

ATTACHMENT 1 – Recommended Conditions of Consent

SCHEDULE 1

REASONS WHY THE CONDITIONS HAVE BEEN IMPOSED

The following conditions are applied to:

- confirm and clarify the terms of Council's Approval;
- identify modifications and additional requirements that will result in improved compliance, development and environmental outcomes;
- prevent, minimise, and/or offset adverse environmental impacts including economic and social impacts;
- set standards and performance measures for acceptable environmental performance; and
- provide for the ongoing management of the development.

CONDITIONS THAT IDENTIFY APPROVED PLANS

1. The development shall be carried out in accordance with the stamped approved plans and documentation as listed below, except where modified by any condition of this consent or as shown in red colour on the plans.

Plan/Doc.Title	Plan Ref. No	Sheet.	Date	Drawn By
Development Plans	3716	DA1004, DA1101, DA2101 to DA2104, DA3101 and DA 3102	05.09.17	SHAC
Sediment and Erosion Plan	17-5206	C2	August 2017	Michael Fitzgerald
Stormwater Management Plan	17-5206	C2 and C3	August 2017	Michael Fitzgerald

Note 1: In the event of any inconsistency between the:

- Approved plans and the conditions, the conditions will prevail; or
- Approved plans and supplementary documentation, the plans will prevail.

Note 2: The consent relates only to those works indicated as proposed on the approved plans. No assessment has been undertaken of those structures marked as existing, and this consent does not extend to include any such structures.

Note 3: Modifications to the approved plans will require the lodgement and consideration by Council of a modification application pursuant to Section 4.55 of the *Environmental Planning and Assessment Act 1979*.

2. The development is to be carried out in accordance with the General Terms of Approval issued by the NSW Rural Fire Service (Ref: D17/3519 Date: 2 March 2018). A copy of the GTA's is included as Schedule 3 of this consent.

CONDITIONS THAT IDENTIFY OTHER APPROVALS REQUIRED

3. **Prior to issue of the Construction Certificate** a Compliance Certificate under Section 50 of the Hunter Water Act 1991, for this development, shall be submitted to the Principle Certifying Authority.

CONDITIONS THAT IDENTIFY CONTRIBUTIONS AND FEES

4. A monetary contribution is to be paid to Council, pursuant to section 80A(1) of the Environmental Planning and Assessment Act 1979 and the Port Stephens Section 94A Development Contributions Plan, related to the Capital Investment Value (CIV) of the development as determined in accordance with clause 25j of the *Environmental Planning and Assessment Regulation 2000* and outlined in the table below.

Capital Investment Value	Levy Rate (% of CIV)
Up to and including \$100,000	Nil
More than \$100,000 and up to and including \$200,000	0.5%
More than \$200,000	1%

The payment of the S94A contribution is to be accompanied by a Cost Summary Report Form (attached) setting out an estimate of the CIV in accordance with Schedule 1 of the Port Stephens Section 94A Development Contributions Plan, must be approved by Council prior to issue of the Construction Certificate. Where the estimated cost of carrying out the whole of the development is more than \$1,000,000, the Cost Summary Report Form must be completed by a Quantity Surveyor who is a registered Associate member or above, of the Australian Institute of Quantity Surveyors. This condition cannot be taken to be satisfied until a payment has been made in accordance with the CIV stated on a cost summary report submitted to Council in accordance with this condition.

Payment of the above amount shall apply to Development Applications as follows:

Building work only - **prior to issue of the Construction Certificate.**

Note: The amount of contribution payable under this condition has been calculated at the time of determination and in accordance with the Port Stephens Section 94A contributions plan. The contribution amount is valid for twelve months from the consent date. Should payment take place after twelve months the contribution shall be INDEXED at the time of actual payment in accordance with movement in the Consumer Price Index as published by the Australian Bureau of Statistics.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

The following conditions are to be complied with, to the satisfaction of the Certifying Authority, prior to the issue of the Construction Certificate.

5. **Prior to the issue of a Construction Certificate**, detailed engineering plans for civil works in accordance with the approved plans are to be submitted to the Certifying Authority. The detailed plans are to be in accordance with Council's Infrastructure Specification and include the following information:
 - a. Plans for all civil works within a road reserve, approved by the Roads Authority and consistent with this condition;
 - b. Details of any required regulatory signage, approved by the Local Traffic Committee and consistent with this condition;
 - c. Concrete foot path 1.5 metres wide adjacent to the development along the frontage of numbers 184 and 186 Salamander Way;
 - d. Street lighting featuring Class P3 lighting in accordance with AS/NZS 1158 including the provision of current best practice energy efficient luminaires;
 - e. Any associated works to ensure satisfactory transitions to existing infrastructure;
 - f. The removal of redundant vehicle driveway and kerb layback and reinstatement as new kerb and gutter.
6. **Prior to the issue of a Construction Certificate**, detailed design plans for upgrades to the existing bus stop on Salamander Way and associated infrastructure, prepared in accordance with Port Stephens Council's Infrastructure Specification are to be submitted to Council as the Roads Authority and are to include:
 - a. A sealed bus layby area;
 - b. Disability Standard for Accessible Public Transport compliant associated infrastructure (including landing area, connecting pathways and tactile indicators);
 - c. A concrete pad sufficient to install a proprietary bus shelter in the future, with minimum dimensions 2.5m x 5.2m;
 - d. 1.5m reinforced concrete pathway connecting to the existing footpath.
7. **Prior to the issue of a Construction Certificate**, a geotechnical assessment of the site is to be undertaken to determine whether the development works will disturb Acid Sulfate Soils (ASS). Should ASS be encountered within the zone of works an ASS Management Plan is to be prepared by a suitably qualified engineer and submitted to the Certifying Authority for approval.

The recommendations and/or mitigation measures contained within the Acid Sulfate Soils (ASS) Management Plan shall be complied with during works.
8. **Prior to the issue of the Construction Certificate for the Stage 1**, a Construction Environmental Management Plan (CEMP) is to be submitted to the Certifying Authority. The required CEMP must outline the sequence and construction methodology and specify mitigating measures to ensure all works are carried out with minimal environmental impact in relation to project staging, waste management,

traffic management and environmental management. The CEMP must include but is not limited to:

- a. Soil and Water Management Plan (including erosion and sediment control measures);
- b. Traffic Management measures in accordance with the approved plans;

9. **Prior to issue of any Construction Certificate**, a detailed stormwater drainage plan is to be submitted to the certifying authority for a system capable of catering for a range of rainfall scenarios up to and including the 1% AEP Rainfall Event. The detailed plans are to be in accordance with Councils Infrastructure Specification as well as the current Australian Rainfall and Runoff guidelines using the current Hydrologic Soil Mapping data for Port Stephens available from Council, and include the following information:

- a. On-Site Stormwater Detention (OSD) via on-site infiltration with supporting calculations;
- b. Stormwater pit and pipe networks directed to OSD;
- c. An emergency overland flow path for major storm events, that is directed to a legal point of discharge and/or the existing drainage system;
- d. Conveyance where necessary, of stormwater through the site from upstream catchments, (including roads and adjoining properties);
- e. Detailed pavement finished surface levels, to ensure stormwater runoff catchment and its direction into the detention system;
- f. Water quality control devices that comply with the requirements of the Port Stephens Development Control Plan 2014.

10. **Prior to the issue of a Construction Certificate**, detailed structural engineering plans shall be submitted to the PCA for approval prior to issue of the Construction Certificate.

The details shall be in accordance with this consent, the BCA and Council's Design and Construction Specifications and include the following:

- a. Structural details for any concrete or masonry drainage structures designed to withstand loadings;
- b. Structural details for any boundary retaining walls;

11. **Prior to the issue of a Construction Certificate**, an Operation and Maintenance Plan for the stormwater system shall be prepared by a suitably qualified engineer, detailing a regular maintenance programme for infiltration and pollution control devices and porous pavements, covering inspection, cleaning and waste disposal, a copy of which shall be supplied to the owner/operator.

CONDITIONS TO BE SATISFIED PRIOR TO DEMOLITION, EXCAVATIONS OR CONSTRUCTION

The following conditions are to be complied with prior to the commencement of works on the subject site(s).

12. **At least two days prior to the commencement of works**, the applicant shall submit to Council a "Notice of Commencement and Appointment of Principal Certifying Authority" form.
13. **Prior to the commencement of works**, the applicant is required to notify Council in writing of any existing damage to public infrastructure (including landscaping) within the vicinity of the development, the absence of such notification signifies that no damage exists.
14. **Prior to the commencement of work**, a 3m wide all-weather vehicle access is to be provided from the kerb and gutter to the building under construction for the delivery of materials and use by trades people. No materials, waste or the like are to be stored on the all-weather access at any time except with the agreement of the Principle Certifying Authority.
15. **Prior to the commencement of works**, a waste containment facility is to be established on site. The facility is to be regularly emptied, and maintained for the duration of works. No rubbish shall be stockpiled in a manner which facilitates the rubbish to be blown or washed off site. The site shall be cleared of all building refuse and spoil immediately upon completion of the development.
16. **Prior to the commencement of works**, the property shall be protected against soil erosion, such that sediment is not carried from the construction site by the action of stormwater, wind or "vehicle tracking". Protection measures may include erosion and sedimentation controls as required. All protection measures are to be installed to the satisfaction of Council and must be regularly maintained for the duration of works and until the site is stabilised by vegetation or the like.
17. **Prior to the commencement of applicable works** the Applicant shall apply to Council (or the relevant Authority) for all necessary permits including but not limited to; crane permits, road opening permits, hoarding or scaffolding permits, footpath occupation permits and/or any other approvals under Section 68 (Approvals) of the *Local Government Act 1993* or Section 138 of the *Roads Act 1993*.

CONDITIONS TO BE SATISFIED DURING WORKS

The following conditions are to be complied with during works.

18. A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the Site at all times and shall be readily available for perusal by any officer of Council or the Principal Certifying Authority.

19. All building work must be carried out in accordance with the provisions of the Building Code of Australia and where applicable the Disability (Access to Premises – Buildings) Standards 2010
20. Where no sanitary facilities currently exist onsite for construction workers toilet accommodation for all tradespersons shall be provided from the time of commencement until the building is complete. The toilet facilities shall be located so as to have minimal impact of adjoining properties and shall not be placed on the road reserve, without separate approval from Council.
21. Construction work that is likely to cause annoyance due to noise is to be restricted to the following times:-
 - * Monday to Friday, 7am to 6pm;
 - * Saturday, 8am to 1pm;
 - * No construction work to take place on Sunday or Public Holidays.

All possible steps should be taken to silence construction site equipment.
22. It is the responsibility of the applicant to erect a PCA sign (where Council is the PCA, the sign is available from Council's Administration Building at Raymond Terrace or the Tomaree Library at Salamander Bay free of charge). The applicant is to ensure the PCA sign remains in position for the duration of works.
23. A waste containment facility shall be provided on the construction site immediately after the first concrete pour for the building and is to be regularly serviced. Council may issue 'on the spot' fines for pollution/littering offences under the Protection of the Environment Operations Act 1997.
24. A fire safety certificate as prescribed by Section 174 Environmental Planning & Assessment Regulations 2000 which certifies the performance of the implemented fire safety measures in accordance with Section 170 of the Regulation must be submitted to the Principal Certifying Authority and the Commissioner of New South Wales Fire Brigades. A copy of fire safety certificate needs to be forwarded to Council, If Council is not nominated as the Principal Certifying Authority. A further copy of the certificate must also be prominently displayed in the building.
25. A temporary toilet(s) shall be provided and maintained on site from the time of commencement of building work to completion. The number of toilets provided shall be one toilet per 20 persons or part thereof employed on the site at any one time. The temporary toilet is to be either connected to the sewerage system or an approved septic tank or otherwise may be a chemical toilet supplied by a licensed contractor.
26. Suitable and adequate measures are to be applied to restrict public access to the site and building works, materials and equipment.

27. All excavated and/or filled areas are to be retained or battered and suitably drained so as to prevent any subsidence of the surrounding land and constructed so as to deny any flow of water into or around the building or neighbouring buildings or onto neighbouring land.
28. The only fill material that may be received at the development site is:
 - a. Virgin excavated natural material (VENM) within the meaning of the *Protection of the Environment Operations Act 1997 (POEO)*; or
 - b. Any other waste-derived material the subject of a resource recovery exemption under s.91 of the *Protection of the Environment Operations (Waste) Regulation 2014* that is permitted to be used as fill material.

Any waste-derived fill material the subject of a resource recovery exemption received at the development site must be accompanied by documentation as to the material's compliance with the exemption conditions and must be provided to the Principal Certifying Authority.

29. All associated excavations and backfilling associated with the development must be executed safely and in accordance with the appropriate professional standards, and must be properly guarded and protected to prevent them from being dangerous to life or property.

CONDITIONS TO BE SATISFIED PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE

The following conditions are to be complied with, to the satisfaction of the Principal Certifying Authority, prior to the issue of wither an Interim or Final Occupation Certificate (as specified within the condition).

30. **Prior to the issue of any Occupation Certificate**, the Principal Certifying Authority shall be satisfied that the development has been constructed in accordance with approved plans, specifications and conditions of this consent. No occupational use is permitted until the Principal Certifying Authority issues an Occupation Certificate.
Note: The Principal Certifying Authority must submit a copy of the Occupation Certificate to Council, with all associated documentation, within two days of it being issued.
31. **Prior to the issue of any Occupation Certificate**, a Final Occupation Certificate is to be issued for DA No.16-2016-770-1 for the Construction of a Car Park, Playground Extension of Relocation of Fire Trail.
32. **Prior to the issue of any Occupation Certificate**; certification from a Chartered Professional Structural Engineer confirming that the building has been completed in accordance with the detailed structural engineering design shall be submitted to the Principal Certifying Authority/

33. **Prior to the issue of any Occupation Certificate**, the applicant shall restore, replace or reconstruct any damaged sections of kerb and guttering, road pavement, stormwater, or any other public infrastructure located within the Road Reserve which results from construction activities, as determined by Council's Development Engineers or Civil Assets Engineers. The applicant shall bear all associated costs with restoring the public infrastructure to satisfaction of the Council.
34. **An Occupancy Certificate** shall not be issued until all necessary remediation and repair works have been completed to the satisfaction of Council
35. **Prior to the issue of an Occupation Certificate**, whichever occurs first, works-as-executed plans and an accompanying report prepared and certified by a suitably qualified hydraulic engineer confirming all stormwater drainage systems are constructed in accordance with the approved plan shall be submitted to the Principle Certifying Authority for assessment.
36. **Prior to the issue of an Occupation Certificate**, all stormwater and drainage works required to be undertaken in accordance with this consent shall be completed.

CONDITIONS TO BE SATISFIED AT ALL TIMES

The following conditions are to be complied with at all times.

37. The stormwater system, including any water quality or quantity components, shall be maintained in perpetuity for the life of the development.
38. Immediately following the installation of any roof, collected stormwater runoff from the structure must be connected to a stormwater drainage easement/system.
39. At least once in each twelve (12) month period, fire safety statements as prescribed by Section 175 Environmental Planning & Assessment Regulations 2000 in respect of each required essential fire safety measure installed within the building are to be submitted to Council. Such certificates are to state that:
 - a. The service has been inspected and tested by a person (chosen by the owner of the building) who is competent to carry out such inspection and test; and
 - b. That the service was or was not (as at the date on which it was inspected and tested) found to be capable of operating to a standard not less than that specified in the fire safety schedule for the building.

ADVISORY NOTES

The following advice is limited in scope and should not be understood to encompass all areas of responsibility of the consent holder, relating to the development.

- A. The Applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

- B. Before any excavation work starts, contractors and others should phone the “Dial Before You Dig” service to access plans/information for underground pipes and cables. www.dialbeforeyoudig.com.au
- C. **Prior to occupying the development or Subdivision Certificate Release**, whichever occurs first, Council's Spatial Services Team should be contacted via email at: addressing@portstephens.nsw.gov.au to obtain correct property addressing details. Please state your Development Approval number and property address in order to obtain the correct house numbering. Note: any referencing on Development Application plans to house or lot numbering operates to provide identification for assessment purposes only.
- D. You are advised that, in accordance with the EP&A Act, (Section 6.8) payment of the building industry Long Service Leave levy, where applicable, must be paid **prior to issue of any Construction Certificate**.
- E. The erection of dividing fences under this consent does not affect the provisions of the *Dividing Fences Act 1991*. Under this Act, all relevant parties must be in agreement prior to the erection of any approved dividing fence/s under this consent.

Council has no regulatory authority in this area and does not adjudicate civil disputes relating to the provision of, or payment for, the erection of dividing fences. If there is a neighbour dispute about the boundary fence and you are seeking mediation, you may contact the Community Justice Centre, or if legal advice or action is required, you may contact the Chamber Magistrate

SCHEDULE 2

RIGHT OF APPEAL

If you are dissatisfied with this decision:

- a review of determination can be made under Section 8.2 of the Act, or
- a right of appeal under Section 8.7 of the Act can be made to the Land and Environment Court within six (6) months from the date on which that application is taken to have been determined.

NOTES

- This is not an approval to commence work. Building works cannot commence until a construction certificate is issued by Council or an accredited certifier.
- Consent operates from the determination date. For more details on the date from which the consent operates refer to Section 4.20 of the Environmental Planning and Assessment Act 1979.
- Development consents generally lapse five years after the determination date, however different considerations may apply. For more details on the lapsing date of consents refer to Section 4.53 of the Environmental Planning and Assessment Act 1979.

SCHEDULE 3

APPROVAL UNDER SECTION 4.12(3)



Notice of Determination

Under Section 4.16, 4.17 and 4.18(1)(a) of the Environmental Planning and Assessment Act 1979 (NSW).

All communications to be addressed to:

Headquarters
15 Carter Street
Lidcombe NSW 2141

Telephone: 1300 NSW RFS
e-mail: records@rfs.nsw.gov.au

Headquarters
Locked Bag 17
Granville NSW 2142

Facsimile: 8741 5433



The General Manager
Port Stephens Council
PO Box 42
RAYMOND TERRACE NSW 2324

Your Ref: 16-2017-647-1
Our Ref: D17/3519
DA17101009626 EJ

ATTENTION: Samuel Harvey

2 March 2018

Dear Sir/Madam

Integrated Development for 1//847022 176 Salamander Way Salamander Bay

I refer to your letter dated 4 October 2017 seeking general terms of approval for the above Integrated Development in accordance with Section 91 of the 'Environmental Planning and Assessment Act 1979'.

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

Asset Protection Zones

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

1. At the commencement of building works and in perpetuity an asset protection zone (APZ) with a minimum width of 50 metres, managed to the standard of an inner protection area (IPA), as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones' shall be provided around the proposed works. The layout of the APZ shall generally comply with Figure 1-1: Site Map of the supplementary bush fire report.



Where the APZ extends offsite to the west, southwest and south the land shall be managed in accordance with the Deed of Commercial Licence with Port Stephens Council (or any other future land holder) in perpetuity. This is as confirmed in the correspondence prepared by Port Stephens Council's Property Development Coordinator in Appendix H of the supplementary bush fire report prepared by Firebird ecoSulaants Pty Ltd (received 12 February 2018).

Water and Utilities

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

2. Water, electricity and gas are to comply with sections 4.1.3 and 4.2.7 of 'Planning for Bush Fire Protection 2006'.

Evacuation and Emergency Management

The intent of measures is to provide suitable emergency and evacuation (and relocation) arrangements for occupants of special fire protection purpose developments. To achieve this, the following conditions shall apply:

3. An updated Bush Fire Emergency Management and Evacuation Plan shall be prepared consistent with 'Development Planning- A Guide to Developing a Bush Fire Emergency Management and Evacuation Plan December 2014'.

Design and Construction

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

4. New construction shall comply with Sections 3 and 5 (BAL 12.5) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' or NASH Standard (1.7.14 updated) 'National Standard Steel Framed Construction in Bushfire Areas – 2014' as appropriate and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection 2006'.

For any queries regarding this correspondence please contact Emma Jensen on 1300 NSW RFS.

Yours sincerely

Nika Fomin
Manager, Planning and Environment Services (East)

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