

ATTACHMENT 3 – Recommended Conditions of Consent

CONDITIONS THAT IDENTIFY APPROVED PLANS

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

Plan/Doc.Title	Plan Ref. No	Sheet.	Date	Drawn By
Temporary Community Building and Services Plan	217-019	003	30/01/2019	Space Design Architecture
Temporary Community Building Floor Plan	217-019	115	1/02/2019	Space Design Architecture
Master Plan	217-019	002	5/11/2018	Space Design Architecture
Staging Plan	217-019	003	5/11/2018	Space Design Architecture
Landscape Plans (11 Sheets)	11989.5	L00 to L10	11/11/2018	Terras Landscape Architects
Stormwater Layout Plan	NE280116	011	12.12.18	ACOR Consultants
Unit Floor Plans (9 Sheets)	217-2019	100 to 104, 110 to 114	8/08/2018	Space Design Architecture
Street Elevations	217-2019	300	8/08/2018	Space Design Architecture
Community Building Floor Plan, Roof Plan and Elevations (4 Sheets)	217-2019	200 to 203	8/08/2018	Space Design Architecture
Ancillary Buildings	217-019	210	8/08/2018	Space Design Architecture

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

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

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

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

2. The approved plans are modified in the following manner:

- Dwelling configuration of the Master Plan (Ref: 217-019 and dated 5/11/2018) and Staging Plan (Ref: 217-019 and dated 5/11/2018) are updated by the Temporary Community Building and Services Plan.

CONDITIONS THAT IDENTIFY LIMITATIONS OF CONSENT

3. The development shall be undertaken in accordance with the General Terms of Approval issued by NSW Rural Fire Service D18/7633 and dated 29 November 2018. A copy of the General Terms of Approval is attached to this determination notice.
4. The temporary sales office approved under this consent may be carried out for a period of five years from the commencement of the use, after which the use shall revert to a dwelling house. Notice of the commencement date of the temporary sales office must be provided to Council prior to the use commencing.

A modification application must be submitted and determined prior to the expiration of the time period if it is intended to extend the approved time period. If a modification application is not submitted prior to the time limited operation date, the temporary sales office use must cease and the building shall be reverted to a dwelling house.

5. The development shall be carried out in the numerically consecutive stages as shown on approved staging plan (Ref No. 217-019 and dated 6 February 2018).

CONDITIONS THAT IDENTIFY OTHER APPROVALS REQUIRED

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

CONDITIONS THAT IDENTIFY CONTRIBUTIONS AND FEES

7. A monetary contribution is to be paid, for each relevant stage, to Council for the provision of 109 additional lots, pursuant to section 4.17(1) of the *Environmental Planning and Assessment Act 1979*, section 7.11 of the *Environmental Planning and Assessment Act 1979*, and the Port Stephens Council Development Contributions Plan towards the provision of the following public facilities, as follows:

STAGE ONE – 19 LOTS (Note: A one lot credit has been applied)

Facility	Per lot/dwelling	Total
Civic Administration, plan management	\$373.00	\$7,087.00
Civic Administration, works depot	\$228.00	\$4,332.00
Public Open Space, Parks and Reserves	\$1,315.0	\$24,985.00
Sports and Leisure Facilities	\$3,572.00	\$67,868.00

Cultural and Community Facilities	\$1,263.00	\$23,997.00
Road Works	\$338.00	\$6,422.00
Fire & Emergency Services	\$117.00	\$2,223.00
Medowie, Traffic and Transport	\$523.00	\$9,937.00
	Total	\$146,851.00

STAGE TWO – 18 LOTS

Facility	Per lot/dwelling	Total
Civic Administration, plan management	\$373.00	\$6,714.00
Civic Administration, works depot	\$228.00	\$4,104.00
Public Open Space, Parks and Reserves	\$1,315.0	\$23,670.00
Sports and Leisure Facilities	\$3,572.00	\$64,296.00
Cultural and Community Facilities	\$1,263.00	\$22,734.00
Road Works	\$338.00	\$6,084.00
Fire & Emergency Services	\$117.00	\$2,106.00
Medowie, Traffic and Transport	\$523.00	\$9,414.00
	Total	\$139,122.00

STAGE THREE – 13 LOTS

Facility	Per lot/dwelling	Total
Civic Administration, plan management	\$373.00	\$4,849.00
Civic Administration, works depot	\$228.00	\$2,964.00
Public Open Space, Parks and Reserves	\$1,315.00	\$17,095.00
Sports and Leisure Facilities	\$3,572.00	\$46,436.00
Cultural and Community Facilities	\$1,263.00	\$16,419.00
Road Works	\$338.00	\$4,394.00
Fire & Emergency Services	\$117.00	\$1,521.00
Medowie, Traffic and Transport	\$523.00	\$6,799.00
	Total	\$100,477.00

STAGE FOUR – 18 LOTS

Facility	Per lot/dwelling	Total
Civic Administration, plan management	\$373.00	\$6,714.00
Civic Administration, works depot	\$228.00	\$4,104.00
Public Open Space, Parks and Reserves	\$1,315.0	\$23,670.00
Sports and Leisure Facilities	\$3,572.00	\$64,296.00

Cultural and Community Facilities	\$1,263.00	\$22,734.00
Road Works	\$338.00	\$6,084.00
Fire & Emergency Services	\$117.00	\$2,106.00
Medowie, Traffic and Transport	\$523.00	\$9,414.00
	Total	\$139,122.00

STAGE FIVE – 13 LOTS

Facility	Per lot/dwelling	Total
Civic Administration, plan management	\$373.00	\$4,849.00
Civic Administration, works depot	\$228.00	\$2,964.00
Public Open Space, Parks and Reserves	\$1,315.00	\$17,095.00
Sports and Leisure Facilities	\$3,572.00	\$46,436.00
Cultural and Community Facilities	\$1,263.00	\$16,419.00
Road Works	\$338.00	\$4,394.00
Fire & Emergency Services	\$117.00	\$1,521.00
Medowie, Traffic and Transport	\$523.00	\$6,799.00
	Total	\$100,477.00

STAGE SIX – 12 LOTS

Facility	Per lot/dwelling	Total
Civic Administration, plan management	\$373.00	\$4,476.00
Civic Administration, works depot	\$228.00	\$2,736.00
Public Open Space, Parks and Reserves	\$1,315.00	\$15,780.00
Sports and Leisure Facilities	\$3,572.00	\$42,864.00
Cultural and Community Facilities	\$1,263.00	\$15,156.00
Road Works	\$338.00	\$4,056.00
Fire & Emergency Services	\$117.00	\$1,404.00
Medowie, Traffic and Transport	\$523.00	\$6,276.00
	Total	\$92,748.00

STAGE 7 – 16 LOTS

Facility	Per lot/dwelling	Total
Civic Administration, plan management	\$373.00	\$5,968.00
Civic Administration, works depot	\$228.00	\$3,648.00
Public Open Space, Parks and Reserves	\$1,315.00	\$21,040.00
Sports and Leisure Facilities	\$3,572.00	\$57,152.00

Cultural and Community Facilities	\$1,263.00	\$20,208.00
Road Works	\$338.00	\$5,408.00
Fire & Emergency Services	\$117.00	\$1,872.00
Medowie, Traffic and Transport	\$523.00	\$8,368.00
	Total	\$123,664.00

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

- a) Subdivision and building work - **prior to the issue of the Construction Certificate** for each relevant stage.

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

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

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

8. **Prior to the issue of any Construction Certificate**, the subdivision certificate relating to Stage 6 of Development Consent No.16-2015-336-7 is to be issued.
9. **Prior to issue of the Construction Certificate for each stage**, detailed design plans of any retaining wall required to support the approved development, that do not meet the requirements for exempt development, shall be submitted to the Certifying Authority for approval.
10. **Prior to the issue the Construction Certificate for each stage**, documents and plans for the relevant stage which demonstrate compliance with the requirements of the Disability Access Report prepared by Lindsey Perry Access, dated 15 August 2018 and the applicable design requirements applied under Schedule 3 – Standards of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* concerning accessibility and useability for hostels and self-contained dwellings must be submitted to and deemed to be satisfactory by the Principal Certifying Authority. A copy of the documents and plans are to be submitted to Council within 14 days of lodgement with the Principal Certifying Authority.

Note: where an inconsistency arises, the provisions of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* shall prevail.

11. **Prior to the issue of any Construction Certificate**, a Construction Environmental Management Plan (CEMP) is to be submitted to and approved by the Certifying Authority. The required CEMP must outline the sequence and construction methodology and specify mitigating measures to ensure all works are carried out with minimal environmental impact in relation to project staging, waste management,

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

- a. Tree removal and retention plans (including species, size and hollows);
- b. Inventory of the number of koala feed trees and hollows to be removed and compensatory measures in accordance with Council's Technical Specifications;
- c. Tree clearing protocols in accordance with Council's Technical Specifications;
- d. Fauna rescue and relocation measures; and
- e. Dust management measures.

12. **Prior to the issue of any Construction Certificate**, the approved landscape plan (Ref No. 11989.5 and dated 11/11/2018), is to be amended to indicate:

- a. The location of all paved and landscaped areas, vegetation to be removed and/or retained, type of species to be planted, and is to state the mature height and spread of all proposed vegetation;
- b. Plantation of *Agathis robusta* in the road verge;
- c. Plantation of *Elaeocarpus reticulatus* in the central median strip; and
- d. Replacement of *Euky Dwarf* with *Backhousia citriodora*.

The amended landscape plan is to be prepared in accordance with Council's Tree Specification and submitted to the Certifying Authority for approval **prior to issue of any Construction Certificate**.

13. **Prior to the issue of any Construction Certificate**, detailed engineering plans for civil works in accordance with the approved plans are to be submitted to the Certifying Authority. The detailed plans are to be in accordance with Council's Infrastructure Specification and include the following information:

- a. Details of any required regulatory signage, approved by the Local Traffic Committee and consistent with this condition;
- b. Kerb and guttering along the road frontage adjacent to the development lot;
- c. Intersection of Road 1 to Western Road, forming the site access within the road reserve, including connecting pavement, kerb returns, drainage and footpath;
- d. Street lighting in accordance with AS/NZS 1158 including the provision of current best practice energy efficient luminaires;
- e. Any associated works to ensure satisfactory transitions to existing infrastructure; and
- f. Evidence of Council (or relevant authority) approval for works on public infrastructure, with the above supporting details endorsed, under Section 68 of the Local Government Act 1993 or Section 138 of the Roads Act 1993.

The above works are to be completed **prior to the issue of a Final Occupation Certificate of any dwelling of the relevant stage**.

14. **Prior to issue of any Construction Certificate**, a detailed stormwater drainage plan for the entire development is to be submitted to the Certifying Authority. The detailed plans are to be in accordance with the applicable Port Stephens Council Development Control Plan and Infrastructure Specification as well as the current

Australian Rainfall and Runoff guidelines using the Hydrologic Soil Mapping data for Port Stephens (available from Council), and include the following information:

- a. An emergency overland flow path for major storm events, catering for a range of rainfall scenarios up to and including the 1% AEP Rainfall Event, that is directed to the public drainage system;
- b. Conveyance where necessary, of stormwater through the site from upstream catchments, (including roads and adjoining properties);
- c. Detailed pavement finished surface levels, to ensure stormwater runoff is directed into the stormwater system;
- d. Metal kerb adaptors (or alternative) within the kerb adjacent to each approved lot not serviced by an inter-allotment drainage line, extended to within the boundaries of each respective property by a 100mm SN8 grade pipe;
- e. Interallotment drainage;
- f. An Operation and Maintenance Plan for the stormwater system, prepared by a suitably qualified and experienced person, detailing a regular maintenance programme for the stormwater management system, a copy of which shall be supplied to the owner; and
- g. Evidence of Council (or relevant authority) approval for stormwater connection to the public system, with the above supporting details endorsed, under Section 68 of the Local Government Act 1993 or Section 138 of the Roads Act 1993.

The above works are to be completed **prior to the issue of a Final Occupation Certificate of any dwelling for the relevant stage**

15. **Prior to the issue of any Construction Certificate**, a geotechnical assessment of the site is to be undertaken to determine whether the development works will disturb Acid Sulfate Soils (ASS). Should ASS be encountered within the zone of works an ASS Management Plan is to be prepared by a suitably qualified engineer and must be submitted to the Certifying Authority **prior to the issue of any Construction Certificate**.

The recommendations and/or mitigation measures contained within the ASS Management Plan shall be complied with during works.

CONDITIONS TO BE SATISFIED PRIOR TO DEMOLITION, EXCAVATIONS OR CONSTRUCTION

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

16. **At least two days prior to the commencement of works**, the applicant shall submit to Council a "Notice of Commencement and Appointment of Principal Certifying Authority" form.
17. **Prior to the commencement of works for each stage**, a pre-clearance survey must be undertaken by a suitably qualified and experienced ecological consultant in accordance with the CEMP. The fauna ecologist must inspect all native trees approved for removal prior to felling within the disturbance footprint and advise the site manager and tree clearing staff of any habitat potential and precautions necessary during tree felling. The following strategies need to be employed to mitigate the effect of this clearing on native fauna that occur on the site:

- a. The fauna ecologist must supervise the removal of all trees and provide the Principal Certifying Authority with a pre-clearance survey report at the completion of tree felling works;
- b. The process of removal should be as per the ecologists' directions and include shaking the tree 24 hours prior to removal and leaving the felled tree in situ for 48 hours to allow any undetected fauna in hollows to escape;
- c. Remove and modify hollows and nests from felled trees and re-establish these into suitable adjacent native vegetation within the site to provide compensatory habitat. This includes the mounting of hollows and nests on trees or poles, or on other buildings or structures. Re-use of hollows will be carried out in preference to the construction of artificial nesting boxes. The replacement ratio for retained tree hollows is 1:1;
- d. Where original hollows cannot be retained, artificial nesting boxes must be provided to provide compensatory habitat in accordance with Council's *Nest Box Technical Specification*; and
- e. In circumstances where native fauna is detected during the removal of habitat trees, clearing is to cease until a licensed wildlife carer or consultant relocates the fauna species.

Note: If the pre-clearance survey identifies any threatened species inhabiting a tree flagged for removal, all clearing works shall cease until a plan of management for the relocation of the species has been approved by Council in consultation with the Office of Environment and Heritage.

18. **Prior to the commencement of works for each stage**, the applicant is required to notify Council in writing of any existing damage to public infrastructure (including landscaping) within the vicinity of the development, the absence of such notification signifies that no damage exists.
19. **Prior to the commencement of works for each stage**, a 3m wide all-weather vehicle access is to be provided from the kerb and gutter to the building under construction for the delivery of materials and use by trades people. No materials, waste or the like are to be stored on the all-weather access at any time except with the agreement of the Principle Certifying Authority.
20. **Prior to the commencement of works for each stage**, a waste containment facility is to be established on site. The facility is to be regularly emptied, and maintained for the duration of works. No rubbish shall be stockpiled in a manner which facilitates the rubbish to be blown or washed off site. The site shall be cleared of all building refuse and spoil immediately upon completion of the development.
21. **Prior to the commencement of works for each stage**, the property shall be protected against soil erosion, such that sediment is not carried from the construction site by the action of stormwater, wind or "vehicle tracking". Protection measures may include erosion and sedimentation controls as required. All protection measures are to be installed to the satisfaction of Council and must be regularly maintained for the duration of works and until the site is stabilised by vegetation or the like.

CONDITIONS TO BE SATISFIED DURING WORKS

The following conditions are to be complied with during works.

22. A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the Site at all times and shall be readily available for perusal by any officer of Council or the Principal Certifying Authority.
23. The Principal Contractor (or Owner/Builder) shall erect a sign in a prominent position on the site (not attached to any tree) identifying the name, address and telephone number of the Principal Certifying Authority (PCA) for the work. The sign shall also display the name, address and telephone number of the Principal Contractor for the work (or Owner/Builder) and shall state that unauthorized entry to the site is prohibited. The sign must be maintained while the work is being carried out and is to be removed when the work is completed.
24. All building work shall be carried out in accordance with the requirements of the Building Code of Australia.
25. The construction of the building, including the roof, shall be in materials of a low reflective quality. The visible light reflectivity from building material used on the facades shall not exceed 20% and shall be designed so as not to result in glare that causes any nuisance or interference to any person or place.
26. The development is to comply with the requirements of the Disability Access Report prepared by Lindsey Perry Access, dated 15 August 2018.
27. Immediately following the installation of the swimming pool, a child resistant barrier is to be erected about the pool. The barrier is must be installed, constructed and maintained strictly in accordance with this approval and is to comply with the provisions of the *Swimming Pools Act 1992 and the Swimming Pools Regulations 2018*.
28. The swimming pool/spa water recirculation and filtration system installation shall comply with AS 1926.3 – 2010 and/or AS2610.2 - 2007. Incorporating this safety measure may assist in avoiding entrapment of/or injury to young children.
29. The temporary community building kitchen must not operate as a 'food business' or offer 'food for sale' as defined by the *Food Act 2003 No 43*.
30. The construction and fit-out of the permanent Community Building (stage 2) must be carried out in accordance with the following;
 - a. The Food Act 2003;
 - b. Food Regulation 2015;
 - c. Australian Standard 4674-2004 –Construction and Fit-out of Food Premises; and
 - d. AS 1428.2 – Design for access and mobility.
31. A temporary toilet(s) shall be provided and maintained on site from the time of commencement of building work to completion. The number of toilets provided shall be one toilet per 20 persons or part thereof employed on the site at any one time. The temporary toilet is to be either connected to the sewerage system or an approved septic tank or otherwise may be a chemical toilet supplied by a licensed contractor.

32. Unless otherwise approved by Council in writing, all general building/demolition work shall be carried out between the hours of:
- 7.00am to 5.00pm Monday to Saturday
 - No construction is to be carried out at any time on a Sunday or a public holiday.

Any work performed outside the abovementioned hours or on a public holiday that may cause offensive noise, as defined under the *Protection of the Environment Operations Act 1997*, is prohibited.

33. No building materials, plant, equipment, refuse or spoil is to be deposited on or be allowed to remain on Council's footpath or outside the boundaries of the development site unless approved by Council in writing. Where building activity cannot avoid occupation of the public road reserve, (such as, for the erection of hoarding, scaffolding, partial closure) separate approval from Council for the use of the road reserve is required.
34. Suitable and adequate measures are to be applied to restrict public access to the site and building works, materials and equipment.
35. All excavated and/or filled areas are to be retained or battered and suitably drained so as to prevent any subsidence of the surrounding land and constructed so as to deny any flow of water into or around the building or neighbouring buildings or onto neighbouring land.
36. The only fill material that may be received at the development site is:
- Virgin excavated natural material (VENM) within the meaning of the *Protection of the Environment Operations Act 1997* (POEO); or
 - Excavated natural material (ENM) within the meaning of the POEO; or
 - Any other waste-derived material the subject of a resource recovery exemption under s.91 of the *Protection of the Environment Operations (Waste) Regulation 2014* that is permitted to be used as fill material.

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

37. All associated excavations and backfilling associated with the development must be executed safely and in accordance with the appropriate professional standards, and must be properly guarded and protected to prevent them from being dangerous to life or property.
38. All retaining walls, including all footings, drainage and backfill are to be located wholly within the property boundaries, and are to include a sub-surface drain that connects to a stormwater disposal system in accordance with the requirements of Councils DCP.

CONDITIONS TO BE SATISFIED PRIOR TO ISSUE OF AN OCCUPATION CERTIFICATE

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

39. **Prior to the issue of any Occupation Certificate for the relevant stage**, the Principal Certifying Authority shall be satisfied that the development has been constructed in accordance with approved plans, specifications and conditions of this consent. No occupational use is permitted until the Principal Certifying Authority issues an Occupation Certificate.

Note: The Principal Certifying Authority must submit a copy of the Occupation Certificate to Council, with all associated documentation, within two days of it being issued.

40. **Prior to the issue of any Occupation Certificate for the relevant stage**, a fire safety schedule and a fire safety certificate issued under Divisions 2 and 4, Part 9 of the *Environmental Planning and Assessment Regulations 2000* (the Regs) must be submitted to the Principal Certifying Authority, Council and the Commissioner of New South Wales Fire Brigades. A copy of the schedule and certificate must also be prominently displayed in the building. Subsequent annual fire safety statements issued under Division 5, Part 9 of the Regs are to be provided to the authorities listed in this condition and displayed within the building each year.
41. **Prior to the issue of any Occupation Certificate for the relevant stage**, the commitments listed in BASIX Certificate No.917139M (or an amended version of this certificate, or a replacement certificate particular to the approved development) are to be installed in the development. Should an amended or replacement certificate be issued, a copy is to be forwarded to the principle certifying authority immediately following its issue.
42. **Prior to the issue of any Occupation Certificate for both the permanent Community Building (stage 2):**
- a. Council must be notified that the premises is being used for the preparation, manufacture, or storage of food for sale and Comply with AS:4674 Design, Construction and Fit-out of food premises;
 - b. Environmental Health Officer to inspect fit-out 48 hours prior to opening of business;
 - c. Registration with Council as a food business will be required with any subsequent inspections.
43. The development shall provide on-site car parking spaces, including disabled parking spaces in accordance with the stamped staging plan. These spaces shall be separately accessible, clearly line-marked (disabled spaces clearly signposted) and adequately paved and drained in accordance with AS2890 and the Port Stephens Development Control Plan 2014. Car parking must be provided **prior to the issue of any Occupation Certificate for the relevant stage**.
44. **An Occupation Certificate is to be issued for the temporary community building** prior to any dwelling site in stage 1 being issued with an Occupation

Certificate. The temporary community building shall be retained on site and be available for use by the community until an Occupation Certificate has been issued for the permanent Community Building in stage 2.

45. **Prior to the issue of any Occupation Certificate for any dwelling in stage 2**, an Occupation Certificate for the permanent community building is to be issued and the use of the temporary community building shall cease. The temporary community building shall be converted to a dwelling house.
46. **Prior to the issue of any Occupation Certificate for any dwelling in stage 5**, an Occupation Certificate for the approved pool/ gym and men's shed is to be issued and the facilities are to be made available for use.
47. **Prior to the issue of any Occupation Certificate for any dwelling in stage 5**, all works relating to the bowling green are to be completed and the facility is to be made available for use.
48. **Prior to the issue of any Occupation Certificate for the relevant stage**, an independent design verification and access audit from an appropriately experienced consultant shall be submitted to the Principal Certifying Authority certifying that the development has been constructed in accordance with the requirements of the Disability Access Report prepared by Lindsey Perry Access, dated 15 August 2018 and the applicable design requirements applied under Schedule 3 – Standards of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* concerning accessibility and useability for hostels and self-contained dwellings.

Note: in the case of inconsistency the provisions of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004* shall prevail.

49. **Prior to the issue of any Occupation Certificate for the relevant stage**, works-as-executed plans and an accompanying report prepared and certified by a Chartered Professional Engineer, recognised under the National Engineering Register (NER) confirming all stormwater drainage systems are constructed in accordance with the approved plan shall be submitted to the Principal Certifying Authority for assessment. A copy of works-as-executed plans and accompanying reports are to be submitted to Council within 14 days of lodgement.
50. **Prior to the issue of any Occupation Certificate for any dwelling**, a community bus is to be available for use. The bus service shall be available for use whenever any dwelling site is occupied. Details confirming the provision and ongoing availability of the community bus are to be provided to the Principal Certifying Authority.
51. **Prior to the issue of any Occupation Certificate for the relevant stage**, evidence is to be provided to the certifying authority demonstrating that the following reticulated services are available to each lot:
 - a. Telecommunications;
 - b. Electricity;
 - c. Water; and
 - d. Sewer.

Should any of the above reticulated services not be available to the development site, a detailed statement is to be provided explaining why connection of the relevant service is not possible or practical.

52. **Prior to issue of any Occupation Certificate for the relevant stage**, a restriction as to user must be registered against the title of the property in accordance with section 88E of the *Conveyancing Act 1919* limiting the use of any accommodation on the property to the people listed in the definition of Seniors Housing under *Port Stephens Local Environmental Plan 2013*.
53. **Prior to the issue of any Occupation Certificate for any dwelling**, the following details are of encumbrances under Section 88B of the *Conveyancing Act 1919* are to be illustrated on the deposited plan and 88B instrument required to carry out the approved development. In particular, the title of the respective approved lot shall be endorsed with the following:
- a. Easements for stormwater drainage; and
 - b. Easements for provision of services.
- The authority to release, vary or modify the above restrictions shall be listed as the owner of the lot(s) benefitted, but only with the agreement of Port Stephens Council.
54. **Prior to the issue of any Occupation Certificate for the relevant stage**, landscape works detailed on the approved landscape plan (Ref No. 11989.5 and dated 11/11/2018) as amended by Condition 12 shall be installed.
55. **Prior to the issue of any Occupation Certificate for the relevant stage**, any koala feed trees or hollow bearing trees removed as part of the development must be replaced according to the ratio detailed in the below table, or, at Council's discretion the applicant may conduct enhancement works which improve the integrity and viability of koala food trees, habitat and faunal movement corridors on the subject site.

Koala food tree size class (diameter breast height over bark)	Replacement Ratio (loss:gain)
<100 mm	1:6
100-300 mm	1:8
>300 mm	1:10
Tree Hollows	1:1

On other land approved by Council for use as receiving land, replacement koala food trees must be:

- a. of the same species;
- b. sourced from local provenance seed stock;
- c. planted in a cluster and, where feasible, in the vicinity of any retained food trees;
- d. protected, nurtured and maintained until the trees have reached a mature site of 5 metres – at the cost of the applicant; and
- e. Any replacement trees that die before maturity must be replaced by the applicant and at their cost.

CONDITIONS TO BE SATISFIED AT ALL TIMES

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

56. At all times, all collected stormwater including overflows from any rainwater tanks shall be dispersed at ground level, so as not to be concentrated or create nuisance flows onto any buildings, or neighbouring properties. The discharge location shall be at least 3m down slope of the building and 6m minimum clearance from receiving down slope property boundaries.
57. The hours of operation of the men's shed are to be restricted to 9am-7pm on any day.
58. All noise generating equipment associated with approved mechanical ventilation system/s must be located and/or soundproofed so the equipment is not audible within a habitable room in any adjoining residential premises before 7am and after 10pm Monday to Friday and before 8am and after 10pm Saturday, Sunday and public holidays.
59. To minimise noise nuisance on residences or future residences nearby the proposed refuse collection area and access road, no refuse collection shall take place before 7am and after 10pm Monday to Friday, and before 8am and after 10pm Saturday, Sunday and public holidays.
60. Landscaping shall be maintained in accordance with the approved plan in a healthy state, and in perpetuity, by the existing or future owners and occupiers of the development. If any of the vegetation comprising the landscaping dies or is removed, it is to be replaced with vegetation of the same species and similar maturity as the vegetation which has died or was removed.

ADVISORY NOTES

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

- A. The Applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.
- B. Before any excavation work starts, contractors and others should phone the "Dial Before You Dig" service to access plans/information for underground pipes and cables. www.dialbeforeyoudig.com.au
- C. You are advised that the proposal is located in a 'Birdstrike Group A' area mapped by the Department of Defence. Any organic waste stored on site should be covered or enclosed within bins and be maintained to prevent attracting vermin and/or birds to the area.
- D. In the event of any aboriginal artefact, object or structure being unearthed, all work must cease immediately in the affected area, and the Office of Environment and Heritage (OEH) shall be informed of the discovery. Work must not recommence until the material has been inspected and permission has been given by OEH to proceed.
- E. **Prior to occupying any dwelling in the development**, Council's Spatial Services Team should be contacted via email at: addressing@portstephens.nsw.gov.au to

obtain correct property addressing details. Please state your Development Approval number and property address in order to obtain the correct house numbering. Note: any referencing on Development Application plans to house or lot numbering operates to provide identification for assessment purposes only.

- F. You are advised that, in accordance with the EP&A Act, (Section 6.8) payment of the building industry Long Service Leave levy, where applicable, must be paid **prior to the issue of any Construction Certificate**.
- G. The erection of dividing fences under this consent does not affect the provisions of the *Dividing Fences Act 1991*. Under this Act, all relevant parties must be in agreement prior to the erection of any approved dividing fence/s under this consent.

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

SCHEDULE 3

RIGHT OF APPEAL

If you are dissatisfied with this decision:

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

NOTES

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