

30 November 2017

**NOTICE TO APPLICANT OF DETERMINATION  
OF A DEVELOPMENT APPLICATION**

Mr A McDonald  
Bathurst Regional Council  
158 Russell Street  
BATHURST NSW 2795

being the applicant in respect of **Development Application No 2017/212**.

Pursuant to section 81(1)(a) of the Environmental Planning and Assessment Act 1979, as amended, notice is hereby given of the determination by Council of Development Application No 2017/212, relating to the land described as follows:

**LOT: 5 DP: 847225, LOT: 3 DP: 833295, 197 LIMEKILNS ROAD KELSO, MARSDEN LANE KELSO**

The Development Application has been determined by GRANTING consent to the following development:

**150 LOT RESIDENTIAL SUBDIVISION & ASSOCIATED ROADS, DEMOLITION OF BUILDINGS & REMOVAL OF TREES**

Building Code of Australia building classification **n/a**.

***IMPORTANT NOTICE TO APPLICANT***

If this consent relates to a subdivision or to the erection of a building, one of the conditions listed below will require you to obtain a construction certificate prior to carrying out any work. **YOU MUST NOT COMMENCE WORK UNTIL YOU HAVE RECEIVED THE CONSTRUCTION CERTIFICATE**, even if you made an application for a construction certificate at the same time as you lodged this development application. Due to changes in the law relating to planning and building approvals, Council is unable to issue the construction certificate with the development consent. If there are no conditions in this development consent which need to be met before Council issues the construction certificate, and if your plans comply fully with the Building Code of Australia, the construction certificate will be forwarded to you shortly.

This consent is issued subject to the following conditions and reasons:

**PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

- 1. The developer is to complete and submit to Council for approval a completed Council Waste Management Plan for the buildings to be**

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**Reference:** DDWY:CB:DA/2017/212

**Enquiries:** Mr D J Dwyer 02 6333 6212

Bathurst – 5 DP847225, Lot 3 DP833295, 197 Limekilns Road & Marsden Lane, Kelso subject to conditions.DOC

**demolished (enclosed). The Plan shall include, but not be limited to, the following:**

- **The types of waste to be handled;**
- **Volume of each waste;**
- **Management and storage of waste:**
- **Method of waste disposal;**
- **Method of waste transport; and**
- **Disposal location.**

REASON: To ensure that the waste is transported to, and disposed of at, a facility that can lawfully receive the specific type of waste involved. Section 79C(1)(b) & (e) of the Environmental Planning and Assessment Act 1979, as amended.

2. **The applicant is to submit three copies of engineering plans, specifications and calculations in relation to:**
- **Water infrastructure;**
  - **Sewer infrastructure;**
  - **Drainage infrastructure;**
  - **Energy dissipating structures;**
  - **Road construction;**
  - **Shoulder, kerb and gutter construction; and**
  - **Battle-axe driveway construction.**

**Further, the works are to comply with Bathurst Regional Council's Guidelines for Engineering Works.**

REASON: Because it is in the public interest that the design of that (those) aspect(s) of the development comply with Council's Engineering Guidelines. Section 79C(1)(c) and (e) of the Environmental Planning and Assessment Act 1979, as amended.

3. **The developer is to submit a soil and water management plan for the site in accordance with Bathurst Regional Council's Guidelines for Engineering Works. No building, engineering, or excavation work, or topsoil stripping or vegetation removal, is to be carried out in relation to this development until such time as approval has been granted by Council. Upon certification, the measures in the Soil and Water Management Plan are to be implemented during the course of the development.**

REASON: To minimise the risk of soil erosion and water pollution. Section 79C(1)(b) and (d) of the Environmental Planning and Assessment Act 1979, as amended.

4. **The payment to Council of:**

- a) **\$894,885.00 for the provision of community facilities in accordance with Council's Section 94 Contributions Plan "Bathurst Regional Community Facilities".**
- b) **\$219,705.00 for stormwater drainage management in accordance with Council's Section 94 Contributions Plan "Raglan Creek Stormwater Drainage Management".**
- c) **\$566,250.00 for the upgrading of roads in the Windradyne, Llanarth, Abercrombie, Eglinton and Kelso areas in accordance with Council's Section 94 Contributions Plan "Roadworks - New Residential Subdivisions".**
- d) **\$309,585.00 for the purchase of open space within Windradyne, Llanarth, Perthville and Kelso in accordance with Council's Section 94 Contributions Plan "Bathurst Regional Open Space".**

**All monetary conditions are to be paid prior to the issuing of any Construction Certificates.**

**NOTE 1: All monetary conditions are reviewed annually, and may change as of 1 July each year.**

**NOTE 2: Copies of all Council's Section 94 Contribution Plans may be inspected at Council's offices.**

REASON: Because, having considered the matter in accordance with Section 94 of the Environmental Planning and Assessment Act 1979, as amended, the Council is satisfied that the development will require the provision of, or increase the demand for, these public amenities or services within the area. Section 80A(1)(h) of the Environmental Planning and Assessment Act 1979, as amended.

5. **The developer is to make a payment to Council of \$200.00 for the provision of each street sign.**

**NOTE: The developer is to make provision for 18 new street signs.**

REASON: Because it is in the public interest that street signs be erected. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

6. **The Developer is to plant (or contribute the sum of \$363.40 per lot for the planting of) advanced street trees in the footway in the front of each lot. This monetary contribution is to be paid to Council prior to the issuing of any Construction Certificates.**

REASON: It is in the public interest to improve the visual amenity of the area by planting street trees. Section 79C(1)(b) and (e) of the Environmental Planning and Assessment Act 1979, as amended.

7. **The developer is to apply to Council for a Certificate of Compliance pursuant to Section 305 of the Water Management Act, 2000 (application form attached).**

**NOTE 1: The developer should apply for a certificate as a matter of urgency because the Construction Certificate cannot be issued until a certificate has been issued by Council and all monetary conditions have been satisfied.**

**All monetary conditions are reviewed annually, and may change as of 1 July each year.**

**NOTE 2: The developer will have to contribute the sum of \$836,550.00 water headworks plus \$814,050.00 sewer headworks before the Certificate of Compliance will be issued.**

REASON: Because it is in the public interest that Council maintain the ability to provide adequate water and sewer reticulation services. Section 79C(1)(c) and (e) of the Environmental Planning and Assessment Act 1979, as amended.

8. **The payment to Council of \$150.00 for the inspection of each battle-axe driveways.**

**These bonds/fees must be paid at the time of lodgement of any Construction Certificate.**

**All monetary conditions are reviewed annually, and may change as of 1 July each year.**

REASON: Because it is in the public interest that such fees be paid in accordance with Council's Management Plan. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

9. **The payment of \$14.00 per lineal metre for the inspection of the road during construction being a total of \$45,080.00 (based on 3220 metres of road construction). This monetary contribution is to be paid to Council prior to the issuing of any Construction Certificates.**

**All monetary conditions are reviewed annually, and may change as of 1 July each year.**

REASON: So that the construction of this aspect of the development may be checked during construction. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

10. **Unless the development is exempt under Council's Local Approvals Policy or Bathurst Regional Local Environmental Plan 2014 – Schedule 2, the applicant is to obtain a Construction Certificate pursuant to Section 109C of the Environmental Planning and Assessment Act 1979, as amended from either Council or an accredited certifying authority certifying that the proposed works are in accordance with Bathurst Regional Council's Guidelines for Engineering Works prior to any subdivision works commencing.**

**NOTE 1: No building, engineering or excavation work is to be carried out in relation to this development until the necessary Construction Certificate or certificates have been obtained.**

**NOTE 2: YOU MUST NOT COMMENCE WORK UNTIL YOU HAVE RECEIVED THE CONSTRUCTION CERTIFICATE, even if you made an application for a Construction Certificate at the same time as you lodged this development application.**

**NOTE 3: It is the responsibility of the applicant to ensure that the development complies with the provision of the Building Code of Australia in the case of building work and the applicable Council Engineering Standards in the case of subdivision works. This may entail alterations to the proposal so that it complies with these standards.**

**REASON:** So that the design of the proposed work may be assessed in detail before construction commences and because it is in the public interest that the development comply with the appropriate construction standards. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

11. **Except where modified by the conditions imposed upon this consent the development is to be carried out in accordance with:**
- 1. Plans of the proposed subdivision prepared by Bathurst Regional Council (Drawing No EN11450 Rev C)**
  - 2. Statement of Environmental Effects prepared by Bathurst Regional Council (Revision 4)**
  - 3. Due Diligence (Contamination) Assessment prepared by SESL Australia dated June 2015**
  - 4. Detailed Contamination Investigations prepared by Envirowest Consulting dated 4 September 2017**
  - 5. Remediation Action Plan prepared by Envirowest Consulting dated 14 September 2017**
  - 6. Subdivision Tree Survey prepared by Agile Arbor dated 20 July 2017**

7. **Fauna Impact Assessment prepared by Ozark Environmental and Heritage Management dated August 2017**
8. **Vegetation Management Plan prepared by Ozark Environmental and Heritage Management dated October 2017**

REASON: Because it is in the public interest that the work is carried out in accordance with the approved plans. Section 79C (1) (e) of the Environmental Planning and Assessment Act 1979.

#### **PRIOR TO ANY WORK ON SITE**

12. **Road Number 1 is to be designed as a Collector roadway in accordance with Bathurst Regional Council's Guidelines for Engineering Works. Road Numbers 2 to 7 are to be designed as Local Access roadways in accordance with Bathurst Regional Council's Guidelines for Engineering Works.**

REASON: To ensure the proposed road system has the capacity to cater for predicted traffic flows in the locality. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

13. **If a vehicular crossing over the footway is to be constructed, access levels are to be obtained from Council's Engineering Department. The vehicular crossing is to be constructed in accordance with Bathurst Regional Council's Guidelines for Engineering Works. Further the applicant is to obtain a Compliance Certificate pursuant to Section 109C of the Environmental Planning and Assessment Act 1979, as amended PRIOR TO THE CONSTRUCTION of the footway crossing from Council or an accredited certifying authority certifying that the works have been completed in accordance with Bathurst Regional Council's Guidelines for Engineering Works and that the levels are in accordance with those issued.**

**NOTE 1: If other hard standing, dust free and weather proof surfaces are proposed instead of concrete, written approval is to be obtained from Council that the proposed alternative is acceptable.**

REASON: Because this work is necessary to enable adequate means of vehicular access to the proposed development. Section 79C(1)(c) of the Environmental Planning and Assessment Act 1979, as amended.

#### **DURING CONSTRUCTION**

14. **Remediation activities shall be carried out in accordance with the RAP prepared by Envirowest Consulting dated 14 September 2017. Any variation to the RAP must be communicated to Council before work is substantially commenced to determine if any proposed variation will require reassessment under s96 of the EP&A Act.**

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REASON: Because it is in the public interest that the work is carried out in accordance with Council's adopted Contaminated Land Policy. Section 79C (1) (e) of the Environmental Planning and Assessment Act 1979.

15. **Remediation work is to be carried out by a suitably qualified and experienced contractor under the guidance of a contaminated land consultant who meets the requirements of Council's Contaminated Land Policy in relation to reporting, certification and insurances.**

REASON: Because it is in the public interest that the work is carried out in accordance with Council's adopted Contaminated Land Policy. Section 79C (1) (e) of the Environmental Planning and Assessment Act 1979.

16. **The recommendations contained in the Ozark Fauna Impact Statement are to be incorporated into the development inclusive of:**

- **For the 3ha of land around the water reservoir not be cleared, avoid storing equipment and machinery in the area not to be cleared avoid unnecessary traffic across land not be cleared.**
- **Any change in design outside the assessed impact footprint within the study area will require further assessment.**
- **Inductions would inform personnel that any unapproved impact to threatened species has legislative consequences; whether the impact was deliberate or accidental. Evidence of all personnel receiving an induction would be kept on file (signed induction sheets etc.).**
- **Parts of native trees from tree felling can be placed in areas of native vegetation to be retained. This will provide habitat complexity in the form of fallen timber.**
- **All food scraps and rubbish are to be appropriately disposed of in sealed receptacles to prevent providing foraging habitat for foxes, rats, dogs and cats.**
- **Before the start of structure removal, check for evidence of current bat occupation. Evidence includes guano, stains, chatter / calls. Dark holes and crevices can be searched with a torch. Check Fairy Martin/ Swallow nests prior to removal for bats.**
- **If bats are present or disturbed during work, immediately stop work in that area for 30 minutes to allow bats time to warm up and fly out in response to the disturbance.**
- **After 30 minutes, check the area for presence of bats. If bats are still present, contact OzArk for advice on how to proceed including options for bat removal, exclusion, relocation and deterrence from the immediate work area.**

- **Work may only require deferral until the following day to allow bats to depart at dusk for evening fly out. After bats leave, installation of exclusion structures (e.g. flyscreen or plastic over hollow entrances etc.) can occur within the immediate work areas.**
- **If bats are unexpectedly injured during work, contact a local wildlife carer group for collection of the injured bat/s. Workers are not to handle bats unless appropriately vaccinated and have the correct PPE.**

REASON: To minimise the impact of the development associated with the removal of vegetation. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979.

17. **Tree removal is to be limited to those assessed within Subdivision Tree Survey prepared by Agile Arbor dated 20 July 2017 and those reasonably required for each stage of the subdivision.**

REASON: To minimise the impact of the development associated with the removal of vegetation. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979.

18. **The applicant is to arrange an inspection of the subdivision works by Council's Engineering Department at the following stages of the development. This condition applies notwithstanding any private certification of the engineering works.**

COLUMN 1	COLUMN 2
Road construction	<ul style="list-style-type: none"> <li>* Following site regrading, and prior to installation of footway services;</li> <li>* Excavation and trimming of subgrade;</li> <li>* After compaction of subbase;</li> <li>* After compaction of base, and prior to sealing;</li> <li>* Establishment of line and level for kerb and gutter placement;</li> <li>* Subsoil Drainage;</li> <li>* Road pavement surfacing;</li> <li>* Pavement test results (compaction, strength).</li> </ul>
Drainage	<ul style="list-style-type: none"> <li>* After laying of pipes and prior to backfill;</li> <li>* Pits after rendering openings and installation of step irons.</li> </ul>
Water	<ul style="list-style-type: none"> <li>* After laying of mains and prior to backfill;</li> <li>* After laying of services and prior to</li> </ul>

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COLUMN 1	COLUMN 2
	backfill; * Pressure testing.
Sewerage	* After laying of pipes and prior to backfill; * Main - air pressure testing; * Manhole - water test for infiltration, exfiltration.
Concrete footway crossings	* After placing of formwork and reinforcement, and prior to concrete placement;
Erosion and sediment control	* Prior to the installation of erosion measures.
All development and/or subdivision works	* Practical completion.
Road openings	* Upon completion of works.

REASON: Because it is in the public interest that Council inspect the work at these stages of development. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

19. **Building work involving the use of electric or pneumatic tools or other noisy operations shall be carried out only between 7.00 am and 8.00 pm on weekdays and 8.00 am and 8.00 pm on weekends and public holidays.**

REASON: So that building works do not have adverse effect on the amenity of the area. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

20. **The construction of water and sewerage reticulation to serve each residential lot and, where required, each open space lot in accordance with Bathurst Regional Council's Guidelines for Engineering Works.**

**NOTE 1: The developer is to construct a 150 mm sewer riser at each property junction; each riser is to be constructed so that riser cap finishes 150 mm above the finished surface level of each allotment created.**

REASON: Because these utilities are necessary to serve the subdivision. Section 79C(1)(c) and (e) of the Environmental Planning and Assessment Act 1979, as amended.

21. **The developer is to construct inter allotment drainage to drain all lots not draining naturally to a public road. The drainage system is to include grated inlet pits with a 100 mm diameter pipe connection to all such lots. All**

**drainage works are to comply with the provisions of AS/NZS 3500 and Bathurst Regional Council's Guidelines for Engineering Works.**

REASON: Because the character of the subdivision is such as to warrant storm water drainage of this type. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

22. **All road and inter allotment drainage is to be conveyed to a legal point of discharge, in accordance with Bathurst Regional Council's Guidelines for Engineering Works.**

REASON: Because the character of the development is such that storm water will be increased and must be safely conveyed to the storm water drainage system. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

23. **All plumbing and drainage work shall be carried out by a licensed plumber and drainer and to the requirements of AS/NZS 3500 and the Plumbing Code of Australia.**

REASON: To ensure that all plumbing and drainage work is carried out in accordance with the requirements of the Local Government (Approvals) Regulation, 1999. Section 78A(4) of the Environmental Planning and Assessment Act 1979, as amended.

24. **The construction and sealing of the road shoulder and the construction of barrier kerbing and guttering, including the provision of street drainage where necessary, in Limekilns Road and Marsden Lane for the full frontage of the subject land. All such works are to comply with Bathurst Regional Council's Guidelines for Engineering Works.**

**NOTE 1: Limekilns Road is to be designed as a local distributor roadway.**

**NOTE 2: Marsden Lane is to be designed as a collector roadway.**

REASON: To provide for the drainage of stormwater and increase the capacity of the road system in the locality of the proposed development. Sections 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

25. **The construction, within and for the full length of the access handle of the hatchet shaped lot and over the footway, of a concrete vehicular driveway 2400 mm wide, designed to Bathurst Regional Council's Guidelines for Engineering Works. Further, the applicant is to obtain a Compliance Certificate pursuant to Section 109C of the Environmental Planning and Assessment Act 1979, as amended at the completion of construction of the footway crossing from Council or an accredited certifying authority certifying that the works have been completed in accordance with Bathurst**

**Regional Council's Guidelines for Engineering Works and that the levels are in accordance with those issued.**

**NOTE 1: Proposed Lot 1003 is to be provided with a 6.0 metre wide access driveway to comply with Council's commercial/industrial development requirements.**

**NOTE 2: If other hard standing, dust free and weather proof surfaces are proposed instead of concrete, written approval is to be obtained from Council that the proposed alternative is acceptable.**

REASON: To provide all weather vehicular access to the main part of the land, to prevent erosion and to minimise nuisances to adjoining development from noise and dust. Section 79C(1)(b) and (c) of the Environmental Planning and Assessment Act 1979, as amended and the Local Government Act 1993.

26. **The construction of an energy dissipating structure at the point where the storm water from the development will enter the channel, in accordance with Bathurst Regional Council's Guidelines for Engineering Works.**

REASON: To prevent soil erosion occurring. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

27. **The development is to be constructed so that all finished ground levels are at least 500 mm above the 1:100 year flood level. The applicant is to obtain a Compliance Certificate pursuant to Section 109C of the Environmental Planning and Assessment Act 1979, as amended from Council or an accredited certifying authority certifying that all lots are 500 mm above the 1:100 year flood level.**

**NOTE: This condition relates to the tributary of Boyd Creek that traverses the subject site.**

REASON: To reduce the likelihood of damage from floodwaters. Section 79C(1)(c) of the Environmental Planning and Assessment Act 1979, as amended.

28. **Any proposed site filling is to be clean material only, free from organic matter, and compacted in horizontal layers not more than 250mm thick to 95% of the standard maximum dry density of the soil. All such works are to comply with Bathurst Regional Council's Guideline for Engineering Works.**

**NOTE 1: Soil density tests from a NATA registered laboratory, and conducted in accordance with Australian Standard 1289, will be required prior to the issue of any Construction Certificate for the erection of a building or the issue of a Subdivision Certificate.**

REASON: To ensure that any fill is correctly placed and compacted. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

29. **The existing fence encroaching on the public road is to be removed and a new fence erected along the boundary between the subject land and the public road.**

REASON: Because part of the public road should not form part of the area to be occupied by the development. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

30. **The developer is to relocate, if necessary, at the developer's cost any utility services.**

REASON: Because the circumstances are such that the services be relocated. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

31. **During and after construction, minimum distances from powerlines are to be maintained.**

REASON: So that safe clearances are maintained from electrical powerlines, and because of representations to this effect from Essential Energy. Section 79C(1)(b) and (d) of the Environmental Planning and Assessment Act 1979, as amended.

#### **PRIOR TO OCCUPATION/SUBDIVISION CERTIFICATE**

32. **The Vegetation Management Plan prepared Ozark Environmental and Heritage Management dated October 2017 covering the area around the reservoir is to be implemented in its entirety prior to the release of the plan of subdivision.**

REASON: To minimise the impact of the development associated with the removal of vegetation. Section 79C(1)(b) of the EPA

33. **The applicant is to prepare a Vegetation Management Plan for proposed Lot 1001. The Plan is to be implemented in its entirety prior to the release of the plan of subdivision. The objectives of the VMP are to:**

- 1. Recreate an area of native vegetation that is representative of local plant communities and provides habitat for native fauna, including highly-mobile and threatened species such as the threatened Regent Honeyeater (*Anthochaera phrygia*) and Swift Parrot (*Lathamus discolor*), other honeyeaters, lorikeets and arboreal marsupials.**

- 2. Ensure the native plantings and design of the open space is practical and enhances passive recreational opportunities for local residents.**

REASON: To minimise the impact of the development associated with the removal of vegetation. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979.

- 34. Upon completion of demolition work the developer is to submit to Council proof of waste disposal at a licensed facility.**

REASON: To ensure that the waste is transported to, and disposed of at, a facility that can lawfully receive the specific type of waste involved. Section 79C(1)(b) & (e) of the Environmental Planning and Assessment Act 1979, as amended.

- 35. The applicant is to submit to Council one set of electronic files in both Portable Document Format (.pdf) and in CAD Drawing (.dwg) format (MGA co-ordinates, with each of the services on a separate layer eg separate out water, sewer, storm water to their own layers) and one set of paper copies of the works as executed plans for the:**

- **Water infrastructure**
- **Sewer infrastructure**
- **Drainage infrastructure**
- **Energy dissipating structures**
- **Road construction**
- **Shoulder, kerb and gutter construction**

**Each sheet is to include a bar scale or scales adjacent to the title block showing the scale (the works as executed plan is to be scaled at 1:500) and each sheet is to be properly signed and dated by the person responsible for the carrying out of those works. Further, the works are to comply with Bathurst Regional Council's Guidelines for Engineering Works.**

REASON: So that Council may ensure that the construction is in accordance with Council's requirements, and so that a permanent record of the design as constructed may be held by Council, to assist in future maintenance, or for the information of the emergency services. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

- 36. The developer is to lodge a bond with Council equal to 5% of the total subdivision civil construction costs at practical completion to be held by Council for a minimum period of 12 months. The bond must be lodged with Council before a Subdivision Certificate will be issued by Council.**

REASON: In order to cover cost of any works requiring repair. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

37. **The final plan of survey is to show an easement to drain water within all affected lots and in favour of all benefitting lots.**

REASON: Because those works referred to (including access works) and which are sited, or are to be sited, on the subject land should be protected by an easement. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

38. **The final survey plan is to show easements in gross to drain water in favour of Council over all storm water drains conveying road water.**

REASON: Because those drainage works which are sited, or are to be sited, on the subject land should be protected by an easement. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

39. **The final plan of survey is to show an easement for sewer over all lots affected and in favour of Council. For sewer mains of 300 mm or greater diameter, the easement is to be 5 metres wide with the main centrally located.**

REASON: Because those works referred to (including access works) and which are sited, or are to be sited, on the subject land should be protected by an easement. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

40. **The developer is to furnish Council with documentary evidence that arrangements, satisfactory to Essential Energy and the appropriate telecommunications authority, for the provision of underground electrical power and telephone lines respectively, to serve each lot, have been made.**

**NOTE 1: This information must be submitted before Council will issue the Subdivision Certificate relating to this subdivision.**

REASON: So that electrical power and telephone lines are available, it being necessary that these utilities serve the subdivision. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

41. **The applicant is to obtain a Subdivision Certificate pursuant to Section 109C of the Environmental Planning and Assessment Act 1979, as amended from Council. The final survey plan and two paper copies are to be submitted to Council along with the application for the Subdivision Certificate prior to its lodgement with the Lands Titles Office.**

**NOTE 1: Council will only consider issuing a Subdivision Certificate in relation to this subdivision when it is satisfied that all conditions of the development consent have been complied with and the appropriate fee paid.**

REASON: Because it is in the public interest that the plan is certified in accordance with the provisions of the Environmental Planning and Assessment Act 1979, as amended. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

36. **A validation report shall be provided to Council to confirm that the RAP has been carried out. The validation report must be prepared in accordance with Council's Contaminated Land Policy, the Managing Land Contamination Planning Guideline (1998), relevant EPA Guidelines and the Assessment of Site Contamination NEPM (1999 as amended 2013). Please note the requirements specified in Council's policy for consultants' reporting and for Site Audits.**

**Any recommendations identified in the validation report shall be binding on the development.**

REASON: Because it is in the public interest that the work is carried out in accordance with Council's adopted Contaminated Land Policy. Section 79C (1) (e) of the Environmental Planning and Assessment Act 1979.

37. **A validation report shall be provided to Council along with the notice of completion required under clause 17(2) of SEPP 55 to confirm that the remediation has been carried out in accordance with the requirement this consent and SEPP 55. The validation report must be prepared in accordance with Council's Contaminated Land Policy, the Managing Land Contamination Planning Guideline (1998), relevant EPA Guidelines and the National Environmental Protection (Assessment of Site Contamination) Measure (1999).**

REASON: Because it is in the public interest that the work is carried out in accordance with Council's adopted Contaminated Land Policy. Section 79C (1) (e) of the Environmental Planning and Assessment Act 1979.

38. **The Restriction as to User over Lot 5 DP847225 preventing the orchard trees from being planted within 40 metres of the boundary and management of the orchard operations is to be released.**

REASON: To remove the redundant Restriction as to User applying to the land. *Section 79C (1) (e) of the Environmental Planning and Assessment Act 1979.*

39. **The final plan of survey is to show a 'Restriction as to User' preventing vehicular access across any point on the frontage of proposed Lot 1 to Marsden Lane.**

REASON: So that the likely amount of traffic to be generated by the development of the subject land does not have a detrimental effect of the movement of traffic on the road specified. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

## **PRESCRIBED CONDITIONS**

*The following conditions are known as “Prescribed Conditions” and are required to be imposed as part of any development consent whether or not they are relevant to the development approved under this consent. Please do not hesitate to contact staff in Council’s Planning and Development Department who will be happy to advise you as to whether or not the conditions are relevant.*

42. **All building work must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant Construction Certificate or complying development certificate was made).**

REASON: So that the development complies with the requirements imposed under Clause 98 of the Environmental Planning and Assessment Regulations 2000, as amended. Section 80A(11) of the Environmental Planning and Assessment Act 1979, as amended.

43. **Building work (within the meaning of the Home Building Act 1989) must not be carried out unless the principal certifying authority for the development:**

- a) **in the case of work done by a licensee under the Act:**
  - i) **has been informed in writing of the licensee’s name and contractor license number, and**
  - ii) **is satisfied that the licensee has complied with the requirements of Part 6 of that Act, OR**
- b) **in the case of work to be done by any other person:**
  - i) **has been informed in writing of the person’s name and owner-builder permit number, or**
  - ii) **has been given a declaration, signed by the owner of the land, that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of owner-builder work in section 29 of the Act,**

**and is given appropriate information and declarations under paragraphs a) and b) whenever arrangements for the doing of the work are changed in**

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Bathurst – 5 DP847225, Lot 3 DP833295, 197 Limekilns Road & Marsden Lane, Kelso subject to conditions.DOC



such a manner as to render out of date any information or declaration previously given under either a) or b).

**NOTE 1: A certificate issued by an approved insurer under Part 6 of the Home Building Act 1989 that states that the person is the holder of an insurance policy is sufficient evidence to satisfy this condition.**

REASON: So that the development complies with the requirements of clause 98 of the Environmental Planning and Assessment Act Regulations 2000. Section 80A(11) of the Environmental Planning and Assessment Act 1979, as amended.

44. **For development that involves any building work, subdivision work or demolition works:**
- a) **A sign must be erected in a prominent position:**
    - 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.**
  - b) **Any such sign is to be maintained while the work is being carried out, but must be removed when the work has been completed.**
  - c) **This condition does not apply in relation to work that is carried out inside an existing building that does not affect the external walls of the building.**
  - d) **This condition does not apply in relation to Crown building work that is certified, in accordance with section 109R of the Act, to comply with the technical provisions of the State's building laws.**

REASON: Because it is in the public interest that the persons responsible for the site can be contacted. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

45. **The commitments listed in any relevant BASIX Certificate for this development are to be fulfilled in accordance with the BASIX Certificate Report, Development Consent and the approved plans and specifications.**

REASON: So that the development complies with the requirements imposed under Clause 97A of the Environmental Planning and Assessment Regulations 2000, as amended. Section 80A (11) of the Environmental Planning and Assessment Act 1979, as amended.

46. **If the development involves an excavation that extends below the level of the base of the footings of a building, structure or work (including any structure or work within a road or rail corridor) on adjoining land, the person having the benefit of the development consent must, at the person's own expense:**

- a) **protect and support the building, structure or work from possible damage from the excavation; and**
- b) **where necessary, underpin the building, structure or work to prevent any such damage.**

**The condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.**

REASON: Because it is in the public interest that all building elements are able to withstand the combination of loads and other actions to which it may be subjected. Section 79C(1)(b) and (e) of the Environmental Planning and Assessment Act 1979, as amended.

**Endorsement date of determination and operative date:** 27 November 2017

**NOTES:**

1. **Lapsing of consent.** Unless a shorter period is specified in this notice, this consent will lapse if the development is not physically commenced within five years of the date endorsed on this notice.
2. **Right of Review:** If you are dissatisfied with this determination, section 82A of the Environmental Planning and Assessment Act 1979, as amended, gives you the right to request the Council to review its determination. Such a request must be accompanied by the fee prescribed in Council's Revenue Policy.

For Development Applications lodged prior to 28 February 2011 the review must be undertaken within 12 months of the date endorsed on this notice.

For Development Applications lodged after 28 February 2011 the review must be undertaken within 6 months of the date endorsed on this notice.

3. **Right of appeal:** If you are dissatisfied with this determination, section 97 of the Environmental Planning and Assessment Act 1979, as amended, gives you the right of appeal to the Land and Environment Court.

For Development Applications lodged prior to 28 February 2011 the appeal must be lodged within 12 months of the date endorsed on this notice.

For Development Applications lodged after 28 February 2011 the appeal must be lodged within 6 months of the date endorsed on this notice.

4. See **attached** sheet for explanatory notes.
5. All monetary conditions are reviewed annually, and may change as of 1 July each year.

Neil Southorn  
**DIRECTOR**  
**ENVIRONMENTAL, PLANNING & BUILDING SERVICES**



## **DETERMINATION OF A DEVELOPMENT APPLICATION**

### **EXPLANATORY NOTES**

1. Should further explanation of the terms or conditions of the approval be required, please contact Council's Environmental Planning and Building Services Department.
2. Unless otherwise stated in a particular condition, it is the developer's responsibility to obtain any additional permits, approvals, consents, easements, or permission to enter necessary for the satisfaction of any conditions or for the completion of any works to be carried out in connection with the development.
3. Application for modification of this consent must be made on the prescribed form and be accompanied by the prescribed fee.
4. If amended building plans are submitted they must be accompanied by the fee set out in Council's Revenue Policy.