Johnson	5/12/2017

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. 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.

6. Commercial Tenancies

This development consent approves the occupation or use of the Commercial Tenancies under this consent for the purpose of Commercial Premises.

7. 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.

8. 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 City Council Development Contributions Plan Glendale Contributions Catchment - 2015, 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 City Council Development Contributions Plan Glendale Contributions Catchment - 2015 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.

9. Commencement of Works

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

10. Design Amendments

This development consent is subject to the following design amendments:

- A. Non-discriminatory access in accordance with Part D3 of the National Construction Code and AS 1427.1-2009 is to be provided for Tenancy 4 in terms of on-grade access to the upper level and outdoor area, and to accessible facilities.
- B. The entrances to adaptable unit types 1A and 3D require accessible entrance circulation spaces in accordance AS1428.2:1992-11.5.2 in pre-adaptive state to satisfy AS 4299.
- C. A continuous path of accessible travel throughout adaptable unit type 2B to provide access to a visitable toilet at the pre-adaptive state is to be provided.
- D. Details demonstrating compliance with AS1926.1-2012 and Part 3.9.3. Swimming Pools: of the National Construction Code.

- E. Sight distances are to be compliant with AS2890.1 CL 3.2.4 for the driveway entry off Howard Street.
- F. Sections for the carpark depicting the ramp long sections (grades and clearance).
- G. Clearance above shared spaces/disabled spaces to be a minimum 2500mm (AS2890.6 CL 2.4).
- H. Shared spaces /disabled spaces in the basement to comply with AS2890.6 (Fig 2.2) for access out of the rear of the shared space.
- I. Typical widths of parking spaces to be detailed on plans.
- J. Shared commercial/visitor parking spaces are to comply with Category 3 widths under AS2890.1 Fig. 2.2).
- K. The parking space Comm/Vis 17 is to be moved forward 1m to increase the reversing/manoeuvring area for Comm/Vis 23.
- L. Plans of the Lower Ground and Basement 1 car park levels which identify the location of storage lockers relative to parking spaces. All storage lockers shall be accessible without relying on the adjoining car parking space being vacant except where the storage locker and the car parking space relate to the same residential unit.
- M. The Bio Retention Area is to be located away from the street interface, preferably at the podium level. The Landscape Plans are to be amended to reflect the location of the Bio Retention Area and required/suitable plantings.

Revised plans incorporating the design amendments are to be submitted to and approved by Council prior to the release of the first or any Construction Certificate. The Principal Certifying Authority must not release the first or any Construction Certificate without evidence of Council having approved the revised plans.

11. Notice of Commencement of Works – Council Land

Construction works shall not commence on Council Land until a meeting between the contractor and a representative of Council's Project Management Section has taken place on site.

Council may require up to seven days notice in writing prior to such meeting taking place. This meeting will outline the LMCC Quality Assurance requirements for the project.

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

12. Construction Traffic Management Plan

A Construction Traffic Management Plan (CTMP) is to be submitted to Council's Asset Management Department for approval prior to release of the first or any Construction Certificate by the Principal Certifying Authority. The CTMP is to be implemented prior to the commencement of works and maintained until the completion of the development.

The CTMP is to include a Vehicle Movement Plan and Traffic Control Plan. It shall be prepared with the intention of minimising impact on the operation of the road network, damage to Council's assets and neighbouring properties.

13. 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

14. Footpaths

Full width footpaths shall be constructed/reconstructed along the full length of the street frontage, in accordance with the Warners Bay 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.

15. Geotechnical Report Compliance

The recommendations of the Geotechnical Report 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.

16. 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 and generally consistent with the Stormwater management Plan by Marline Building Services Engineers (reference 9157). 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 include rainwater tanks with a minimum 7500L capacity.

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.

17. Driveway Design and Construction

The driveway to the garage or car parking area of the development shall be designed and constructed in accordance with DCP 2014, the following requirements and Council Standard Drawing: EGSD-104 (available from Council's 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) The maximum gradient of the driveway shall not be steeper than 1V:5H (20%).
- (d) Suitable transition areas a minimum of 2 metres long shall be provided at the front boundary and at the entry to the garage or car parking area in accordance with AS 2890.1:2004.

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.

18. 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.

19. 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.

20. 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.

Designated accessible parking bays are to comply with AS2890.6.

The development and the communal facilities are to comply with the Access to Premises Standards 2010.

Unisex accessible toilet facilities and ambulant toilet facilities must comply with AS1428.1.

The Principal Certifying Authority must not release the first or any Construction Certificate with being satisfied as to the development's compliance with the above.

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.

21. Tactile Indicators

The development shall have tactile indicators installed in accordance with AS 1428.4 and the Warners Bay Streetscape Master Plan.

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.

22. 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.

Whilst construction is in progress the developer is to provide to Council on a monthly basis a report that stipulates any new observed defects and how those defects have been repaired.

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.

23. 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 due to the proposed works intercepting the water table, prior to commencement of construction work.

24. 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.

25. 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.

26. Landscape Works

Landscaping works shall be constructed in accordance with the approved landscape plans and documentation as prepared Terras in Job No. 11159.5, dated 31/7/2017..

All landscape works shall be implemented under the full supervision of an appropriately qualified landscape contractor and member of LNA Master Landscapers Association.

Street trees along King Street shall comprise 3x *Tristania laurina* 100lt planted at nominated centres along the northern streetscape, with paving designed to recognize the tree pits. Custom tree guards as per the Warners Bay Streetscape Master Plan (detail 6) and Warners Bay Streetscape Technical Guidelines. Street trees to be maintained by the proponent for 52 weeks.

Street trees along The Esplanade shall comprise 3x *Tristania laurina* 100lt planted at nominated centres within the road reserve with detailing as per the LMCC Landscape Standard Drawings Feb 2016 LSD-PLA-04. Standard tree guards as per the Landscape Standard Drawings Feb 2016 LSD-GUA-01. Street trees to be maintained by the proponent for 52 weeks.

Street trees along Howard Street shall comprise 2x *Callistemon 'Harkness'* 100lt planted at nominated centres along the streetscape and paving designed to recognize the tree pits. Custom tree guards as per the Warners Bay Streetscape Master Plan (detail 6) and Warners Bay Streetscape Technical Guidelines. Street trees to be maintained by the proponent for 52 weeks.

Landscape works shall conform to planting densities as scheduled with plants at nominated spacings in areas dedicated to planting. A concrete garden retaining edge shall be installed to all planting areas adjoining turf surfaces and all planted areas covered with minimum 100mm mulch to aid plant establishment.

All landscape works shall be maintained to achieve continuous healthy growth improving amenity and aesthetics over the site and meeting the aims for development in the zone.

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.

27. Public Domain Works – Softworks and Hardworks

A Construction Certificate application shall be lodged with and approved by Lake Macquarie City Council (LMCC) prior to any works commencing in the public domain. The plans are to be completed by a degree qualified landscape architect (category 3 landscape consultant) and comply with the approved landscape plans.

Plans are to include details and specification information suitable for construction with no generic reference to concept plans or Council guidelines. All plans to be consistent and cross-reference with engineering documentation.

The plans are to reference the standard hold and witness points listed below for hard and soft works and include contact details for LMCC Project Management Coordinator to assess and sign off on public domain works. Plans to include 52 week establishment phase for all works within the public domain.

All landscape and public domain works approved by the subdivision certificate application shall be coordinated during the construction period with Council's Project Management Coordinator contactable on 4921 0333. The following witness and hold points shall be observed:

Street Trees

Witness & Hold Points

- Set out of tree pits within existing concrete footpath (hold point).
- Excavation of tree pits with root barrier and sub-surface drainage installed in accordance with LMCC's Landscape Technical Drawings Feb 2016 – relevant street tree details (hold point).
- Evidence of certification of all associated imported topsoil for street tree planting in accordance with AS4419 – 2003 to be provided to Councils Project Management coordinator (hold point).
- Tree delivery prior to installation and certification to comply with AS2303-2015 'Tree Stock for Landscape Use' (hold point).
- Commencement of tree planting (witness point).
- Installation of each layer/horizon of growing medium (witness point).
- Completion of tree planting, including the installation of tree guards, in accordance with LMCC's Landscape Technical Drawings Feb 2016 (witness point).

Hardscape Works (as applicable)

- Form Work inspection (hold point)
- Pre pour inspections for pavement and pathways (hold point)
- Installation of tactile ground surface indicators as per manufacturers recommendations and Australian Standards
- Review of works as executed with Project Management officer prior to landscape compliance report sign off (hold point).

At the practical completion of works, the landscape consultant that produced the subdivision certificate application shall submit a Landscape Compliance Report to the LMCC Project Management Coordinator that certifies that all landscape works have received the relevant witness and hold point inspections, implemented and maintained

in accordance with this subdivision certificate application. This compliance report is required prior to LMCC issuing a compliance certificate for the works.

The landscape consultant that prepared the landscape subdivision certificate application shall submit two Landscape Maintenance Reports to LMCC Project Management Coordinator at 26 weeks and 52 weeks after practical completion. This report will certify that at 26 and 52 weeks after practical completion the approved public domain works are being satisfactorily maintained.

28. Roads And Drainage Construction Standards

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

- a. Australian Rainfall and Runoff, 1987.
- b. Council's DCP and supporting guidelines.
- c. AUSTROADS Guide to Road Design Guide.
- d. Roads and Martine 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:-
 - AS1428 - Design for Access and Mobility, Part 1 General Requirements for Access and Part 4 Tactile Indicators,
 - AS2890 - Off Street Parking

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

29. Roadways, Accessways And Footways

The applicant shall construct all works within the public domain as outlined within this consent prior to the issue of the first Occupation Certificate.

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

Traffic Control Standards

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

Notification to Neighbours

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

Roads & Maritime Services

The following conditions of the RMS are to be complied with prior to the release of the Occupation Certificate (Interim or Final):

The person with the benefit of this consent is to install traffic calming devices, such as speed cushions, to slow traffic in King Street between The Esplanade roundabout and the pedestrian signals near John Street.

All works associated with the subject development shall be undertaken at full cost to the developer and at no cost to Roads and Maritime or Council, and to Council's requirements.

Note:

1. As road works are required on The Esplanade and King Street (B89), Roads and Maritime will require the developer to enter into a WAD with Roads and Maritime. Roads and Maritime would exercise its powers and functions of the road authority, to undertake road works in accordance with Sections 64, 71, 72 and 73 of the Roads Act, as applicable, for all works under the WAD (Attachment A to correspondence by the RMS dated 20 April 2018).
2. The Conditions of Consent do not guarantee Roads and Maritime's final consent to the specific road work, traffic control facilities and other structures or works, for which it is responsible, on the road network. Roads and Maritime must provide a final consent for each specific change to the classified (State) road network prior to the commencement of any work.

The WAD process, including acceptance of design documentation and construction, can take time. The developer should allow sufficient lead time within the project development program to accommodate this process. It is therefore suggested that the developer work through this process as soon as possible with the Roads and Maritime.

Notice of Commencement of Works for Public Domain

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

In accordance with Section 81A(4) the PCA must 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.

Works as Executed Plan For Public Domain Works

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

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

Compliance Certificate for Public Domain Works

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

An application for the Compliance Certificate and associated application fees shall be submitted prior to the commencement of works identified on the respective Construction Certificate.

The Compliance Certificate will be required to be issued prior to the issue of the Subdivision Certificate.

Where Council is the Principal Certifying Authority for a subdivision an application for a Compliance Certificate can only be made to Lake Macquarie City Council.

30. Application Fees for Required Public Domain Works Certificates

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

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

Public Domain Works Construction Certificate **\$ 1500** Plus **\$65** Archival Fee (inc GST)

Public Domain Works Compliance Certificate **\$ 1700** Plus **\$65** Archival Fee (inc GST)

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

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

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

31. 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

32. Consolidation of Lots

Prior to the issue of the first or any Construction Certificate, Lot 122 DP 578045, Lots 1 & 2 DP 1116535, Lots 3 & 4 DP 32518, Lots 1, 2 & 3 DP 155951, shall be consolidated and registered at the Land and Property Information Services and a copy of the registered plan shall be provided to Council.

33. 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.

34. New Boundary Fencing

The new boundary fence consisting of a 1.8 metre high colorbond fence is to be erected along the southern boundary 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.

35. 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.

36. Car Parking and Allocation of Spaces

A total of 227 car parking spaces and 1 car wash bay 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	184 spaces
Shared Spaces for Commercial & Residential Visitors	36 spaces
Commercial Units	7 spaces (1 per Unit)
Disabled car spaces	12 spaces (1 per Adaptable Residential Unit and 1 for Commercial/Residential

	Visitors)
Car Wash Bay	1 space

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 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.

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.

37. Visitor/Commercial Car Parking

- A. Prior to the release of the first or any Construction Certificate, a Visitor/Commercial Car Park Management Plan is to be submitted to Council for approval. The Management Plan is outline a strategy for turning over the usage of the Visitor/Commercial car parking between the hours of 8am and 6pm

The Principal Certifying Authority must not release the first or any Construction Certificate without evidence of Council having approved the Car Parking Management Plan.

- B. All visitor/commercial car parking spaces shall be clearly marked and signposted and made available for use at all times by visitors and employees / clientele.

The car parking spaces shall not be fitted with any equipment serving to render the car park inaccessible at any time, with the exception to restrict ingress to the Lower Ground Car Park between the hours of 9pm and 7am.

No spaces shall be marked, signposted or otherwise identified as being for the sole use of staff only.

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

38. Motorbike Parking

Motorbike parking shall be provided to accommodate 10 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.

39. Bicycle Parking and Facilities

Bicycle parking shall be provided to accommodate a minimum 20 bicycles on the site in accordance Section 5.3 of Part 4 of DCP2014.

The bicycle parking is to be split between being provided at street level and in a secure facility in the Lower Ground car park.

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.

40. 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 a Final Occupation Certificate.

Prior to the issuing of a Final Occupation Certificate, the applicant shall engage a Traffic Engineer to inspect the Basement 1 and Lower Ground car parks to determine any additional safety measures such as convex mirrors, signage and the like. Any recommended measures are to be installed prior to the issuing of an Occupation Certificate.

41. 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.

42. External Storage of Products

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

43. Hours of Operation

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

Mondays to Fridays

7am to 10pm (inclusive of outdoor dining)#

Saturdays

7am to 10pm (inclusive of outdoor dining)#

Sundays and Public Holidays

8am to 6pm (inclusive of outdoor dining)*

7am to 8am and 6pm to 9pm (internal operations)*

- # All customers are to have completed dining and the outdoor dining furniture is to be removed prior to 10pm.
- * 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.

44. 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.

45. Cladding

Where metal cladding material is to be used on the external walls, a report by a suitably qualified Fire Engineer is to be submitted to the Principal Certifying Authority verifying the cladding material is non-combustible and compliant with the National Construction Code.

The Principle Certifying Authority must not release the first or any Construction Certificate prior to receiving the report.

46. External Material Reflection

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

47. 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.

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.

48. Underground Electrical Services

The development is to be serviced by underground electrical services. All above ground power lines fronting the development site on Howard Street (western side), King Street (southern side) and The Esplanade (eastern side) are to be removed and placed underground subject to the requirements of Ausgrid.

An exception to the above is permitted whereby poles are retained/installed for street lighting and to provide connection via overhead power lines to the northern side of King Street.

49. 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.

50. 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.

51. 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.

52. 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.

53. Construction Parking Plan

A Construction Parking Plan shall be prepared and submitted to the Principal Certifying Authority prior to the release of the Construction Certificate.

This Plan shall detail the locations at which construction employees/contractors park their vehicles, and the options available regarding public transport. The Plan is to be provided to all construction employees and contractors as part of the site induction process.

The purpose of the Plan is to minimise the impacts to adjoining land owners and public/commercial car parking facilities in the locality.

54. 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.

55. Waste Management

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

Prior to release of the first or any Construction Certificate, the person having the benefit of this consent is to submit documentary evidence to the Principal Certifying Authority

of the engagement of a waste contractor who will service the development in a manner consistent with the approved Waste Management Plan.

56. Linemarking and Signposting for Public Roads

All regulatory linemarking and sign posting on Public roads shall be submitted to Council's Traffic Facilities & Road Safety Committee.

The works shall not commence until approved by the Committee and a Construction Certificate issued by the Council.

The submission to the Traffic Facilities & Road Safety Committee must include the following details:

Loading Zone hours are restricted 7am to 10am Monday to Saturday

1P Parking restricted to 10am to 6pm Monday to Saturday

57. 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.

58. 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.

59. 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.

60. 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.

61. 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.

62. 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.

63. 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.

64. 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 Council's 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.

65. 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.

66. 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.



67. 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.

68. On-Street Delivery/ Loading Zone

The on-street delivery/loading zone adjoining the development on the western side of Howard Street, between the driveway entry/exit and the King Street intersection shall be submitted to Council's Traffic Facilities & Road Safety Committee. The works shall not commence until approved by the Committee and a Construction Certificate issued by the Council.

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 the Project Specific noise Levels which have been logged and calculated by Spectrum Acoustics and outlined in their Noise Impact Assessment, project number 171395, dated April 2017.

Prior to the issue of an Interim or Final Occupation Certificate, whichever occurs first, certification from a suitably qualified acoustic consultant shall be submitted to the Principal Certifying Authority, demonstrating compliance with the above.

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

If the construction period is 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 Noise Guideline for Local Government.

72. 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.

73. Acoustic Certification

The recommendations contained in the acoustic report prepared by Spectrum Acoustics, project number 171395 dated April 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.

74. Liquid Gaseous Wastes, Emissions and Odour Control

Emissions shall be responsibly managed at all times, so as not to cause a danger to public health or loss of amenity or damage to the environment.

Any liquid gaseous wastes, emissions or odours shall be controlled and disposed of in accordance with the *NSW Protection of the Environment Operations Act 1997* and *Regulations 1997*, as amended.

Where it is proposed to treat and discharge waters to the Hunter Water Corporations Sewer, formal approval from the Corporation shall be obtained.

75. 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.

76. Swimming Pool

The pool safety barrier shall comply and be constructed in accordance with the provisions of the *Swimming Pools Act 1992*, *Swimming Pools Regulation 2008* and Australian Standard AS-1926-2007.

A switchboard shall not be installed within or above the swimming pool zone or spa pool zone nor within a sauna, pursuant to AS 3000 - 2007 - Electrical Installations.

Swimming pool waste water shall be disposed to comply with the following:

Backwashing systems, emptying and waste water from vacuuming systems, shall discharge into the sewerage system in accordance with the Hunter Water Corporation requirements.

The swimming pool/spa water recirculation and filtration system installation shall comply with AS 1926.3-2003 Swimming pool safety - Water recirculation systems.

77. Contaminated Land Remediation and Validation

Prior to commencement of works associated with the built form of the development:

- (a) The site shall be remediated in accordance with the Remediation Action Plan (RAP) dated the 28th March 2017, prepared by Coffey, and
- (b) A suitably qualified and experienced contaminated land consultant shall validate that 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).
- (c) The validation report shall include a clear statement that the consultant considers the subject site to be suitable for the proposed 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.

CONTRIBUTION FEE SCHEDULE

DESCRIPTION	FEE AMOUNT
GWR-Open Space & Recreation Facilities-Capital-CPI	\$834,216.99
GWR-Open Space & Recreation Facilities-Land-LVI	\$149,363.19
GWR-Open Space & Recreation Facilities-Land-CPI	\$4,542.50
GWR-Roads-Capital-R003/R005/R008/R009/R011-CPI	\$-161.93
GWR-Roads-Capital-R002-CPI	\$-53.79
GWR-Roads-Land-R005/R008-LVI	\$-0.76
GWR-Roads-Land-R002-LVI	\$-0.90
GWR-Public Transport Facilities-CPI	\$5,733.96
GWR-Community Facilities-Capital-CPI	\$217,435.01
GWR-Community Facilities-Land-LVI	\$25,349.25
GWR-Plan Preparation & Administration-CPI	\$46,393.15
	TOTAL \$1,282,816.67