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ABN: 11 236 901 601

12 March 2018

Parcel Number: 48392, 48393

CVC Mezzanine Finance Pty Ltd
CARE King & Campbell Pty Ltd
PO Box 243
PORT MACQUARIE NSW 2444

Dear Sir/Madam

DA 2015/600.2 - Modification of Consent Pursuant to Section 96 (1A) of the Environmental Planning & Assessment Act 1979

I refer to your application dated 9 February 2018 to modify staging and conditions under DA 2015/600 at LOT: 12 DP: 1088869, LOT: 13 DP: 1088869 18 John Oxley Drive PORT MACQUARIE, Oxley Highway PORT MACQUARIE.

Please be advised that pursuant to Section 96 (1A) of the Act, your application to modify the consent has been granted, subject to:

A. Amend the following conditions as outlined in modified consent:

A(1), A(2), B(1), B(2), B(3), B(8), B(10), B(11), B(13), B(14), B(15), B(16), B(17), B(18), B(19), B(20), B(21), B(22), B(23), B(24), B(25), B(27), B(28), B(29), B(30), B(31), and B(32).

B. Add the following conditions as outlined in modified consent:

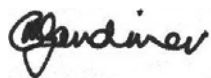
A(19).

C. Reimposition of all other previously approved conditions of consent as originally determined 10 December 2015 and as modified with this approval dated 12 March 2018.

The applicant is advised that Section 97AA of the Act confers on an applicant who is dissatisfied with the determination, right of appeal to the Land and Environment Court.

A revised schedule of development consent conditions is attached.

Yours sincerely



Chris Gardiner
Development Assessment Planner

SCHEDULE OF CONDITIONS ATTACHED TO THIS CONSENT

The conditions of consent referred to in the Notice of Determination for DA No 2015/600 are as follows:

1	Modification 1	12 March 2018
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PREScribed CONDITIONS

The development is to be undertaken in accordance with the prescribed conditions of Part 6 - Division 8A of the *Environmental Planning & Assessment Regulations 2000*.

A – GENERAL MATTERS

- (1) (A001) The development is to be carried out in accordance with the plans and supporting documents set out in the following table, as stamped and returned with this consent, except where modified by any conditions of this consent.

Plan / Supporting Document	Reference	Prepared by	Date
Architectural Plans	Job No: 3239 Drawing No: DA03 Rev B	Leffler Simes Architects	28 August 2015
Architectural Plans	Job No: 3239 Drawing No: DA02 & DA04 Rev D, DA07 & DA10 Rev B, and DA09 Rev C	Leffler Simes Architects	2 November 2015
Architectural Plans	Job No: 3239 Drawing No: DA03, SA00 & SA01 Rev B, and SA02 Rev C	Leffler Simes Architects	25 August 2015
Architectural Plans	Job No: 3239 Drawing No: DA05 Rev C	Leffler Simes Architects	3 November 2015
Architectural Plans	Job No: 3239 Drawing No: DA08 & SA03 Rev A	Leffler Simes Architects	14 August 2015
Height Plan and Sections	Project No: 5350 Appendix H-1 Rev A and H-2 to H-4 Rev B	King & Campbell Pty Ltd	Rev A - 28 August 2015 Rev B - 4 November 2015
Site Context, Site	Project No: 5350	King & Campbell	Rev B - 28 August

Analysis, Survey Plans and Typical Sections	Exhibit 01, 02A, 02B, 03B Rev B and 03B (Section C) Rev C	Pty Ltd	2015 Rev C - 2 December 2015
Site Master Plan and Sections	Project No: 5350 Exhibit 03A Rev F and Exhibit 03C Rev A	King & Campbell Pty Ltd	30 November 2015
Subdivision Plan	Project No: 5350 Exhibit 05 Rev C	King & Campbell Pty Ltd	18 November 2015
Earthworks Plan	Project No: 5350 Attachment 06 Rev A	King & Campbell Pty Ltd	9 February 2018
Statement of Environmental Effects	-	King & Campbell Pty Ltd	August 2015
Koala Plan of Management	-	King & Campbell Pty Ltd	November 2015
Bushfire Hazard Assessment	-	David Pensini Building Certification and Environmental Services	24 April 2015
Noise Impact Assessment	20150514.1/0206 A/R1/TA	Acoustic Logic	2 June 2015
Ecological Assessment - John Oxley Drive	EA-2015-2807 and Addendum II	Flora Fauna Consulting	31 August 2015 and 22 September 2015
Ecological Assessment - Site	-	Peter Parker Environmental Consultants Pty Ltd	25 May 2015

In the event of any inconsistency between conditions of this development consent and the plans/supporting documents referred to above, the conditions of this development consent prevail.¹

- (2) (A002) No work shall commence, with the exception of site clearing, site establishment, and erosion and sediment controls, until a Construction Certificate has been issued and the applicant has notified Council of:
- the appointment of a Principal Certifying Authority; and
 - the date on which work will commence.

Such notice shall include details of the Principal Certifying Authority and must be submitted to Council at least two (2) days before work commences.¹

- (3) (A004) An application for a Construction Certificate will be required to be lodged with Council prior to undertaking subdivision works and a Subdivision Certificate is required to be lodged with Council on completion of works.

- (4) (A008) Any necessary alterations to, or relocations of, public utility services to be carried out at no cost to council and in accordance with the requirements of the relevant authority including the provision of easements over existing and proposed public infrastructure.
- (5) (A009) The development site is to be managed for the entirety of work in the following manner:
1. Erosion and sediment controls are to be implemented to prevent sediment from leaving the site. The controls are to be maintained until the development is complete and the site stabilised with permanent vegetation;
 2. Appropriate dust control measures;
 3. Building equipment and materials shall be contained wholly within the site unless approval to use the road reserve has been obtained;
 4. Building waste is to be managed via an appropriate receptacle;
 5. Toilet facilities are to be provided on the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
 6. Building work being limited to the following hours, unless otherwise permitted by Council;
 - Monday to Saturday from 7.00am to 6.00pm
 - No work to be carried out on Sunday or public holidaysThe builder to be responsible to instruct and control his sub-contractors regarding the hours of work.
- (6) (A011) The design and construction of all public infrastructure works shall be in accordance with Council's adopted AUSPEC Specifications.
- (7) (A013) The general terms of approval from the following authorities, as referred to in section 93 of the Environmental Planning and Assessment Act 1979, and referenced below, are attached and form part of the consent conditions for this approval.
- **NSW Rural Fire Service** - The General Terms of Approval, Reference D15/2683 DA15090898455 DC and dated 26 October 2015, are attached and form part of this consent.
- (8) (A030) The restoration of any vehicle access rendered redundant by the development, to standard kerb and footpath formation at no cost to Council, in accordance with Council's current AUSPEC Specifications and Standards. All works must be approved by Council pursuant to Section 138 of the Roads Act.
- (9) (A032) The developer is responsible for any costs relating to minor alterations and extensions to ensure satisfactory transitions of existing roads, drainage and Council services for the purposes of the development.
- (10) (A033) The applicant shall provide security to the Council for the payment of the cost of the following:
- a. making good any damage caused to any property of the Council as a consequence of doing anything to which the consent relates,
 - b. completing any public work (such as road work, kerbing and guttering, footway construction, utility services, stormwater drainage and environmental controls) required in connection with the consent,

- c. remedying any defects in any such public work that arise within twelve (12) months after the work is completed.

Such security is to be provided to Council prior to the issue of the Subdivision Certificate/Construction Certificate or Section 138 of the Roads Act, 1993.

The security is to be for such reasonable amount as is determined by the consent authority, being an amount that is 10% of the contracted works for Torrens Title subdivision development/the estimated cost plus 30% for building development of public works or \$5000, whichever is the greater of carrying out the development by way of:

- i. deposit with the Council, or
- ii. an unconditional bank guarantee in favour of the Council.

The security may be used to meet any costs referred to above and on application being made to the Council by the person who provided the security any balance remaining is to be refunded to, or at the direction of, that person. Should Council have to call up the bond and the repair costs exceed the bond amount, a separate invoice will be issued. If no application is made to the Council for a refund of any balance remaining of the security within 6 years after the work to which the security relates has been completed the Council may pay the balance to the Chief Commissioner of State Revenue under the Unclaimed Money Act 1995.

- (11) (A049) The existing footpath/verge area in John Oxley Drive is to be raised to contain stormwater in the street. Design plans must be approved by Port Macquarie-Hastings Council pursuant to Section 138 of the Roads Act 1993.
- (12) (A057) The applicant is to ensure the proposed development will drain to the existing point of connection to Council's sewerage system.
- (13) (A195) All parts of the structure below the applicable Flood Planning Level (1 in 100 flood level including climate change plus the relevant freeboard) shall be constructed from flood compatible materials compliant with the ABCB Standard for Construction of Buildings in Flood Hazard Areas. Consideration should also be given to the relevant provisions contained with the Hawkesbury-Nepean Floodplain Management Steering Committee document *Reducing Vulnerability of Buildings to Flood Damage (2007)*.
- (14) (A196) The developer is to pay for a Council-approved bush regeneration contractor to undertake the establishment and maintenance of koala habitat offset land in accordance with the approved Koala Plan of Management.
- (15) (A197) All illuminated signage shall be fitted with a timer to switch off illumination between the hours of 11.00pm and 5.30am.
- (16) (A198) Pedestrian access and car parking areas shall be adequately illuminated when the businesses trade after dark. All external illumination within the development is to comply with AS 4282 *Control of the obtrusive effects of outdoor lighting*.
- (17) (A199) The signalised intersection shall be provided for site access in accordance with the concept plans and any requirements of Roads and Maritime Services (RMS) and Council, at no cost to RMS or Council. Any transitions required to tie into existing roads (for example, those not yet upgraded to the ultimate corridor layout) shall be detailed on the Roads Act (s138) plans. Construction of the signalised intersection is to be completed prior to any Occupation Certificate.

- (18) (A200) The northern ingress only driveway shall not be for public use. Appropriate measures shall be installed to restrict access to staff and service vehicles (not customers) only. Details are to be provided as part of any Roads Act (Section 138) application.
- (19) (A201) The development must only proceed in accordance with the approved stages as set out below:
- Stage 1 - Bulk earthworks;
 - Stage 2 - Construction of buildings, road works, car parking areas, and associated works.

Unless specified, the conditions of this consent will apply to all stages, with any decision on any discrepancy with conditions and associated staging resting with Council. Any decision to allow a change to staging will rest with Council along with applicable conditions and any contributions payable.¹

B – PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

- (1) (B001) Prior to release of the Construction Certificate for Stage 2, approval pursuant to Section 68 of the Local Government Act, 1993 to carry out water supply, stormwater and sewerage works is to be obtained from Port Macquarie-Hastings Council. The following is to be clearly illustrated on the site plan to accompany the application for Section 68 approval:
- Position and depth of the sewer (including junction)
 - Stormwater drainage termination point
 - Easements
 - Water main
 - Proposed water meter location¹
- (2) (B003) Submission to the Principal Certifying Authority prior to the issue of a Construction Certificate detailed design plans for the following works associated with the developments. Public infrastructure works shall be constructed in accordance with Port Macquarie-Hastings Council's current AUSPEC specifications and design plans are to be accompanied by AUSPEC DQS:

Stage 1 Construction Certificate:

1. Earthworks, including filling of the land for flood protection.
2. Erosion & Sedimentation controls.

Stage 2 Construction Certificate:

1. Road works along the frontage of the development.
2. New roads within the subdivision.
3. Earthworks, including filling of the land for flood protection.
4. Public parking areas including;
 - a. Driveways and access aisles;
 - b. Parking bays;
 - c. Delivery vehicle service bays & turning areas in accordance with AS 2890.
5. Sewerage reticulation.

6. Water supply reticulation.
 7. Water supply plans shall include hydraulic plans for internal water supply services and associated works in accordance with AS 3500, Plumbing Code of Australia and Port Macquarie-Hastings Council Policies.
 8. Retaining walls.
 9. Stormwater systems.
 10. Erosion & Sedimentation controls.
 11. Location of all existing and proposed utility services including:
 - a. Conduits for electricity supply and communication services (including fibre optic cable).
 - b. Water supply
 - c. Sewerage
 - d. Stormwater
 12. Landscaping.
 13. Traffic management control plan.
 14. Detailed driveway profile in accordance with Australian Standard 2890, AUSPEC D1, and ASD207, Port Macquarie-Hastings Council current version.
 15. Provision of a bus bay in accordance with Council's adopted AUSPEC Design and Construction Guidelines and shelter in accordance with Council standard drawings located at the John Oxley Drive frontage of the site, adjacent to the pedestrian stairway to the development.
 16. Provision of a 2.5m concrete shared cycleway along the eastern side of John Oxley Drive for the equivalent length of, and in lieu of, footpath paving along the full site frontage to that road. A footpath shall be provided to connect from the traffic light intersection along the site frontage to the proposed bus stop on the western side.
 17. Detailed intersection layout at the junction of John Oxley Drive and the main internal road in accordance with the current version of the AUSTROADS guidelines for Intersection design, giving particular attention to sight distance.¹
- (3) (B006) An application pursuant to Section 138 of the Roads Act, 1993 to carry out works required by the Development Consent on or within public road is to be submitted to and obtained from Port Macquarie-Hastings Council prior to release of the Construction Certificate for Stage 2.

Such works include, but not be limited to:

- Civil works
- Traffic management
- Work zone areas
- Hoardings
- Concrete foot paving
- Footway and gutter crossing
- Functional vehicular access

Where works are proposed on an RMS classified facility, the Road Authority shall obtain RMS concurrence prior to any approval.¹

- (4) (B010) Payment to Council, prior to the issue of the Construction or Subdivision Certificate of the Section 94A contributions set out in the "Notice of Payment – Developer Charges" schedule attached to this consent unless deferral of payment of contributions has been approved by Council. The contributions are levied, pursuant to the Environmental Planning and Assessment Act 1979 as amended, and in accordance with the provisions of the following plans:

- Port Macquarie-Hastings Section 94A Levy Contributions Plan 2007

The plans may be viewed during office hours at the Council Chambers located on the corner of Burrawan and Lord Streets, Port Macquarie, 9 Laurie Street, Laurieton, and High Street, Wauchope.

The attached "Notice of Payment" is valid for the period specified on the Notice only. The contribution amounts shown on the Notice are subject to adjustment in accordance with CPI increases adjusted quarterly and the provisions of the relevant plans. Payments can only be made using a current "Notice of Payment" form. Where a new Notice of Payment form is required, an application in writing together with the current Notice of Payment application fee is to be submitted to Council.

- (5) (B011) As part of Notice of Requirements by Port Macquarie-Hastings Council as the Water Authority under Section 306 of the Water Management Act 2000, the payment of a cash contribution, prior to the issue of a Construction or Subdivision Certificate, of the Section 64 contributions, as set out in the "Notice of Payment – Developer Charges" schedule attached to this consent unless deferral of payment of contributions has been approved by Council. The contributions are levied in accordance with the provisions of the relevant Section 64 Development Servicing Plan towards the following:

augmentation of the town water supply headworks

- (6) (B016) Provision to each lot of a separate sewer line to Council's main. All work will need to comply with the requirements of Council's adopted AUSPEC Design and Construction Guidelines and Policies. Any abandoned sewer junctions are to be capped off at Council's sewer main.

Construction details are to be submitted to Port Macquarie-Hastings Council with the application for approval pursuant to Section 68 of the Local Government Act.

- (7) (B024) Submission to Council of an application for water meter hire, which is to be referred to the Water Supply section so that a quotation for the installation can be prepared and paid for prior to the issue of a Construction Certificate. This application is also to include an application for the disconnection of any existing service not required.
- (8) (B031) The application for the Construction Certificate for Stage 2 is to be accompanied by an execution of a Works Authorisation Deed (WAD) with The Roads and Maritime Services (RMS) or evidence of agreement from the RMS that no WAD is required.¹
- (9) (B034) Prior to release of the Construction Certificate the submission of details to Council for the disposal of any spoil gained from the site and/or details of the source of fill, heavy construction materials and proposed routes to and from the site, including, but not limited to:
- The pavement condition of the route/s proposed (excluding collector, sub-arterial and arterial roads) for the haulage of fill material to the site and/or

haulage of excess material from the site. The condition report shall include photographs of the existing pavement and pavement deflection test results taken in the travel lanes;

- Recommended load limits for haulage vehicles and;
- A procedure for monitoring the condition of the pavement during the haulage;
- Bond to guarantee public infrastructure is not damaged as a result of construction activity,

and;

Council shall determine the need for and extent of any rectification work on the haulage route/s considered attributable by the haulage of materials to and/or from the site.

- (10) (B038) Footings and/or concrete slabs of buildings adjacent to sewer lines or stormwater easements are to be designed so that no loads are imposed on the infrastructure. Detailed drawings and specifications prepared by a practising chartered professional civil and/or structural engineer are to be submitted to the Principal Certifying Authority with the application for the Construction Certificate for Stage 2.¹
- (11) (B039) Structural engineer's details for all reinforced concrete footings, slabs and walls are to be submitted to the Principal Certifying Authority with the application for Construction Certificate for Stage 2.¹
- (12) (B042) A certificate from an approved practising chartered professional civil and/or structural engineer certifying the structural adequacy of the proposed retaining walls or other structures supporting John Oxley Drive or public infrastructure such as water, sewer and stormwater mains during excavation and thereafter is to be submitted to Port Macquarie-Hastings Council prior to the release of the Construction Certificate.
- (13) (B048) Construction Certificate plans for Stage 2 shall make provision for cardboard compactors, garbage containers and containers for recyclable material in a designated garbage area screened from public view. If an external area is used for the storage of putrescible material then the area shall be:
 - a. Bunded with a minimum volume of the bund being capable of containing 110% of the capacity of the largest container stored, or 25% of the total storage volume, whichever is the greatest.
 - b. Provided with a hose tape connected to the water supply;
 - c. Paved with impervious material;
 - d. Graded and drained to the sewer system, and
 - e. Roofed to prevent the entry rainwater.¹
- (14) (B072) A stormwater drainage design is to be submitted and approved by Council prior to the issue of a Construction Certificate. The design must be prepared in accordance with Council's AUSPEC Specifications and the requirements of Relevant Australian Standards and make provision for the following:

Stage 1 Construction Certificate:

- a) The design is to make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. The design must include the collection of such waters and discharge to the Council drainage system.
- b) Council's existing road drainage shall be extended through the site by construction of a temporary swale with adequate scour protection to the satisfaction of Council's Director of Infrastructure. Any site filling shall ensure that the overland flow path during extreme events will be contained within the swale.

Stage 2 Construction Certificate:

- a) The legal point of discharge for the proposed development is defined as the interallotment drainage system.
 - b) All allotments must be provided with a direct point of connection to the public piped drainage system. Kerb outlets are not permitted.
 - c) The design requires the provision of interallotment drainage in accordance with AUSPEC D5
 - d) The design shall include water quality controls designed to achieve the targets specified within AUSPEC D7.
 - e) The design is to make provision for the natural flow of stormwater runoff from uphill/upstream properties/lands. The design must include the collection of such waters and discharge to the Council drainage system.
 - f) An inspection opening or stormwater pit must be installed inside the property, adjacent to the boundary, for all stormwater outlets.
 - g) The design shall provide details of any components of the existing stormwater drainage system servicing the site that are to be retained.
 - h) Council's existing road drainage shall be extended through the site by construction of a new piped system to a discharge point with adequate scour protection to the satisfaction of Council's Director of Infrastructure. Any site filling shall ensure that the overland flow path during extreme events will be contained within the easement.
- (15) (B053) The design of the carpark and accesses is to be in accordance with Australian Standard 2890.1. Certification of the design by a suitably qualified consultant is to be provided to the Principal Certifying Authority prior to release of the Construction Certificate for Stage 2.¹
 - (16) (B054) Where a vehicular access is provided, details (in the form of a longitudinal section) must be submitted to and approved by Port Macquarie-Hastings Council prior to release of the Construction Certificate for Stage 2 demonstrating how the access will comply with Council's adopted AUSPEC Design and Construction Guidelines.¹
 - (17) (B057) The existing sewer including junction and/or stormwater drainage shall be located on the site and the position and depth indicated on the plans which accompany the application for the Construction Certificate for Stage 2.¹
 - (18) (B061) Prior to release of the Construction Certificate for Stage 2 submission of a Waste Management Plan, in accordance with Council's current requirements.¹

- (19) (B071) Prior to the issue of any Construction Certificate for Stage 2, the provision of water and sewer services to the land are to be approved by the relevant Water Authority and relevant payments received.¹
- (20) (B195) Prior to the issue of the Construction Certificate for Stage 2 an acoustic report prepared by a suitably qualified and practising acoustic consultant who has carried out a detailed acoustic assessment of all mechanical plant and equipment to determine compliance with all relevant NSW Environmental Protection Authority noise requirements and limits shall be submitted to Council.¹
- (21) (B196) All commercial floor areas are to be at or above the 1 in 100 year flood level including the applicable climate change allowance plus 500mm freeboard. For the purpose of this requirement, the 1 in 100 year flood level including climate change allowance may be assumed to be RL3.88m AHD, the 1 in 100 year flood level including climate change allowance plus 500mm freeboard may be assumed to be RL4.38m AHD. Prior to release of the Construction Certificate for Stage 2 floor levels satisfying this requirement shall be clearly illustrated on the plans.¹
- (22) (B197) The level of all internal roads and car parking are to be at or above 3.58m AHD. Prior to release of the Construction Certificate for Stage 2 floor levels satisfying this requirement shall be clearly illustrated on the plans.¹
- (23) (B198) Prior to release of the Construction Certificate for Stage 2 a practising chartered professional structural engineer is to provide certification to the PCA that the building is designed so that all structural members are capable of withstanding flood forces and the impact of any debris (carried by floodwaters) likely to occur for a range of floods up to and including the 1 in 100 year flood including climate change and the relevant freeboard level of 500mm. For the purpose of this requirement, the 1 in 100 year flood level including climate change may be assumed to be RL3.88m AHD. Velocities to be adopted for the calculation of forces created by flood waters and debris loading shall be at least three (3) times the velocities for a 1 in 100 year flood including climate change plus freeboard. For the purpose of this requirement, the velocity for the 1 in 100 flood including climate change may be assumed to be 0.01m/s.¹
- (24) (B199) The disused 100mm sewer rising main shall be removed where it is located beneath the proposed development. Details are to be submitted on the engineering plans prior to the issue of a Construction Certificate for Stage 1.¹
- (25) (B200) The existing 300mm water main along the property frontage is to be relocated if it ends up under or closer than 500mm to the kerb and gutter or if under the road pavement of John Oxley Drive. The existing 300mm water main across the proposed access to the development is to be relocated if 600mm cover to the pavement is not available or a minimum 300mm cover to driveway sub-grade is not available. Details are to be shown on the engineering plans prior to the issue of a Construction Certificate for Stage 2.¹
- (26) (B201) Each Torrens Title lot will require a private fire service as well as a domestic water service, not necessarily located as shown in the application. Final water service sizings for the proposed development will need to be determined by a hydraulic consultant to suit the domestic, commercial and industrial components of the development, as well as addressing fire service and backflow protection requirements.

- (27) (B202) An amended plan of the proposed pylon sign at the John Oxley Drive frontage shall be submitted for the approval of the Principal Certifying Authority Prior to the issue of a Construction Certificate for Stage 2. The sign shall be reduced in height to a maximum of 16.50m AHD, with no increase in width or advertising display area.¹
- (28) (B203) A 1.8m high fence or gate shall be installed between the proposed 3m acoustic fence/wall and the existing boundary fence at Sienna Grange (28 John Oxley Drive) to prevent unauthorised access at the eastern and western side of the site. The fence/gate shall:

- Be of an open style that is at least 50% transparent.
- Be of high quality design and finish - chain wire fencing is not permitted.

Details are to be submitted for the approval of the Principal Certifying Authority prior to the issue of a Construction Certificate for Stage 2.¹

- (29) (B204) A balustrade constructed to the standards in Table 2.16a of the Building Code of Australia (Volume 1) shall be constructed at the top of the retaining wall in the John Oxley Drive frontage where the top of the retaining wall has a height greater than 1m above the finished level of the car park. Details are to be submitted to the satisfaction of the Principal Certifying Authority prior to the issue of a Construction Certificate for Stage 2.¹
- (30) (B205) Prior to issue of a Construction Certificate for Stage 2 a public art strategy to the value of 1% of the construction cost of the development shall be determined, as follows:
- The developer shall establish a public art committee with representatives from the developer, Council and the Port Macquarie Chamber of Commerce.
 - The committee shall, in consultation with relevant stakeholders, determine the concept theme, components/type and location for the proposed public art infrastructure. The public art must be located within the site in publicly accessible location(s) and take into account the links and connections between the development and the area's natural and cultural heritage.
 - The committee shall invite expressions of interest from three agreed artists with demonstrable experience in the creation of public art infrastructure in regional centres.
 - The committee will review expressions of interest from the three agreed artists make a recommendation to Council containing details of the preferred artist, a concept presentation of the proposed public art infrastructure and the preferred location(s) for its' installation.¹
- (31) (B206) Prior to the issue of a Construction Certificate for Stage 2, the developer is to provide written advice from Roads and Maritime Services that Roads and Maritime is satisfied that suitable funding arrangements are in place for the upgrade of the Wrights Road, John Oxley Drive and Oxley Highway intersection.¹
- (32) (B030) Prior to issue of a Construction Certificate for Stage 2, a pavement design report for all roads and road related areas to be constructed or upgraded within the existing and proposed public road reserve, including vehicular access ways to service the development, shall be prepared by a suitably qualified geotechnical or civil engineer and submitted to Council. The

report shall include soil test results and in-situ CBR values (NATA certified). Council's minimum pavement compaction testing criteria are as follows:

- a. 98% (modified) base layers - Maximum Modified Dry Density test in accordance with AS1289.5.2.1
 - b. 95% (modified) sub-base layers - Maximum Modified Dry Density test in accordance with AS1289.5.2.1
 - c. 100% (standard) subgrade/select layers - Maximum Standard Dry Density test in accordance with AS1289.5.1.1 (or for in-situ subgrade soils only, wet density testing may be used).¹
- (33) (B207) All works within the John Oxley Drive road reserve shall be compatible with Council's latest adopted John Oxley Drive corridor plans.
- (34) (B208) Council is currently undertaking a master plan of the John Oxley Drive corridor. This traffic study is likely to impact on the proposed intersection geometry. As such, turn lane lengths shall be designed to the satisfaction of Council's Director of Infrastructure to:
- a) address design considerations and boundary constraints at the time of Roads Act (s138) application lodgement. Considerations may include, but are not limited to, the completion status of the adjacent road upgrade projects by RMS or Council; and
 - b) comply with relevant standards including AUSTROADS.

Details to be provided as part of any Roads Act (Section 138) application prior to any formal approval by the Council and RMS.

C – PRIOR TO ANY WORK COMMENCING ON SITE

- (1) (C001) A minimum of one (1) week's notice in writing of the intention to commence works on public land is required to be given to Council together with the name of the principal contractor and any major sub-contractors engaged to carry out works. Works shall only be carried out by a contractor accredited with Council.
- (2) (C003) A controlled activity approval shall be obtained from the airport operator for any crane that may be used during the construction phase that would penetrate the Obstacle Limitation Surface (OLS). To avoid any doubt as to whether an approval is required, applicants should check with the airport operator at the earliest possible stage.
- (3) (C011) Work associated with the construction of a new building shall not commence until a water meter provided by the Council has been installed on the site.
- (4) (C013) Where a sewer manhole exists within a property, access to the manhole shall be made available at all times. Before during and after construction, the sewer manhole must not be buried, damaged or act as a stormwater collection pit. No structures, including retaining walls, shall be erected within 1.0 metre of the sewer manhole or located so as to prevent access to the manhole.
- (5) (C015) Tree protection fencing, compliant with *AS 4970/2009 Protection of trees on development sites* must be provided. The fencing shall be in place prior to the commencement of any works or soil disturbance and maintained for the entirety of the works.

D – DURING WORK

- (1) (D001) Development works on public property or works to be accepted by Council as an infrastructure asset are not to proceed past the following hold points without inspection and approval by Council. Notice of required inspection must be given 24 hours prior to inspection, by contacting Council's Customer Service Centre on (02) 6581 8111. You must quote your Construction Certificate number and property description to ensure your inspection is confirmed:
 - a. at completion of installation of erosion control measures
 - b. at completion of installation of traffic management works
 - c. at the commencement of earthworks;
 - d. when the sub-grade is exposed and prior to placing of pavement materials;
 - e. when trenches are open, stormwater/water/sewer pipes and conduits jointed and prior to backfilling;
 - f. at the completion of each pavement (sub base/base) layer;
 - g. before pouring of kerb and gutter;
 - h. prior to the pouring of concrete for sewerage works and/or works on public property;
 - i. on completion of road gravelling or pavement;
 - j. during construction of sewer infrastructure;
 - k. during construction of water infrastructure;
 - l. prior to sealing and laying of pavement surface course.

All works at each hold point shall be certified as compliant in accordance with the requirements of AUSPEC Specifications for Provision of Public Infrastructure and any other Council approval, prior to proceeding to the next hold point.

- (2) (D003) The site is in an area known to contain rock that may contain naturally occurring asbestos (NOA). Should potential NOA be located on site notification shall be provided to Council and Workcover prior to works proceeding. No work shall recommence until a NOA management plan has been approved by Council or Workcover.
- (3) (D006) A copy of the current stamped approved construction plans must be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority or an officer of the Council.
- (4) (D007) A survey certificate is to be submitted to the Principal Certifying Authority at footings and/or formwork stage. Such certificate shall set out the boundaries of the site, the actual situation of the buildings and include certification that siting levels comply with the approved plans.
- (5) (D010) Reduced levels prepared by a registered Surveyor must be submitted to the Principal Certifying Authority at the completion of the roof framework and include certification that building heights comply with the plans approved with the development consent.
- (6) (D011) Provision being made for support of adjoining properties and roadways during construction.
- (7) (D043) Any damage to a tree nominated for retention/protection during the construction phase shall be treated by an Arborist with a minimum qualification

AQF level 5 (diploma level) or an international qualification considered equivalent by Council, or a person deemed suitable by Council at the developer's expense.

- (8) (D045) A suitably qualified ecological consultant shall inspect all native trees that have been approved for removal before they are felled. If there are any koala or other fauna species in the tree, work in the vicinity is to cease until the animal has moved from the area. If it is likely that hollows are providing habitat for native species, traps shall be set for several nights and any native species found shall be relocated to an appropriate nearby location.
- (9) (D050) The capacity and effectiveness of tree protection fencing, compliant with *AS 4970/2009 Protection of trees on development sites* shall be maintained at all times in accordance with the approved management plan until such time as the site is no longer subject to any construction or earth moving works.
- (10) (D051) Prior to commencement of any pavement works a material quality report from the proposed supplier shall be submitted to Council. The pavement materials shall meet Council's current specifications at the time of construction.
- (11) (D052) Prior to laying of Asphaltic Concrete (AC) or wearing surface course, submission to Council of pavement and soil test results prepared by a NATA registered person for all road pavement construction, including:
 - a. CBR test results, and
 - b. Subgrade / select fill, sub-base and base pavement compaction reports in accordance with AS1289.5.1.1 & AS1289.5.2.1 as applicable.

E – PRIOR TO OCCUPATION OR THE ISSUE OF SUBDIVISION CERTIFICATE

- (1) (E001) The premises shall not be occupied or used in whole or in part until an Occupation Certificate has been issued by the Principal Certifying Authority.
- (2) (E005) Prior to the release of any bond securities held by Council for infrastructure works associated with developments, a formal written application is to be submitted to Council specifying detail of works and bond amount.
- (3) (E010) Driveways, access aisles and parking areas shall be provided with a concrete and/or bitumen sealed surface. Such a surface shall be on a suitable pavement, constructed and maintained in accordance with Council's Development, Design and Construction Manuals (as amended).
- (4) (E015) Prior to occupation or issue of the Occupation Certificate, details of compliance with the bushfire risk assessment is to be provided to the Principal Certifying Authority.
- (5) (E016) Prior to occupation or the issue of the Occupation Certificate (or Interim Occupation Certificate) the owner of the building must cause the Principal Certifying Authority to be given a fire safety certificate (or interim fire safety certificate in the case of a building or part of a building occupied before completion) in accordance with Clause 153 of the Environmental Planning and Assessment Regulation 2000 for each measure listed in the schedule. The certificate must only be in the form specified by Clause 174 of the Regulation. A copy of the certificate is to be given to the Commissioner of the New South Wales Fire Brigade and a copy is to be prominently displayed in the building.

- (6) (E030) Vehicle ramps, driveways, turning circles and parking spaces being paved, sealed and line marked prior to occupation or the issue of the Occupation Certificate or commencement of the approved land use.
- (7) (E034) Prior to occupation or the issuing of the Occupation (Final or Interim) or Subdivision Certificate provision to the Principal Certifying Authority of documentation from Port Macquarie-Hastings Council being the local roads authority certifying that all matters required by the approval issued pursuant to Section 138 of the Roads Act have been satisfactorily completed.
- (8) (E035) Prior to occupation or the issuing of the Occupation Certificate, provision to the Principal Certifying Authority of documentation from the Roads and Maritime Services (RMS) being the roads authority certifying that all matters required by approval issued by Section 61 and/or Section 138 of the Roads Act have been satisfactorily completed. A copy of this is to be submitted to Council prior to the release of the engineering security bond.
- (9) (E036) Certification by a suitably qualified consultant is to be submitted to Council that the construction of the car park and internal accesses is to be in accordance with Council's Development Control Plan 2013 and Australian Standard 2890.1 prior to occupation or issue of the Occupation Certificate.
- (10) (E038) Interallotment drainage shall be piped and centrally located within an inter-allotment drainage easement, installed in accordance with Council's current AUSPEC standards (minimum 225mm pipe diameter within a minimum 1.5m easement). Details shall be provided:
 - As part of a Construction Certificate application for subdivision works with dedication of the easement as part of any Subdivision Certificate associated with interallotment drainage.
- (11) (E039) An appropriately qualified and practising consultant is required to certify the following:
 - a. all drainage lines have been located within the respective easements, and
 - b. any other drainage structures are located in accordance with the Construction Certificate.
 - c. all stormwater has been directed to a Council approved drainage system
 - d. all conditions of consent/ construction certificate approval have been complied with.
 - e. Any on site detention system (if applicable) will function hydraulically in accordance with the approved Construction Certificate.
- (12) (E044) The applicant will be required to submit prior to occupation or the issue of the Occupation Certificate, certification by a Registered Surveyor that the development has met the necessary flood planning levels specified in this consent.
- (13) (E051) Prior to occupation or the issuing of any Occupation Certificate a section 68 Certificate of Completion shall be obtained from Port Macquarie-Hastings Council.
- (14) (E053) All works shall be certified by a practicing Civil Engineer or Registered Surveyor as compliant with the requirements of AUSPEC prior to issue of Occupation/Subdivision Certificate or release of the security bond, whichever is to occur first.

(15) (E061) Landscaped areas being completed prior to occupation or issue of the Occupation Certificate. Public landscaping may be bonded as agreed to by Council.

(16) (E064) Provision of street lighting to all new roads in accordance with AS1158 and compliance with the requirements of the electricity authority regarding provision of electricity to serve the development. Provision shall be made for placement of conduits for future requirements or upgrades. Evidence by way of letter from the electricity provider, indicating compliance with this condition shall be submitted prior to the issue of the Subdivision Certificate.

Any proposal to erect non-standard, prestige or Smart Poles (or equivalent) street lighting shall:

- Forward all plans to the service provider for comment;
- Include instruction for completion of 'Lighting Requirements';
- be referred to Council together with details of the difference in annual charges over a twenty five (25) year period in accordance with Policy R5 – Street Lighting on Public Roads;
- Supply to Council to keep in stock, one (1) extra pole for every six (6) run of poles, for all poles that are non-standard poles.

(17) (E066) Ancillary works shall be undertaken at no cost to Council to make the engineering works required by this Consent effective to the satisfaction of Director of Council's Infrastructure Division. Such works shall include, but are not limited to the following:

- a. The relocation of underground services where required by civil works being carried out.
- b. The relocation of above ground power and telephone services
- c. The relocation of street lighting
- d. The matching of new infrastructure into existing or future design infrastructure

(18) (E068) Prior to the issue of a Subdivision Certificate, written advice is to be submitted from the electricity authority confirming that its requirements for the provision of electricity services (including street lighting where required) have been satisfied and/or from the telecommunications authority confirming that its requirements for the provision of telecommunication services (including fibre optic cabling where required) have been satisfied.

(19) (E072) Lodgement of a security deposit with Council upon practical completion of the subdivision works.

(20) (E076) The plan of subdivision and Section 88B instrument shall establish the following restrictions, easements and/or covenants; with Council having the benefit and the sole authority to release, vary or modify each restriction, easement and/or covenant. Wherever possible the extent of the land affected by these covenants shall be defined by bearings and distances shown on the plan of subdivision.

- a. Reciprocal rights of carriageway, easements for services, easements for traffic control infrastructure and easements to drain water, or equivalent, to the satisfaction of Council's Director of Infrastructure

Details are to be submitted to Council prior to issue of the Subdivision Certificate.

- (21) (E082) Submission of a compliance certificate accompanying Works as Executed plans with detail included as required by Council's current AUSPEC Specifications. The information is to be submitted in electronic format in accordance with Council's "CADCHECK" requirements detailing all infrastructure for Council to bring in to account its assets under the provisions of AAS27. This information is to be approved by Council prior to issue of the Subdivision or Occupation Certificate. The copyright for all information supplied, shall be assigned to Council.
- (22) (E195) Prior to the issue of the Occupation Certificate a suitably qualified and practising acoustic consultant shall certify that all mechanical plant and equipment installed on the premises shall comply with all NSW Environmental Protection Authority noise level limits and also complies with any recommendations made in the acoustic report. The certification shall be submitted to Council.
- (23) (E196) Prior to the issue of the Occupation Certificate a suitably qualified and practising acoustic consultant shall certify that the 3.0m acoustic wall and 3.0m acoustic fence have been properly installed and/or constructed such that all noise levels received at sensitive receivers shall comply with all relevant NSW Environmental Protection Authority noise level limits. The certification shall be submitted to Council.
- (24) (E197) A Certificate of Compliance under the provisions of Section 307 of the Water Management Act must be obtained prior to the issue of any occupation or subdivision certificate. The application for the certificate is to include an acceptable Work-As-Executed plan for water and sewer mains and services from a Professional Engineer or Registered Surveyor as well as a copy of the linen plan.
- (25) (E198) Prior to the issue of an Occupation Certificate evidence is to be provided to the Principal Certifying Authority that satisfactory arrangements are in place for a private waste collection service for the development.
- (26) Public art satisfying condition B(30) of this consent is to be completed/installed prior to occupation or issue of occupation certificate.

F – OCCUPATION OF THE SITE

- (1) (F001) On site car parking in accordance with the approved plans to be provided in an unrestricted manner at all times during the operations of development for use by both staff and patrons. A total of 523 spaces are to be provided onsite.
- (2) (F003) All loading and unloading operations associated with servicing the site must be carried out within the confines of the site, at all times and must not obstruct other properties/units or the public way.
- (3) (F006) The basin of the outflow control pit and the debris screen must be cleaned of debris and sediment on a regular basis by the owner.
- (4) (F009) All new and existing essential fire safety measures shall be maintained in working condition at all times.
- (5) (F010) Within each 12 months after completion of the building, the owner of the building must cause Council to be given an annual fire safety statement in accordance with Clause 177 of the Environmental Planning and Assessment Regulation 2000 for each measure listed in the schedule. The statement must

only be in the form specified by clause 181 of the Regulation. A copy of the statement is to be given to the Commissioner of the New South Wales Fire Brigade and a copy is to be prominently displayed in the building.

- (6) (F012) The placement of storage racks, cabinets, floor stock, pallets or the like shall not obstruct any path of travel to an exit nor the efficient operation and effective coverage of any fire hose reel, fire hydrant, portable fire extinguisher or other essential fire safety measures.
- (7) (F013) All garbage areas are to be screened from the street, create no adverse odour impact on adjoining properties and be kept free of pests at all times.
- (8) (F024) Offensive noise as defined under the Protection of the Environment Operations Act 1997 shall not be generated as a result of the operation of the development.
- (9) (F025) Hours of operation of the development are restricted to the following hours:
 - 6.00 am to 10.00 pm – Mondays to Fridays
 - 6.00 am to 9.00 pm – Saturdays and Sundays
- (10) (F195) Deliveries to the premises and the operation of the loading docks shall be strictly in accordance with recommendation 7.1.1 of the "Port Macquarie Masters, 18 John Oxley Drive, Port Macquarie Development Application Acoustic Report" Report No. 20150514.1/0206A/R1/TA dated 2 June 2015 and shall include but not be limited to:
 - a) Delivery vehicles entering the premises between 6.00am and 7.00am shall only enter the premises using the northern entry driveway only;
 - b) Deliveries to Tenancy 3 before 7.00am are strictly prohibited;
 - c) The use of the truck turning area before 7.00am is strictly prohibited;
 - d) Trucks shall not exit the premises before 7.00am.

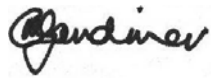
The conditions referred to in this schedule are imposed in conformity with the relevant provisions of the Environmental Planning and Assessment Act and Regulations, the Local Government Act and Regulations, The Building Code of Australia and with Council's Codes and Policies, LEP's, DCP's or any other ancillary Act or Regulation in force at the time of the date of determination and are aimed at protecting the natural environment, preserving our heritage and providing a safe and healthy built environment.

Rights of Appeal

If you are dissatisfied with this decision a request for a review of the determination may be made to Council, under the provisions of Section 82A of the Environmental Planning and Assessment Act 1979.

If you are dissatisfied with this decision, Section 97AA of the Environmental Planning and Assessment Act 1979 gives you the right of appeal to the Land and Environment Court.

Yours sincerely

A handwritten signature in black ink, appearing to read "Gardiner".

Chris Gardiner
Development Assessment Planner