

**DRAFT Conditions of consent regarding DA/419/2018**

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

**Deferred Commencement Consent**

**Part A**

**Deferred Commencement Conditions**

This consent is issued as a Deferred Commencement Consent under Section 4.16(3) of the Environmental Planning and Assessment Act.

This consent is granted with “Deferred Commencement” conditions and is granted subject to a condition that the consent is not to operate until the consent authority is satisfied the “Deferred Commencement” conditions have been met.

**Deferred Commencement**

Part A of this consent clearly distinguishes the “deferred commencement” conditions concerning matters as to which the consent authority must be satisfied before the consent can operate; from Part B, which contains the conditions of consent.

Evidence required to satisfy these conditions shall be submitted to Council within **two years** of the date of this consent, or the consent will lapse in accordance with Clause 95 of the Environmental Planning and Assessment Regulation 2000.

This consent is not to operate until the person entitled to the benefit of this consent satisfies the consent authority of the matters set out below:

**1. Road Widening**

A road widening plan shall be submitted to the satisfaction of Council’s Chief Development Planner detailing the following:

- a. The road reserve on Arnott Avenue shall be widened to align with the adjoining Lot, identified as Lot 100 DP 1110774, at 12 Bay Street, Toronto.
- b. The road reserve width shall be 16m wide with a carriageway width of 8m and road verge of 4.5m on the side fronting the development and 3.5m from the existing boundary on the other side.
- c. The design shall be consistent with the Streetscape Master Plan Street Type D and shall include a 2.5m – 3m wide shared pathway.
- d. The road widening plan shall show dimensions and details on the plans including kerb and gutter, shoulder seal, shared pathway, street trees and any infrastructure required.
- e. The southern end of Arnott Avenue shall cater for a cul-de-sac arrangement to accommodate turning vehicles.

- f. Overhead powerlines shall be relocated underground along the Arnott Avenue frontage.
- g. Street trees – there shall be a minimum of six 100 litre *Banksia integrifolia* planted within the Arnott Street road reserve. There shall be a minimum of three 75 litre *Flindersia australis* planted within the Cary Street road reserve. There shall be a *Quercus robur* and *Phoenix canariensis* planted within the adjoining public land.
- h. The storage area located within Basement Level 2 shall be amended to not impede upon the road widening area.

## 2. Hunter Water Corporation

Approval to relocate the Hunter Water easement for pipeline clear of the building footprint in an approved location to the satisfaction of Hunter Water shall be obtained.

This location shall not impede upon Council's operational land at 2A Bath Street, Toronto.

## 3. Roads and Maritime Service

Additional traffic information shall be submitted to the satisfaction of the Road and Maritime Services (RMS) that details:

- a. Service vehicle entry to Cary Street: A design in accordance with the RMS CADD manual is required.
- b. A Servicing and Loading Management Plan shall be prepared to co-ordinate the arrival and departure times of service vehicles. The Plan shall include the following:
  - i. No loading and servicing operations shall occur during school zone times being 8.00am to 9.30am and 2.30pm to 4.00pm;
  - ii. Details on how access will be restricted to service vehicles only;
  - iii. Heavy Rigid Vehicles (HRV) shall be restricted from using this site;
  - iv. All vehicles will be limited to a maximum size of Medium Rigid (MR);
  - v. No waste collection or servicing including deliveries, loading or unloading to occur between the hours of 8pm and 7am, Monday to Saturday and 8pm and 8am, Sunday and Public Holidays.
- c. Operation of Bay Street Traffic Control Signals:
  - i. Heavy Rigid Vehicle shall be restricted from using this site;
  - ii. All vehicles to the site should be a maximum size of MR.
- d. Bay Street at Cary Street will require the following upgrade works:

- i. Additional detectors located in both the approach lanes;
  - ii. Extra pedestrian detection on the crossings, which can be added as part of the software upgrade required to add the extra detector in.
  - iii. New Traffic Control Signals lantern posts at the relocated stop line.
  - iv. Removal of existing line marking and provision of new line marking.
- e. The applicant shall liaise with Toronto Public School and the school bus operator regarding any impact on the existing school bus stop opposite McDonalds, due to the proposed lane narrowing on Bay Street. This information shall be provided to the RMS for consideration and approval.

#### **4. Stormwater Management Plan**

A revised Stormwater Management Plan shall be submitted to the satisfaction of Council's Chief Development Engineer that:

- a. Relocates infrastructure from impeding upon Council's Operational Land at 2A Bath Street; or alternatively
- b. The placement of the proposed infrastructure on 2A Bath Street, will need to be formalised by an easement subject to agreement being reached as to the location/positioning of the infrastructure on Council land.

All costs associated with relocation of proposed infrastructure procuring easements shall be at the applicant's expense.

#### **5. Building Height**

In regard to the proposed building on Cary Street, revised architectural plans shall be submitted to the satisfaction of Council's Chief Development Planner deleting Level Six (6) from the development scheme.

#### **6. Car parking**

The excess residential car parking spaces (14 spaces) resulting from the deletion of 12 residential units from Level 6 Cary Street Block, shall be allocated as visitor car parking.

#### **7. Revised documentation**

Revised architectural plans, landscaping plans and engineering plans incorporating changes required by deferred commencement conditions 1 to 6 above shall be submitted to the satisfaction of Council's Chief Development Planner.

## Part B

### Administrative Conditions

#### 1. Reason for the Imposition of Conditions

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

To encourage:

- a) The proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forest, minerals, water, cities, towns, and villages for the purpose of promoting the social and economic welfare of the community and a better environment;
  - i. The promotion and co-ordination of the orderly and economic use of development of land;
  - ii. The protection, provision, and co-ordination of communication and utility services;
  - iii. The provision of land for public purposes;
  - iv. The provision and co-ordination of community services and facilities;
  - v. The protection of the environment, including the protection and conservation of native animals and plants including threatened species, populations, and ecological communities and their habitats;
  - vi. Ecologically Sustainable Development; and
  - vii. The provision and maintenance of affordable housing.
- b) To promote the sharing of the responsibility for environmental planning between the different levels of government in the State.
- c) To provide increased opportunity for public involvement and participation in environmental planning and assessment.

#### 2. Prescribed Conditions

- a) The work shall 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 shall 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 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 shall be maintained while the building work, subdivision work or demolition work is being carried out, but shall be removed when the work has been completed.

- d) Residential building work within the meaning of the *Home Building Act 1989* shall not be carried out unless the 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 the information notified under (d) becomes out of date, further work must not be carried out unless the Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

### 3. Approved Documentation

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

- a) **Advisory note:** Plan Reference – the following plans require further design changes to satisfy deferred commencement conditions:

Architectural Plans prepared by: Mark Lawler Architects			
Name of Plan	Drawing Number	Issue	Date
Site Plan	1588 DD – 1 - 01	E	8 July 2019
Basement 2 plan	1588 DD – 1 – 02	E	8 July 2019
Basement 1 plan	1588 DD – 1 – 03	E	8 July 2019
Ground floor plan – Level 01	1588 DD – 1 – 04	E	8 July 2019
Podium plan – Level 02	1588 DD – 1 – 05	E	8 July 2019
Elevations	1588 DD – 2 – 01	D	8 July 2019
Elevations	1588 DD – 2 – 02	D	8 July 2019
Sections	1588 DD – 3 – 01	D	8 July 2019

Sections	1588 DD – 3 – 02	D	8 July 2019
<b>Landscaping Plans prepared by: Mansfield Urban</b>			
Site Master Landscape Plan – Proposed Works	DA-LP-01	B	25 June 2019
Site Landscape Sections	DA-LP-04	A	15 March 2018
Suggested species - sheet 1	DA-LP-05	A	15 March 2018
Suggested species – sheet 2	DA-LP-06	A	15 March 2018
Suggested species – sheet 3	DA-LP-07	A	15 March 2018
<b>Engineering Plans prepared by: Northrop</b>			
Stormwater Management and Levels Plan – ground floor	C12DA	E	18 June 2019

b) Plans reference – no modification to plans required:

<b>Architectural Plans prepared by: Mark Lawler Architects</b>			
<b>Name of Plan</b>	<b>Drawing Number</b>	<b>Issue</b>	<b>Date</b>
Level 03 Plan	1588 DD – 1 – 06	D	6 March 2018
Level 04 Plan	1588 DD – 1 – 07	D	6 March 2018
Level 05 Plan	1588 DD – 1 – 08	D	6 March 2018
Roof garden	1588 DD – 1 – 10	D	6 March 2018
External colour schedule	-	-	-

<b>Landscaping Plans prepared by: Mansfield Urban</b>			
<b>Name of Plan</b>	<b>Drawing Number</b>	<b>Issue</b>	<b>Date</b>
Tree Removal / Retention Plan	DA-SP-05	A	15 March 2018
Podium landscape plan	DA-LP-02	A	12 March 2018
Roof garden landscape plan	DA-LP-03	A	15 March 2018

<b>Engineering Plans prepared by: Northrop</b>			
<b>Name of Plan</b>	<b>Drawing Number</b>	<b>Issue</b>	<b>Date</b>
Erosion and Sediment Control Plan	C00DA	C	12 July 2019
Civil details	C20DA	B	12 July 2019`1

b) Document Reference:

<b>Document</b>	<b>Reference</b>	<b>Author</b>	<b>Date</b>
Bushfire report	-	Newcastle Bushfire Consulting	7 August 2017
Disability Access Report	-	Access Solutions	28 November 2017
Geotechnical Assessment	29644SB rpt	JK Geotechnics	13 October 2016
Noise Impact Assessment	171461-7364-R2	Spectrum	November 2017
Heritage Impact Assessment; as amended by additional information	-	John Carr Heritage Design	1 March 2018
	-	As above	9 July 2018
Crime Risk Assessment Report	Job No.5921	DeWitt Consulting	March 2018
Traffic Impact Assessment; as amended by additional information	16401.01FA	McLaren	22 February 2018
	18365.01FA	As above	26 July 2018
	18365.01FA	As above	20 November 2018
Environmental Management Plan	REP-18-6472	Envirotech	9 November 2018

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.

## **General Conditions**

The person having the benefit of the consent shall comply with each of the following conditions.

### **4. Disability Access Requirements**

Access for people with disabilities shall be provided from the buildings 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*.

The recommendations contained in the approved Access report shall be incorporated into the design and construction of the development including:

- (a) The provision of 11 adaptable dwellings must comply with the essential features of Class C AS 4299;
- (b) Designated accessible parking bays for the commercial and visitor area must comply with AS 2890.6;
- (c) Stairs, ramps, pathways, unisex accessible and ambulant toilet facilities, doorways widths and widths of corridors in common and commercial areas must comply with AS 1428.1;
- (d) Signage shall be installed identifying adaptable parking bays;
- (e) If access to the car park is restricted by a security gate, the access control type and location will need to be accessible for people with limited reach range;

Upon completion of the works and prior to the issue of an Interim or Final Occupation Certificate, whichever occurs first, documentation shall be provided to the Principal Certifying Authority from a suitably qualified consultant certifying that the works have been completed in accordance with the recommendations of the report.

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:

- a) *The NSW Disability Services Act 1993*,
- b) *The Commonwealth Disability Discrimination Act 1992*,
- c) *NSW Anti Discrimination Act 1977*.

For further information please consult:

- a) Human Rights and Equal Opportunity Commission,
- b) NSW Anti Discrimination Board.



## General Terms of Approval and Concurrence Requirements

### 5. General Terms of Approval

The following approval bodies have given general terms of approval in relation to the development:

- Water NSW
- Subsidence Advisory NSW

### 6. Subsidence Advisory NSW – General Terms of Approval

#### Conditions of Approval

##### General

##### Plans, standards and guidelines

1. The development being undertaken strictly in accordance with the details set out on the application form, any information submitted with the application and the plans submitted, as amended or as modified by the conditions of this approval.

**Note:** Any proposal to modify the terms or conditions of this approval, whilst still maintaining substantially the same development to that approved, will require the submission of a formal application for consideration by Subsidence Advisory NSW. If amendments to the design result in the development not remaining substantially the same as that approved by this approval, a new Application will have to be submitted to Subsidence Advisory NSW.

2. This approval expires 5 years after the date the approval was granted if construction work has not physically commenced.

##### Prior to Commencement of Construction

3. Prescribed Design Parameters

The proposed structure(s) is to be designed to be “*safe, serviceable and any damage from mine subsidence shall be limited to ‘slight’ in accordance with AS2870 (Damage classification) and readily repairable*” using the subsidence parameters outlined below:

- a) Maximum vertical subsidence: 150 mm
- b) Maximum horizontal strains: (+/-): 1 mm/m
- c) Maximum Tilt: 1 mm/m
- d) Maximum radius of curvature: 10km

4. Submit an “Engineering Impact Statement” prior to commencement of detailed design for acceptance by SANSW, which shall identify the:

- a. Mine Subsidence Parameters used for the design.
  - b. Main building elements and materials.
  - c. Risk of damage due to mine subsidence
  - d. Design measures proposed to control the risks.
5. Submit a final design incorporating for acceptance by *Subsidence Advisory NSW* prior to commencement of construction. It shall include certification by a qualified structural engineer to the effect that the improvements will remain “safe, serviceable and any damage from mine subsidence shall be limited to ‘slight’ damage in accordance with AS2870 (Damage Classification), and readily repairable” taking into consideration the mine subsidence parameters outlined above.

### **Post Construction**

6. Upon completion of construction, works-as-executed certification by a qualified engineer is to be forwarded to the *Subsidence Advisory NSW* confirming that construction was in accordance with the plans approved by *Subsidence Advisory NSW*.

## **7. Water NSW – General Terms of Approval**

### **General Terms of Approval for a Water Supply Work under the Water Management Act 2000 (WM Act).**

1. A water licence is required under the WM Act where any act causes:
- (a) the removal of water from a water source;
  - (b) the movement of water from one part of an aquifer to another part of an aquifer; or
  - (c) the movement of water from one water source to another water source.

A water licence is required whether water is taken for consumptive use or whether it is taken incidentally.

- 2. Sufficient permanent drainage shall be provided beneath and around the outside of the watertight structure to ensure that natural groundwater flow is not impeded.
- 3. Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may be dissolved in groundwater, and shall not themselves cause pollution of the groundwater.
- 4. Documentation comprising water level measurements, maps, bore logs, calculations, results, discussion and justification for various matters related to the water supply work must be collected and provide on request by Water NSW.
- 5. The Applicant shall assess the likely impacts of the dewatering activities on other groundwater users.
- 6. A reasonable estimate of the total volume of groundwater to be extracted shall be calculated together with details and calculation methods for the parameters and supporting information to confirm their development or measurement.

7. The method of disposal of pumped water shall be nominated and a copy of the written permission from the relevant regulatory authority shall be provided with the application.
8. Contaminated groundwater shall not be reinjected into any aquifer.
9. Engineering measures designed to transfer groundwater around and beneath the basement shall be incorporated into the basement construction to prevent the completed infrastructure from restricting pre-existing groundwater flows.
10. Piping, piling or other structures used in the management of pumped groundwater shall not create a flooding hazard or induce mounding of groundwater. Control of pumped groundwater is to be maintained at all times during dewatering to prevent unregulated off-site discharge.
11. Pumped groundwater shall not be allowed to discharge off-site (e.g. adjoining roads, stormwater system, sewerage system, etc.). The pH of discharge water shall be managed to be between 6.5 and 8.5. The requirements of any other approval for the discharge of pumped groundwater shall be complied with.

## **8. Roads and Maritime Service – Concurrence Requirements**

To be advised following satisfaction of deferred commencement condition three.

<b>Fees, Charges and Contributions</b>
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## **9. Contribution Toward Provision or Improvement of Amenities or Services**

In accordance with the provisions of the *Environmental Planning and Assessment Act 1979* – Sect 7.11 and the Lake Macquarie City Council *Development Contributions Plan Toronto Contributions Catchment - 2016*, the monetary contributions in the attached Contributions Schedule shall be paid to Council for the purposes identified in that Schedule.

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

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

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

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

The contributions shall be paid to Council as follows:

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

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

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

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

A copy of the Lake Macquarie City Council *Development Contributions Plan Toronto Contributions Catchment - 2016* is available on Council's website, or a copy is available at Council's Administrative Building during Council's opening hours.

## CONTRIBUTION FEE SCHEDULE

DESCRIPTION	FEE AMOUNT
TC-Open Space & Recreation Facilities-Capital-CPI	\$957,079.27
TC-Open Space & Recreation Facilities-Land-LVI	\$357,624.84
TC-Roads-Capital-R001-CPI	\$3,443.52
TC-Public Transport Facilities-CPI	\$2,835.10
TC-Community Facilities-Capital-CPI	\$86,689.26
TC-Plan Preparation & Administration-CPI	\$109,924.79
<b>TOTAL</b>	<b>\$1,517,596.78</b>

**Conditions to be satisfied prior to the issue of the Construction Certificate**

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

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

**10. 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 Certifying Authority that is not Council it shall be necessary to lodge the Construction Certificate and other approved documents with Council within two days of such approval. (Clause 142(2) *Environmental Protection Authority Regulation 2000*).

**11. Erosion and Sediment Control**

A final Erosion and Sediment Control Plan or Soil and Water Management Plan shall be submitted. The plan shall contain information required for the area of disturbance of the development or its distinct and separate stages in accordance with *Development Control Plan 2014*.

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

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

**12. Stormwater Disposal - Stormwater Detention and Harvesting**

A Stormwater Detention and Harvesting Plan shall be submitted. The plan shall be generally in accordance with the plans approved by the Development Consent prepared by Northrop Consulting Engineers, Ref: NL171556 Sht. No.C12DA Rev. E dated 18/06/2019. The stormwater plans approved by this development consent are not approved for construction. The stormwater plans shall 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. The design shall be undertaken by a practising Civil Engineer deemed to be suitably experienced by Council and qualified so as to be

accepted as a Member of the Institution of Engineers Australia or a Registered Surveyor deemed to be suitably experienced by Council shall be accepted as qualified to prepare plans for drainage works (excluding flood control structures and bridges). Qualifications demonstrating the above may be requested by Council. Stormwater detention measures shall be designed to ensure the development does not increase upstream or downstream flood levels for all recurrence intervals up to and including the 1% Annual Exceedance Probability.

- b) Detention storage shall be calculated and designed in accordance with *Australian Rainfall and Runoff 2019* and the Lake Macquarie City Council guideline – *Handbook for Drainage Design Criteria* and shall conform to the specifications and standards contained in *Development Control Plan 2014 Engineering Guidelines*.
- c) Stormwater harvesting measures shall be designed in accordance with the *Development Control Plan 2014 Water Cycle Management Guideline*. Stormwater drainage plans shall include details of the harvesting system, including rainwater tank details, pump details and reticulation diagrams.
- d) The location of a permanent metal sign (minimum dimensions 150mm x 220mm) shall be detailed on the plans in a visible location near the detention orifice plate or onsite detention entry with the following wording:.

THIS IS AN ONSITE STORMWATER DETENTION  
SYSTEM REQUIRED BY LAKE MACQUARIE CITY  
COUNCIL.

It is an offence to reduce the volume of the tank or basin or  
to interfere with the orifice place that controls the outflow.

The base of the outlet control pit and the debris screen shall  
be cleaned of debris and sediment on a regular basis.

This plate shall not be removed

### **13. Kerb and Guttering**

A design plan for kerb and guttering, road pavement, shoulder sealing and associated drainage works along the full length of the Arnott Avenue street frontage shall be submitted. No works shall commence prior to the issue of a Public Works Certificate in accordance with s138 of the *Roads Act 1993*. Any works on a public road shall be approved by Council.

### **14. Concrete Footpath**

A design plan for concrete footpaths 1.2 metres wide along the full length of the Cary Street frontage shall be submitted. Concrete foot paving shall be constructed in accordance with Lake Macquarie City Council standard drawing *EGSD-301* which is available from Councils website. No works shall commence prior to the issue of a Public Works Certificate in accordance with s138 of the *Roads Act 1993*. Any works on a public road shall be approved by Council.

#### **15. Vehicles Access Crossing and Kerb Layback**

An approval for the vehicle access crossing and kerb layback under s138 of the *Roads Act 1993* is required and “Application for Access to Property” shall be obtained from Council.

A paved vehicular access including kerb layback from the property boundary to the street shall be designed in accordance with Councils Standard Drawings: *EGSD-103, EGSD-201 or EGSD-104* (available from Councils website).

Existing laybacks fronting the proposed development that are not required will require removal with kerb and guttering replacement to Council’s standards.

#### **16. Geotechnical Report Compliance**

The recommendations of the Geotechnical Report Reference 29644SBprt prepared by JK Geotechnics dated 13<sup>th</sup> Oct. 2016 and Geotechnical Report Reference NO9456/01-AB prepared by Coffey Geosciences P/L dated 22<sup>nd</sup> March 2005 shall be complied with. Any works undertaken in relation to the development shall embody all relevant recommendations of the Geotechnical Reports.

The engineering plans shall be certified as being designed in accordance with the approved Geotechnical Reports.

#### **17. Car Parking and Allocation of Spaces**

Plans demonstrating a total of 268 car parking spaces in accordance with *Australian Standard AS/NZS 2890* shall be submitted.

#### **18. Parking Areas and Access Ways**

A design plan for parking areas and access ways shall be submitted. The design shall include pavement design, stormwater drainage, line marking and signage. The design shall meet the standards nominated in *Development Control Plan 2014, Engineering Guidelines* and *Australian Standard AS2890*.

#### **19. State Environmental Planning Policy 65**

A design verification statement from a qualified designer shall be submitted.

The statement shall confirm the Construction Certificate plans and specifications achieve or improve the design quality of the development for which consent was granted, having regard to the Design Quality Principles set out in Schedule 1 of *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development*.

Note: Qualified designer means a person registered as an architect in accordance with the *Architects Act 2003*.

## **20. Ausgrid Requirements**

The written requirements of Ausgrid for the development shall be obtained and complied with.

## **21. Car Washing Bay**

The designated car washing bays shall be constructed clear of the designated car parking spaces and driveways and shall be accessible at all times.

The designated car washing bays 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.

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.

## **22. Building Sustainability Index (BASIX) Certificate**

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

## **23. Driveway Design – Commercial**

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

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

## **24. Acoustic Certification – Internal Comfort Noise Levels**

The proposed development shall be designed and constructed to comply with AS2107.2000 Acoustics – Recommended design sounds levels and reverberation times for building interiors.



A suitably qualified acoustic consultant shall be engaged to assist with the preparation of the final building plans and specifications to ensure the proposed development will comply with AS2107.2000.

**25. Acoustic Certification**

Plans shall be certified as being designed in accordance with the approved Acoustic Report and AS2107.2000 Acoustics.

**26. Heritage Interpretation Strategy**

The Certifying Authority shall not issue a Construction Certificate for this consent prior to Lake Macquarie City Council's Development Planner – Heritage Focus having approved the final Heritage Interpretation Strategy.

This strategy shall be in line with the original 'Interpretative Strategy' for the site, prepared by EJE, dated October 2010, which sets out suitable forms of interpretation of the Bower Family property as interpretative panels, plaques or public artwork.

Should the final Heritage Interpretation Strategy recommend works outside the lot boundaries, additional approvals such as owner's consent may be required.

**27. Separate Approval Required for Use of Commercial Tenancies**

This development consent does not authorise the occupation or first use of the approved commercial tenancies. Occupation or first use of these tenancies shall be subject to a separate development consent.

**28. Screening of plant and equipment**

All plant and equipment (including but not limited to air conditioning equipment) shall not be located on the roof.

Screening shall be provided to any services (such as air conditioning, hot water system, etc) required to be installed on balconies. Screening shall be provided to ensure the services are not visible from the street.

Details demonstrating compliance with this condition shall be submitted to the satisfaction of the Certifying Authority prior to issue of the first Construction Certificate.

**29. Waste Management Plan**

An amended Waste Management Plan shall be submitted to the satisfaction of Council prior to the issue of the first Construction Certificate.

The Waste Management Plan shall require that all demolition and construction waste for which there is an authorised reuse or recycling service available in Hunter Region will be separated for and collected by, or delivered to, an appropriate authorised reuse or recycling service during the construction period.

The Waste Management Plan shall show for each stage of construction where the waste collection area(s) are to be located and the placement and dimensions of the separate stream waste bins as laid out in an accessible way for use.

The Waste Management Plan shall show for each stage of construction where the waste bins will be collected by the waste collection vehicles, how the vehicles will access the collection point(s) and if the bins are to be moved, then the route and method to be used for moving the bins.

A copy of the receipts from the reuse, recycling or 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.

Once submitted to the satisfaction of Council, all requirements of the approved Waste Management Plan shall be implemented during the demolition, excavation and construction of the development.

### **30. Waste Management**

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

#### **Waste Collection**

- 31.** Documentation confirming arrangements/agreements have been made with either a private contractor or Lake Macquarie City Council for the collection of general waste, green waste and recycling materials shall be submitted to the Certifying Authority prior to the issue of the first Construction Certificate. This documentation shall demonstrate the waste contractor can service the development for all waste streams, and within designated loading dock and waste storage areas.

Note: Heavy Rigid Vehicles (HRV) are restricted from using the site. All vehicles will be limited to a maximum size of Medium Rigid (MR).

### **32. Servicing and Loading Management Plan**

A Servicing and Loading Management Plan shall be prepared to co-ordinate the arrival and departure time of service vehicles.

The Servicing and Loading Management Plan shall include the following restrictions:

- a. No loading and servicing operations shall occur during school zone times being 8.00am to 9.30am and 2.30pm to 4.00pm;
- b. The Plan will detail how the access will be restricted to service vehicles only;
- c. Heavy Rigid Vehicles (HRV) shall be restricted from using this site;
- d. All vehicles to the site shall be a maximum size of Medium Rigid (MR);
- e. No waste collection or servicing including deliveries, loading or unloading to occur between the hours of 8pm and 7am, Monday to Saturday and 8pm and 8am on Sunday and Public Holidays.

### **33. Dual Use Visitor/Commercial Car Parking**

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

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

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. .

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.

### **34. SEPP 14 – Coastal Wetland Monitoring**

An addendum to the Environmental Management Plan (EMP), prepared by Envirotech, dated November 2018, for monitoring potential impacts to the adjacent SEPP 14 - Coastal Wetland shall be provided to and approved by Council's Ecologist prior to issue of the first Construction Certificate.

The addendum shall include monitoring of water levels / water quality during the construction phase of the development. Any significant increase or decrease of pre-existing water levels and / or water quality shall be immediately reported to Council and the Certifying Authority and mitigated in accordance with the addendum to the EMP.

#### **Conditions to be satisfied prior to the issue of the Public Works Certificate**

The person having the benefit of the consent shall comply with each of the following conditions prior to the issue of the Public Works Certificate for works within the public domain.

A Public Works Certificate is issued under s138 of the Roads Act 1993.

### **35. Roadways and Drainage Works Standards**

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

- a) *Australian Rainfall and Runoff, 1987.*
- b) *Development Control Plan 2014* and supporting guidelines.
- c) *AUSTROADS Guide to Road Design Guide.*
- d) *Roads and Maritime Services Delineation Guidelines.*
- e) *Managing Urban Stormwater documents (2004)* by Landcom.
- f) *The Constructed Wetlands Manual* - Department of Land and Water Conservation, 1998.

- g) *WSUD Technical Design Guidelines for South East Queensland.*
- h) *Healthy Waterways – Water by Design Guidelines.*
- i) Australian Standards including, but not limited to:-
  - i. *AS1428 - Design for Access and Mobility, Part 1 General Requirements for Access and Part 4 Tactile Indicators,*
  - ii. *AS2890 - Off Street Parking*

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

### **36. Public Works Certificate for Works**

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

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

### **37. Stormwater Standards**

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

### **38. Pavement Standards**

Residential road pavements shall be designed in accordance with *A Guide To The Design Of New Pavements For Light Traffic* - AUSTRROADS 2006. Main and industrial road pavements shall be designed in accordance with *Pavement Design, A Guide to the Structural Design of Road Pavements* - AUSTRROADS 2012.

Designs for road pavements shall be prepared by a geotechnical consultant and shall be submitted to Council with the Public Works Certificate application.

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

### **39. Compliance Certificate for Works**

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

### **40. Application Fees for Required Certificates**

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

<b>Public Works Certificate</b>	<b>Please contact Council for fees</b>	Plus <b>\$75</b> Archival Fee	(inc GST)
<b>Compliance Certificate</b>	<b>Please contact Council for fees</b>	Plus <b>\$75</b> Archival Fee	(inc GST)

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

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

The above fees are current for the 2019/2020 financial year and are subject to change each financial year without notice. Confirmation of the relevant fee shall be obtained from Council prior to the lodgement of any application.

#### **Conditions to be satisfied prior to the commencement of works**

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

#### **41. Erosion and Sediment Control**

Appropriate erosion and sediment controls shall be installed in accordance with *Development Control Plan 2014*.

#### **42. Dilapidation Survey Report**

A Dilapidation Report shall be submitted to Council and the Certifying Authority prior to any works, including excavation works commencing.

The report shall be prepared by an engineer or other suitably qualified person.

The report shall cover all properties and public land that adjoin the development or that could be potentially damaged by the works including streets and road assets surrounding the development.

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

For continuous assets such as footpaths or kerb and channel, records shall be taken at least every five metres.

#### **43. 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.

#### **44. Public Domain Works – Landscaping**

A public works certificate application shall be lodged with and approved by Council prior to any works in the public domain. The Landscape Construction Drawings and Specifications shall be completed by a qualified landscape architect (category three landscape consultant) with demonstrated experience in producing landscape construction documentation for public domain works and include the extent of detail required to construct such works. The documentation shall reference and comply with the conditions of consent and approved landscape plans.

Plans shall include details and specification information suitable for construction with no generic reference to concept plans or Council guidelines. Plans shall include tactile ground surface indicators to Australian Standards.

The plans shall reference the standard hold and witness points listed below for hard and soft works and shall include contact details for Council's City Projects Department at [projectmanagementpat@lakemac.nsw.gov.au](mailto:projectmanagementpat@lakemac.nsw.gov.au) to assess and sign off on public domain works. Plans shall include a 104 week establishment phase for all works within the public domain.

##### **Street Trees**

Street trees along Arnott Avenue shall comprise *Banksia integrifolia* and Cary Street *Flindersia australis* planted at centres along the streetscape. Planting in the public reserve to be *Quercus robur* 100lt and *Phoenix canariensis* with a trunk of a minimum 4000mm height. All trees are to be provided with standard LMCC tree guards (with exception of *Phoenix*), as per *Lake Macquarie City Council Landscape Standard Drawings March 2019*. The Landscape contractor shall remove all pot stakes, labels and wire/rubber/plastic tags from every street tree with only tree guard/staking as detailed. All street trees shall be grown to *AS2303:2015* with the landscape consultant sighting documentation from the nursery supplier confirming this and all street trees shall be maintained once planted for 104 weeks.

The detail of these requirements shall be included in the Subdivision Construction Certificate Landscape Construction Drawings and Specifications.

##### **The Hold/Witness Points – Checks Required**

- a) Set out of tree pits within existing concrete footpath (hold point).
- b) Excavation of tree pits with root barrier and sub-surface drainage installed in accordance with *Lake Macquarie City Council Landscape Standard Drawings March 2019* – relevant street tree details (hold point).
- c) Evidence of certification of all associated imported topsoil for street tree planting in accordance with *AS4419 – 2003* shall be provided to Councils Senior Project Officer (Civil) (hold point).
- d) Tree delivery prior to installation and certification to comply with *AS2303-2015 Tree Stock for Landscape Use* (hold point).
- e) Commencement of tree planting (witness point).
- f) Installation of growing medium (witness point).

- g) Completion of tree planting, including the installation of tree guards, in accordance with *Lake Macquarie City Council Landscape Technical Drawings February 2016* (witness point).

#### Hardscape Works

##### The Hold/Witness Points – Checks Required

- a) Formwork inspection (hold point)
- b) Pre pour inspections for pavement and pathways (hold point)
- c) Installation of tactile ground surface indicators as per manufacturers recommendations
- d) Review of works as executed with LMCC Senior Project Officer (Civil) prior to landscape compliance report sign off (hold point).

#### **45. Filling Importation and Compaction**

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

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

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

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

#### **46. Building Waste**

An area for the 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.

#### **47. Works Within a Public Road Reserve**

Approval is granted 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 no hazards shall remain that may impact on the public.

For any other works within the road reserve, an approval under s138 of the *Roads Act 1993* shall be obtained from Council. The road shall not be opened until the approval has been issued.

#### **48. Dial Before You Dig (Advice)**

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 shall provide the property details and the nearest cross street/road.



#### **49. Details Required Prior to Commencement of Works within the Public Domain**

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

- a) a Public Works Certificate has been issued by Council
- b) the person having the benefit of the development consent has given at least two days notice to Council of the intention to commence works.

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

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

#### **50. Construction Management Plan for Works**

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

The contractor engaged to undertake the construction works within the public domain shall provide a Construction Management Plan (CMP) to Council, a minimum of seven days prior to commencing any works.

The CMP shall be submitted to the City Projects Department at the following email address [projectmanagementpat@lakemac.nsw.gov.au](mailto:projectmanagementpat@lakemac.nsw.gov.au). The CMP shall be approved by Council prior to works commencing on site. The CMP shall set out the construction approach for the works and should seek to minimise disruption to the local community.



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

#### Health and Safety

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

#### Environment

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

#### Quality

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

All works on site shall be undertaken in accordance with the approved CMP.

#### **51. Notice of Commencement of Works within the Public Domain**

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

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

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

#### **Conditions to be satisfied during demolition and construction works**

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

#### **52. Erosion and Sediment Control**

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.

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

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

#### **53. Management of Site - Erosion Prevention and Sediment Control**

All disturbed areas shall be revegetated or rendered erosion resistant in accordance with *Development Control Plan 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.

#### **54. 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.

**55. Fix Damage Caused by Construction Works**

Any damage 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 to the satisfaction of Council.

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.

**56. Geotechnical Report Compliance**

Where the geotechnical report prepared for this development requires inspections, a suitably qualified engineer shall inspect the works at the stages specified in that report.

**57. Acid Sulphate Management Plan**

Prior to the issue of any construction certificate or commencement of any works on site an Acid Sulphate Management Plan shall be prepared and approved by the principle certifying authority for implementation for the proposed construction site.

**58. Vegetation Management Plan and Implementation**

Implementation of the EMP shall commence immediately upon any construction work commencing and shall be carried out in accordance with the approved addendum to the EMP.

**59. Landscape Works**

Landscape works shall be constructed in accordance with the approved landscape plans and specification.

A minimum of six street trees shall be planted within the widened Arnott Avenue road reserve. These trees shall be planted a 100 litre pot size. Street trees shall have tree guards and tree pits as per the *Toronto Streetscape Master Plan* and *Lake Macquarie City Council Landscape Standard Drawings March 2019*. Street trees shall have standard timber edging installed and all pot stakes, labels and wire/rubber/plastic tags removed. Street trees shall be *Banksia integrifolia*.

A minimum of three trees shall be planted along Cary Street at pot size 75 litre with tree pits and tree guards as per *Lake Macquarie City Council Landscape Standard Drawings March 2019*. A banded 1500mm width footpath is to replace the existing footpath in its current alignment. Street trees shall be *Flindersia australis*.

All street trees are to be grown to meet AS2303:2015.

A single *Quercus robur* and *Phoenix canariensis* tree planting and accompanying landscape ground works as designed shall occur in the adjoining public land adjoining the Fassifern Rail Trail. Undergrounding of e-wires is to occur to facilitate planting of *Phoenix canariensis*.

Furniture design for the streetscape is to be as per the Toronto Streetscape Master Plan specifications for furniture and pavement detailing.

All landscape planting works shall be implemented under the full supervision of a contractor with a current NSW Department of Fair Trading endorsed license in Structural Landscaping.

All paving works shall be implemented under the full supervision of a contractor with a current NSW Department of Fair Trading endorsed license in Structural Landscaping, Building or Minor Trade – Paving.

Landscape works shall conform to planting densities as scheduled with all plants at nominated pot sizes and spacing's and be maintained for a minimum of 52 weeks to achieve continuous healthy growth. A hard garden retaining edge (timber or concrete) shall be installed to all planting areas adjoining turf surfaces. All planted areas shall be covered with minimum 100mm mulch to aid plant establishment.

#### **60. Public Domain Works**

All landscape and public domain works approved by the subdivision construction certificate application shall be coordinated during the construction period with Council's Senior Project Officer (Civil) at [projectmanagementpat@lakemac.nsw.gov.au](mailto:projectmanagementpat@lakemac.nsw.gov.au). The witness and hold points set out in the Subdivision Construction Certificate Landscape Construction Drawings shall be observed.

#### **61. Excavation – Aboriginal Relics**

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

All necessary approvals from the Department of Planning, Industry and Environment shall be obtained and a copy provided to Council prior to works recommencing.

#### **62. Aboriginal Heritage**

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

Should any objects be discovered, all excavations or disturbance to the area shall cease immediately and the Department of Planning, Industry and Environment shall be notified.

All necessary approvals shall be obtained from the Department of Planning, Industry and Environment and copies provided to Council prior to works recommencing.

**63. Excavation – Non-Indigenous Relics**

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

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

**64. Excavation and Retaining**

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

No additional excavation/fill shall 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*. Prior to erection of any retaining wall not approved under this consent, reference to the *State Environmental Planning Policy Exempt and Complying Development Codes 2008* shall be undertaken to ascertain whether approval is required.

**65. Filling Importation and Compaction**

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

**66. Building Waste**

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.

**67. No works on adjoining Public Reserve**

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

#### **68. Works Within a Public Road Reserve**

When works are being undertaken within a public road reserve, all necessary precautions shall be taken to protect the public while work is in progress, this shall include traffic control in accordance with *Australian Standard AS1742 – Manual Uniform Traffic Control Services – Parts 1, 2 and 3*.

#### **69. 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.

#### **70. 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 shall:

- 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.

#### **71. Bushfire Protection**

The proposed building has been identified as being affected by bushfire.

The development shall conform to the specifications and requirements of the guide *Planning for Bushfire Protection ISBN 0 9585987 8 9*, produced by the NSW Rural Fire Service and the following:

##### **Asset Protection Zones**

**The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting fire fighting activities. To achieve this, the following conditions shall apply:**

From the start of building works, the entire property must be managed as an inner protection area (IPA). The IPA must comprise:

- Minimal fine fuel at ground level;
- Grass mowed or grazed;

- Trees and shrubs retained as clumps or islands and do not take up more than 20% of the area;
- Trees and shrubs located far enough from buildings so that they will not ignite the building;
- Garden beds with flammable shrubs not located under trees or within 10 metres of any windows or doors;
- Minimal plant species that keep dead material or drop large quantities of ground fuel;
- Tree canopy cover not more than 15%;
- Tree canopies not located within 2 metres of the building;
- Trees separated by 2-5 metres and do not provide a continuous canopy from the hazard to the building; and
- Lower limbs of trees removed up to a height of 2 metres above the ground.

### **Construction Standards**

**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:**

New construction on residential purposed buildings must 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.

### **Water and Utility Services**

**The intent of measures is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting fire fighting activities. To achieve this, the following conditions shall apply:**

The provision of water, electricity and gas must comply with the following:

- Fire hydrant design, spacing, sizing and pressures must comply with AS2419.1. Fire hydrants must not be located within any road carriageway. Ring main systems must be used for urban subdivisions with perimeter roads.
- Fire hose reels must be constructed and installed in accordance with AS/NZS1221 and AS2441.
- All above-ground water pipes external to the building must be metal including and up to any taps/outlets/fittings.
- Electrical transmission lines should be located underground where possible. Overhead electricity lines must have short pole spacing (i.e. 30 metres) except where crossing gullies, gorges or riparian areas. No tree may be closer to an electricity line than the distance set out in in ISSC3 Guideline for Managing Vegetation Near Power Lines.
- Gas must be installed and maintained as set out in the relevant standard and all pipes external to the building must be metal including and up to any taps/outlets/fittings. Polymer-sheathed flexible gas supply lines must not be used.

## **Landscaping Assessment**

**The intent of measures is for landscaping. To achieve this, the following conditions shall apply:**

Landscaping of the site should comply with following principles of Appendix 5 of Planning for Bush Fire Protection 2006:

- Suitable impervious areas are provided immediately surrounding the building such as courtyards, paths and driveways.
- Grassed areas, mowed lawns or ground cover plantings are provided in close proximity to the building.
- Planting is limited in the immediate vicinity of the building.
- Planting does not provide a continuous canopy to the building (i.e. trees or shrubs should be isolated or located in small clusters).
- Landscape species are chosen in consideration needs of the estimated size of the plant at maturity.
- Species are avoided that have rough fibrous bark, or which keep/shed bark in long strips or retain dead material in their canopies.
- Smooth bark species of tree are chosen which generally do not carry a fire up the bark into the crown.
- Planting of deciduous species is avoided which may increase fuel at surface/ground level (i.e. leaf litter).
- Climbing species are avoided to walls and pergolas.
- Combustible materials such as woodchips/mulch and flammable fuel are stored away from the building.
- Combustible structures such as garden sheds, pergolas and materials such timber garden furniture are located way from the building.
- Low flammability vegetation species are used.

## **72. Removal, Management and Transportation of Fill**

All excavated fill material that shall 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 Certifying Authority prior to the issue of the Final Occupation Certificate, 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 shall be provided to the Certifying Authority prior to the issue of the Final Occupation Certificate, 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.



### **73. 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 Certifying Authority.

### **74. 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

- a) The approved hours for construction of this development are –
  - Monday to Friday - 7.00am to 6.00pm.
  - Saturday – 8am to 1pm.
- b) No construction work shall take place on Sundays or Public Holidays.

Construction Periods in Excess of 26 Weeks

- a) If the construction period is in excess of 26 weeks, a Noise Management Plan 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 Noise Management Plan 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.
- b) Operational times may be amended with the written advice of Council's General Manager or delegate.

### **75. 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*.

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

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

**76. Dedication of Road Widening**

The final Plan of Subdivision shall make provision for the dedication of the land for road widening as indicated in red on the plan attached hereto. The dedication shall take place at no cost to Council prior to the issue of any Construction Certificate.

**Conditions to be satisfied prior to issue of an Occupation Certificate**

The person having the benefit of the consent shall comply with each of the following conditions prior to the issue of the Occupation Certificate, Interim or Final, as stated in each condition.

**77. 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 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.

**78. 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.

**79. Stormwater Disposal - Stormwater Detention and Harvesting**

All drainage works shall be carried out in accordance with the approved Construction Certificate plans.

Prior to the issue of an Interim or Final Occupation Certificate, whichever comes first, a Works As Executed Plan shall be prepared by a surveyor and submitted to the Certifying Authority that demonstrates compliance with the approved Construction Certificate. If there are any changes from the Construction Certificate these shall be highlighted in a different colour on the plan and certification shall be provided from the design engineer the changes do not affect the stormwater design outcomes.

**80. Dilapidation Survey Report**

A final Dilapidation Report shall be prepared by an engineer or suitably qualified person at the completion of the works. The report shall identify 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 Certifying Authority and owners of potentially affected properties and public infrastructure. Any identified damage shall be repaired prior to the issue of the Final Occupation Certificate.

#### **81. Fix Damage Caused by Construction Works**

Any damage to a public road or associated structures caused as a consequence of the construction works shall be made good to the satisfaction of Council.

Any disused kerb and gutter and footpath crossing shall be removed and replaced with full kerb and gutter in accordance with Council's standards.

These works shall be undertaken prior to the issue of the Final Occupation Certificate.

#### **82. Kerb and Guttering**

A Compliance Certificate shall be issued by Council stating the kerb and guttering, road pavement, shoulder sealing and associated drainage works have been constructed in accordance with the Construction Certificate and/or s138 *Roads Act* Approval, prior to the issue of the Final Occupation Certificate.

#### **83. Concrete Footpath**

A Compliance Certificate shall be issued by Council stating the concrete footpath work has been undertaken in accordance *with Development Control Plan 2014 and Engineering Guidelines*, prior to the issue of the Final Occupation Certificate.

#### **84. Vehicles Access Crossing and Kerb Layback**

Prior to the issue of the Final 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.

#### **85. Geotechnical Report Compliance**

Prior to the issuing of the Interim or Final Occupation Certificate, whichever comes first, the suitably qualified engineer who inspected the works shall provide written confirmation the constructed works are in accordance with the recommendations of the Slope Stability Geotechnical report prepared for the development.

#### **86. Tactile Indicators**

Prior to the issue of an interim or final occupation certificate, whichever occurs first, the development shall have tactile indicators installed in accordance with *AS 1428.4*.

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

**87. Consolidation of Lots**

Prior to the issue of an Interim or Final Occupation Certificate, whichever occurs first, Lot 4 Sec 6 DP 2505, Lot 5 Sec 6 DP 2505, Lot 6 Sec 6 DP 2505, Lot 7 Sec 6 DP 2505, Lot 8 Sec 6 DP 2505, Lot 9 Sec 6 DP 2505, Lot 10 Sec 6 DP 2505, Lot 100 DP 847314, Lot 101 DP 1110774

shall be consolidated and registered at the NSW Land Registry Services and a copy of the registered plan shall be provided to Council.

**88. Car Parking**

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

**89. Bicycle Parking Racks**

Secure bicycle parking/storage shall be provided to accommodate 17 bicycles on the site in accordance with the approved plans. The installation and dimensions of the bicycle parking/storage shall be in accordance with the Austroads *Cycling Aspects of Austroads Guides* and *Australian Standard AS2890.3:1993*. These works shall be completed prior to the issue of the Final Occupation Certificate.

**90. Vegetation Management Plan and Implementation**

Written approval from Council's Ecologist shall be submitted to the Certifying Authority demonstrating the EMP outcomes, including the EMP works schedule have been met, prior to the issue of the Final Occupation Certificate.

**91. Landscape Works**

At the completion of landscape works, the consulting landscape architect who prepared the documentation shall submit to the Certifying Authority a Landscape Compliance Report. This report shall certify shrub and tree species, pot size, and planting densities and landscape area setout comply with approved documentation and practical completion of the landscaping works has occurred. The Certifying Authority shall not issue the Final Occupation Certificate without receipt of the Landscape Compliance Report.

**92. Public Domain Works**

At the practical completion of works and prior to the issue of the Final Occupation Certificate, the landscape consultant that prepared the Public Works Certificate Landscape Construction Drawings shall submit a Landscape Compliance Report to the LMCC Senior Project Officer (Civil) certifying all public domain landscape works have received the relevant witness and hold point inspections, implemented and maintained in accordance with this Subdivision Construction Certificate. This compliance report is required prior to LMCC issuing a compliance certificate for the works.

**93. State Environmental Planning Policy 65**

Prior to the issue of the Final Occupation Certificate, a design verification statement from a qualified designer shall be submitted.

The statement shall confirm the development has been constructed in accordance with the Design Quality Principles set out in Schedule 1 of *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development*.

**94. Driveway Construction – Commercial**

Prior to the issue of the Interim or Final Occupation Certificate, whichever comes first, the driveway to the garage or car parking area of the development shall be constructed in accordance with the approved Construction Certificate plan.

**95. Works Within a Public Road Reserve**

Where a road surface has been disturbed or damaged the calculated road restoration fee shall be paid to Council. Evidence shall be provided the relevant fee has been paid prior to the issue of the Final Occupation Certificate.

**96. Removal, Management and Transportation of Fill**

For all excavated fill material that has been removed from the site during construction:

- a) A copy of the receipts from the waste disposal facility shall be kept and provided to the Certifying Authority prior to the issue of the Final Occupation Certificate, or authorised officer of Council upon request; or
- b) A copy of the current development consent for the site to which the material has been distributed shall be provided to the Certifying Authority prior to the issue of the Final Occupation Certificate, or authorised officer upon request.

**97. Noise – Ongoing Operation of Machinery, Plant and Equipment**

Certification from a suitably qualified acoustic consultant shall be submitted prior to the issue of an Interim or Final Occupation Certificate, whichever occurs first, demonstrating the Laeq (15 minute) operating noise level of machinery, plant, equipment, or any other operational noise source, when measured at the boundary of another premises, complies with either the amenity or intrusiveness criteria calculated in accordance with the NSW Environment Protection Authority *Noise Policy for Industry 2017*.

**98. Acoustic Certification**

Prior to the issue of the Interim or Final Occupation Certificate, whichever comes first, written confirmation shall be provided from a suitably qualified acoustic consultant certifying works have been completed in accordance with the recommendations of the Acoustic Report prepared for the development and the development is capable of operating in accordance with the design criteria.

**99. Works as Executed Plan – Public Domain Works**

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

The Works as Executed Plan shall, in addition to construction details, show limits and depths of filling, locations of service conduits and street names.

**100. Compliance Certificate for Works**

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

**101. Heritage Interpretation – Installation**

The approved site heritage interpretation shall be implemented to the satisfaction of Council's Development Planner – Heritage, prior to the issue of an interim or final Occupation Certificate, whichever occurs first.

**102. Crime Prevention Through Environmental Design**

The development shall be constructed and maintained in accordance with the recommendations of the approved Crime Prevention Through Environmental Design Report.

Technical Surveillance shall be applied across publicly accessible areas of the development. This may include mechanisms such as a security surveillance system that is of a quality to enable facial recognition, application of motion activated lighting in public areas, clear signage, establishment of clear line of sight for capable guardianship within design of structure.

Details demonstrating compliance with this condition shall be submitted to the satisfaction of the Certifying Authority prior to issue of an interim or Final Occupation Certificate, whichever occurs first.

**103. Signage and Linemarking**

Any alteration to regulatory signposting and line marking is subject to investigation by the Lake Macquarie Traffic Facilities and Road Safety Committee.

Plans showing signposting and line marking on the public street system or road related area are to be submitted for Council approval as part of an application.

The approval process could take up to three months and must be finalised and installed prior to an interim or Final Occupation Certificate, whichever occurs first.

### **Operational Conditions**

The person having the benefit of the consent shall comply with each of the following conditions during the operation of the development.

#### **104. Use and Allocation of Car Parking**

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, shall not be used other than by an occupant or tenant of the development.

The spaces shall be allocated in the following proportions:

Residential	129
Residential – Visitors on basement level 2	14
Commercial	111
Dual use commercial / visitor spaces on basement level 2	14
Disabled car spaces – residential	13
Disabled car spaces – commercial	4
Car Wash Bay	1
<b>Total</b>	<b>268</b>

No spaces shall be marked, signposted or otherwise identified as being for the sole use of staff only. Non-residential spaces shall not be fitted with any equipment serving to render the car park inaccessible at any time, such as bollards, roller doors, or the like.

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

#### **105. Landscape Works**

All landscape works required under this consent shall undergo an establishment maintenance period of a minimum of 52 weeks to achieve continuous healthy growth improving amenity and aesthetics over the site and meeting the aims for development in the zone.

All landscaping shall then be permanently maintained in good condition in accordance with the approved landscape plan and the adopted *Development Control Plan 2014 Guidelines – Landscape Design Guidelines*.

#### **106. Public Domain Works**

The landscape consultant that prepared the Subdivision Construction Certificate Landscape Construction Drawings (or a consultant with equivalent qualifications) shall submit Landscape Maintenance Reports to LMCC Senior Project Officer (Civil) at 52 weeks and 104 weeks after practical completion certifying the public domain works are being satisfactorily maintained.

#### **107. External Storage of Products**

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

#### **108. 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.

#### **109. Lighting**

Lighting shall comply with *Australian Standard AS4282-1997*.

#### **110. Onsite Loading Facility**

The on-site loading facility shall be kept clear of goods and is not permitted to be used for any storage purposes, including garbage storage.

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

No waste collection, deliveries, loading or unloading to occur between the hours of 7pm and 7am on any day.

#### **111. External Material Reflection**

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

The use of reflective bright white colours is not permitted.

#### **112. Noise – Ongoing Operation of Machinery, Plant and Equipment**

The Laeq (15 minute) operating noise level of machinery, plant, equipment, or any other operational noise source, when measured at the boundary of another premises, shall comply with either the amenity or intrusiveness criteria calculated in accordance with the NSW Environment Protection Authority *Noise Policy for Industry 2017*.

For assessing amenity criteria, the area shall be categorised in accordance with the guidelines outlined in Chapter 2 of that Policy.



### **113. 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 Environment Protection Authority (EPA) sleep disturbance criteria, calculated in accordance with the NSW EPA Noise Policy for Industry 2017.

### **114. Acoustic Certification**

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

### **115. 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.