

<b>DATE OF DETERMINATION</b>	15 July 2020
<b>PANEL MEMBERS</b>	Alison McCabe (Chair), Sandra Hutton and Juliet Grant
<b>APOLOGIES</b>	Justin Hamilton and Nick Jones
<b>DECLARATIONS OF INTEREST</b>	Jason Pauling declared a conflict of interest as he is COO of a company that may potentially have commercial interactions with the applicant.

Public meeting held by Public Teleconference on 15 July 2020, opened at 10:35am and closed at 11:15 am.

#### **MATTER DETERMINED**

PPSHCC-21 – Lake Macquarie City Council – DA/1692/2019 at 36 Laycock St, Carey Bay – residential aged care facility (as described in Schedule 1)

#### **PANEL CONSIDERATION AND DECISION**

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel understand the development involves the demolition of a portion of an existing residential aged care facility and its replacement with a new building fit for purpose. The proposal has been designed to respond to the character of the R3 Medium Density zone. The Panel had the benefit of a further memo from Council providing further assessment against specific clauses and clarifying application of provisions. The Panel in their consideration of the matter questioned:

- The amount of carparking proposed noting that it significantly exceeded the requirements under SEPP (HSPD) 2004
- The presentation of the building and carpark at the street front, the materiality of the building and whether the carpark was suitably screened
- Consistency between the tree retention plan and the civil works plans
- The availability of a bus service for residents – noting that surrounding gradients are unlikely to meet clause 26 SEPP (HSPD) 2004 requirements

The Panel notes that the building has been referred to as a two (2) storey building in the Council report. However the location of the carpark level above ground means that the building is a three (3) storey building and reads as such facing the public street.

The Panel has also considered the additional carparking within the building envelope in excess of the requirements under the SEPP (HSPD) 2004 as floor space. Including the area as floor space results in a floor space ratio well under 1:1.

The Panel understands and accepts the loss of T173 and T179 but requires the retention of T178 consistent with Council's assessment.

The differences between civil plans and the tree retention plan will need to be addressed by condition.

To ensure the lower level of the building reads as a base and that the carpark cannot be viewed from the street elevation, changes to the alignment, material and spacing of the louvre treatment proposed on the building elevation will be required. The Panel considers that this can be addressed by a condition.

The Panel is satisfied that with some amendments to the materials at the street elevation that the form, scale and siting of the building appropriately responds to the site and its context and is compatible with the character of the surrounding streetscape, further complemented by front setback landscaping. The variation to the height of building standard is supported having regard to the particular circumstances of this site.

The Panel adjourned during the meeting to deliberate on the matter and formulate a resolution.

#### **Application to vary a development standard**

Following consideration of a written request from the applicant, made under cl 4.6 (3) of the Lake Macquarie Local Environmental Plan 2014 (LEP), that has demonstrated that:

- a) compliance with cl. 4.3 Height of Building development is unreasonable or unnecessary in the circumstances; and
- b) there are sufficient environmental planning grounds to justify contravening the development standard

The Panel is satisfied that:

- a) the applicant's written request adequately addresses the matters required to be addressed under cl 4.6 (3) of the LEP; and
- b) the development is in the public interest because it is consistent with the objectives of cl. 4.3 Height of Building of the LEP and the objectives for development in the R3 Medium Density zone; and
- c) the concurrence of the Secretary has been assumed.

#### **Development application**

The Panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979* subject to the conditions in Schedule 2 and the following additional conditions as condition 2A and 93:

##### **2A. Plan Amendments**

Amended plans shall be submitted to, and approved by Council, with regard to the following matters:

- a) Architectural Plans  
Details of the material and colour schedule of the front elevation of the building which includes changes to the louvre treatment on the street elevations to ensure the car parking area is not visible from the street. This may require changes to the spacing, thickness, angle and alignment of the proposed louvres.
- b) Tree Retention Plans  
A revised Tree Management Plan to demonstrate:
  - (i) Removal of trees numbered 173 and 179; and
  - (ii) Retention of tree numbered 178.
- c) Engineering Plans  
Updated Engineering Plans that reflect the amended Tree Management Plan as referenced above – specifically the retention of tree number 178.

##### **93. Provision of Transport Service**

A transport service shall be made available in accordance with Clause 26 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 to residents who will occupy the development.

The decision was unanimous.

## REASONS FOR THE DECISION

- The proposed development is compatible with the character of the locality
- The development provides an upgraded and modern building for a use that responds to the demands of an ageing demographic
- The development results in minimal environmental impacts

## CONDITIONS

The development application was approved subject to the conditions in Schedule 2 and the addition of conditions 2A and 93 as outlined above. The additional conditions were added to:




- Ensure retention of trees and consistency in plans
- Require compliance with clause 26 of SEPP (HSPD) 2004
- Amend the streetscape façade so that the carpark structure is not readily visible when viewed from the street

## CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from all those wishing to address the panel. The panel notes that issues of concern included:

- Construction management

The Panel considers that concerns raised by the community have been adequately addressed in the assessment report and that no new issues requiring assessment were raised during the public meeting. Specific conditions have been included to mitigate construction impacts.

PANEL MEMBERS	
 Alison McCabe (Chair)	 Sandra Hutton
 Juliet Grant	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSHCC-21 – Lake Macquarie City Council – DA/1692/2019
2	PROPOSED DEVELOPMENT	Seniors Housing (Residential Care Facility)
3	STREET ADDRESS	36 Laycock St, Carey Bay
4	APPLICANT OWNER	Anglican Care c/o deWitt Consulting Anglican Care
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>Environmental planning instruments: <ul style="list-style-type: none"> <li>State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004</li> <li>State Environmental Planning Policy (State and Regional Development) 2011</li> <li>State Environmental Planning Policy (Coastal Management) 2018</li> <li>State Environmental Planning Policy No 55—Remediation of Land</li> <li>State Environmental Planning Policy No. 64 – Advertising and Signage</li> <li>State Environmental Planning Policy No. 44 - Koala Habitat Protection</li> <li>Lake Macquarie Local Environmental Plan 2014</li> </ul> </li> <li>Draft environmental planning instruments: Nil</li> <li>Development control plans: <ul style="list-style-type: none"> <li>Lake Macquarie Development Control Plan 2014</li> </ul> </li> <li>Planning agreements: Nil</li> <li>Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i></li> <li>Coastal zone management plan: Nil</li> <li>The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>The suitability of the site for the development</li> <li>Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>The public interest, including the principles of ecologically sustainable development</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>Council assessment report: 1 July 2020</li> <li>Clause 4.6 variation request to vary height: November 2019</li> <li>Council memorandum on typographical error: 14 July 2020</li> <li>Council memorandum responding to queries: 14 July 2020</li> <li>Written submissions during public exhibition: one (1)</li> <li>Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>On behalf of the applicant – Marina Budisavljevic, Joel Chamberlain and Daniel Perrin</li> </ul> </li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>Briefing on site: 4 March 2020 <ul style="list-style-type: none"> <li><u>Panel members</u>: Sandra Hutton</li> <li><u>Council assessment staff</u>: Jonathan Ford, Heath Dennerley, Amy Regado and Ian Barrett</li> </ul> </li> <li>Site Visit: <ul style="list-style-type: none"> <li>Alison McCabe 4 March 2020</li> <li>Juliet Grant 4 March 2020</li> </ul> </li> </ul>

		<ul style="list-style-type: none"> <li>○ Sandra Hutton 4 March 2020</li> <li>● Final briefing to discuss council's recommendation, 15 July 2020, 9:30 am. Attendees: <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Alison McCabe (Chair), Sandra Hutton and Juliet Grant</li> <li>○ <u>Council assessment staff</u>: Jonathan Ford, Amy Regado and Emilly Scudder</li> </ul> </li> </ul>
<b>9</b>	<b>COUNCIL RECOMMENDATION</b>	Approval
<b>10</b>	<b>DRAFT CONDITIONS</b>	Attached to the council assessment report

## **CONDITIONS**

### **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.

### **Administrative Conditions**

#### **1. 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.

## 2. Approved Documentation

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

### a) Plans Reference:

Plans prepared by: CKDS Architecture; Project Number: 19033			
Name of Plan	Drawing Number	Issue	Date
Proposed GFA Diagrams	A-0005	C	9/7/2020
Site Plan	A-1001	E	9/7/2020
Lower Ground	A-1101	K	9/7/2020
Ground	A-1102	M	9/7/2020
Level 1	A-1103	H	9/7/2020
Roof	A-1104	F	9/7/2020
Overall Elevations	A-2001	F	9/7/2020
Courtyard Elevations	A-2002	E	9/7/2020
West Wing - True Elevations	A-2003	E	9/7/2020
Typical Wing Elevation Sketches	A-2004	E	9/7/2020

Main Entry Elevation Sketches	A-2005	E	9/7/2020
North Terrace Elevation Sketches	A-2006	D	9/7/2020
Sections	A-3001	F	9/7/2020
Shadow Diagrams	A-4001	C	9/7/2020
Materiality	A-5001	D	9/7/2020
Perspective Views	A-5101	C	9/7/2020

Engineering plans prepared by: Lindsay Dynan; Project Number: 15721			
Name of Plan	Drawing Number	Issue	Date
Cover Sheet & Drawing List	CI-0000	B	21/02/20
Site Plan	CI-0005	B	21/02/20
Soil & Water Management Plan	CI-0010	C	14/04/20
Soil & Water Management Details	CI-0011	C	14/04/20
Soil & Water Management Notes - Sheet 1	CI-0012	A	14/04/20
Soil & Water Management Notes - Sheet 2	CI-0013	A	14/04/20
Stormwater Drainage Plan Sheet 1	CI-0020	D	21/02/20
Stormwater Drainage Plan Sheet 2	CI-0021	E	09/04/20
Civil Details	CI-0030	B	21/02/20
Civil Details	CI-0031	A	21/02/20
Bulk Earthworks Plan	CI-0040	C	21/02/20
Site Access Plans	CI-0050	B	21/02/20
Internal Vehicle Access Plan	CI-0051	A	21/02/20
Driveway Longsections	CI-0060	A	21/02/20

Landscape plans prepared by: Xeriscapes; Project Number: 19087			
<b>Name of Plan</b>	<b>Drawing Number</b>	<b>Issue</b>	<b>Date</b>
Cover Sheet	L000	D	21/02/20
Tree Management Plan	L001	A	21/02/20
Tree Management Schedule	L002	A	21/02/20
Landscape Masterplan	L101	C	21/02/20
Memory Unit Courtyard	L102	B	21/02/20
Northern Courtyard Landscape Pan	L103	C	21/02/20
Landscape Section & Precedent Images	L201	C	21/02/20
Indicative Plant Schedule	L301	A	21/02/20

b) Document Reference:

<b>Document</b>	<b>Reference</b>	<b>Author</b>	<b>Date</b>
Phase 2 Contamination Assessment	NEW18P-0161-AD	Qualtest	10 September 2019
Disability Access Report	LP_19166	Lindsay Perry Access	20 October 2019
Noise Assessment	191835	Spectrum Acoustics	October 2019
Arboricultural Impact Assessment Report	D09540363	Joseph Pidutti	2 September 2019
Geotechnical Assessment	NEW18P-0161-AE	Qualtest	12 September 2019
Crime Risk Assessment	8664	deWitt	November 2019

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.

### **3. General Terms of Approval**

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

- NSW Rural Fire Service

### **4. NSW Rural Fire Service – General Terms of Approval**

The development shall comply with the following General Terms of Approval of the NSW RFS:

#### Asset Protection Zones

At the commencement of building works and in perpetuity the property around the building shall be maintained as an inner protection area (IPA) as outlined within Section 4.1.3 and Appendix 5 of Planning for Bush Fire Protection 2006 and the NSW Rural Fire Service document Standards for asset protection zones.

#### Construction standards

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

#### Water and utility services

Water, electricity and gas shall comply with Section 4.1.3 and 4.2.7 of Planning for Bush Fire Protection 2006.

#### Emergency and evacuation planning assessment

The existing emergency management plan for the site shall be updated prior to occupation of the development and shall be prepared consistent with Development Planning - A Guide to Developing a Bush Fire Emergency Management and Evacuation Plan December 2014.

### **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.

### **5. 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

**6. Disability Access**

Plans shall be submitted demonstrating the recommendations contained in the approved Disability Access Report.

**7. Fire Sprinklers**

Details demonstrating a fire sprinkler system designed in accordance with Clause 55 of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 shall be submitted.

**8. 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*.

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

A Stormwater Detention and Harvesting Plan shall be submitted. The plan shall be generally in accordance with the approved engineering plans. 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 plate 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

## **10. Geotechnical Assessment Compliance**

The recommendations of the approved Geotechnical Assessment shall be complied with. Any works undertaken in relation to the development shall embody all relevant recommendations of the Geotechnical Assessment.

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

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

Plans demonstrating a total of 63 car parking spaces in accordance with *Australian Standard AS/NZS 2890* shall be submitted.

A maximum of 29 parking spaces shall be allocated for staff.

## **12. 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*.

## **13. Ausgrid Requirements**

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

#### **14. Driveway Design**

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 Council's 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).

#### **15. Acoustic Certification**

Plans shall be certified as being designed in accordance with the approved Noise Assessment.

#### **16. Contaminated Land Remediation Action Plan Review**

The Remediation Action Plan (RAP) shall be reviewed by a NSW Environment Protection Authority Accredited Site Auditor and a statement shall be provided to Council from the Site Auditor which clearly indicates the RAP is practical and proposed remediation works shall render the site suitable for the intended use.

#### **17. Construction and Fit-out of Food Premises**

A design plan for the food premises shall be submitted. The design plan shall be in accordance shall comply with the following requirements:

##### **a) General Construction**

The fit-out of areas used for food preparation, storage or display, shall comply with the requirements of the *Food Act 2003*, *Food Regulation 2010*, and *Australian Standard AS4674 Design, construction and fit-out of food premises*.

Note: Particular attention shall be paid to:

- i. Routing of plumbing and electrical conduit
- ii. Installation of hand wash basins and cleaners sinks
- iii. Construction of floors, walls and ceilings
- iv. Finishes of floors, walls and ceilings
- v. Cool room construction
- vi. Installation of fixtures fittings and equipment
- vii. Toilet facilities and airlocks
- viii. Installation of light fittings
- ix. Installation of floor wastes
- x. Ventilation and exhaust systems

##### **a) Plans and Specifications**

Plans and specification shall demonstrate compliance with the *Food Act* and Regulations, and relevant Australian Standards.

b) Mechanical Ventilation

Installation of any mechanical ventilation systems shall comply with the provisions of Part 2 of the *Australian Standard AS1668*.

c) Partition Wall Construction

Any partition wall (that do not extend to the ceiling), sills or other ledges located within food preparation areas shall be splayed on top at an angle of 45 degrees to prevent storage of articles and reveal build-up of food waste, dirt, grease or other visible matter.

d) Waste Traps

Any bucket traps, grease traps and associated sewer connections shall be installed in accordance with the requirements of Hunter Water Corporation.

## **18. Asphalt Overlay**

A design plan shall be submitted demonstrating the following:

- The road surface shall have a 30mm compacted AC10 asphalt overlay placed along the street frontage, 6 metres either side of the driveway, for the full road pavement width.

## **19. Crime Prevention Through Environmental Design Requirements**

Plans demonstrating the recommendations of the approved Crime Risk Assessment Report relevant to the building and site (not recommendations applicable to the operation of the development) shall be submitted.

## **20. Screening of Service Infrastructure**

Service infrastructure (i.e. electrical kiosks, downpipes, mechanical ventilation, etc) shall be integrated into the site and/or building and not be visually offensive (in the opinion of the Certifier) to Laycock Street.

Plans demonstrating the appropriate location and design of service infrastructure shall be submitted for approval.

## **21. Waste Management and Garbage Storage Areas**

Details of the waste management arrangements shall be submitted to demonstrate all waste streams can be serviced by a private waste contractor (i.e. general waste, special waste, medical, etc).

## **22. Details of Kitchen and Laundry Facilities**

Plans shall be submitted demonstrating compliance with the applicable Australian Standards for the kitchen and laundry ventilation systems.

### 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.

## 23. 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.

## 24. 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.

## 25. Pavement Standards

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

## 26. 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.

## 27. 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>\$80</b> Archival Fee	(inc GST)
<b>Compliance Certificate</b>	<b>Please contact Council for fees</b>	Plus <b>\$80</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 2020/2021 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.

## 28. Decanting Strategy

A Decanting Strategy is to be submitted outlining the processes for relocating residents displaced by the proposed development. The strategy shall ensure that continued care of an equivalent standard is provided to displaced residents with minimal disruption.

## 29. Erosion and Sediment Control

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

## 30. Dilapidation Survey Report

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

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.

### **31. 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.

### **32. 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.

### **33. 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.

### **34. Asbestos**

Prior to commencing demolition of buildings containing asbestos, a commercially manufactured sign containing the words “DANGER ASBESTOS REMOVAL IN PROGRESS” measuring 400mm x 300mm (see below) shall be erected in a prominent visible position on the site in accordance with *AS1319 Safety Signs for the Occupational Environment*.



The person entitled to act on this consent shall notify adjoining residents in writing five working days prior to the demolition.

### **35. 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.



### **36. Details Required Prior to Commencement of Works within the Public Domain (PWC)**

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.

### **37. Construction Management Plan for Works within Public Road Reserve (PWC)**

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.

### **38. Notification to Neighbours**

Written notification shall be provided to landowners and residents who live adjacent to the proposed development or who may be impacted by the proposed works. The notification shall be provided a minimum of seven days prior to commencement of works. The notification shall include the expected date of commencement of works and a brief description of the works.

### 39. Construction Environmental Management Plan – Private Land

A Construction Environmental Management Plan (CEMP) shall be prepared for the development and approved by the Principal Certifying Authority.

The CEMP shall include, but not be limited to, details to show how the construction process will be managed, showing the expected timeframes for each building phase.

A minimum of the following shall be addressed in the CEMP:

- A Vehicle Movement Plan and Traffic Control Plan.

It shall be prepared with the intention of minimising impact on the operation of the road network during construction.

The traffic control plan shall be prepared to meet the requirements of the Roads and Maritime Services (RMS) "Roads and Traffic Authority - Traffic Control at Work Sites" manual June 2010.

The plan should demonstrate:

- primary vehicle routes;
- specific details on the transportation of fill;
- potential road closures;
- control of vehicles, pedestrians and cyclists at the site access;
- safety of road users;
- parking associated with employees, contractors and site personnel; with specific note that construction personnel shall not obstruct the operation of the public road network;
- access to and from the work site;
- delivery of equipment and materials;
- Storage of equipment and materials;
- Timing and hours of work;
- Acoustic and vibration management and timetabling measures;
- Erosion and sedimentation control and dust management procedures.

#### **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.

### 40. 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*.

#### **41. 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.

#### **42. 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.

#### **43. 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.

#### **44. Geotechnical Report Compliance**

Where the approved Geotechnical Assessment requires inspections, a suitably qualified engineer shall inspect the works at the stages specified in that report.

#### **45. Tree Protection Measures**

All native trees and vegetation both on the site and on adjoining properties shall be retained and protected in accordance with DCP 2014 – Tree Preservation and Native Vegetation Management Guidelines (Section 6) and the Australian Standard AS4970-2009 – Protection of Trees on Development Sites, unless they have been specifically identified for removal on the approved plans or documentation.

Additional tree protection measures shall be implemented in accordance with the approved Arboricultural Impact Assessment Report and accompanying Tree Protection Plan.

This shall include tree protection fencing being installed during all phases of construction activity, and the Project Arborist being appointed to certify measures are in place in accordance with Section 9 of Arboricultural report.

All underground utilities and other required excavations shall be routed away from identified Tree Protection Zones of trees to be retained.

A separate application shall be made to Council in accordance with the State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 for the removal of any other trees or native vegetation. This includes application for the removal of any understorey vegetation or the stripping of ground cover vegetation that is outside those areas approved for construction.

#### **46. Landscape Works**

Landscape works shall be constructed in accordance with the approved Landscape plans and specification and the following:

- A minimum of twenty-three 75 litre trees shall be planted within the front setback in the locations as per the approved landscape plan.

Trees planted adjoining the eastern boundary shall be foraging trees that provides arboreal connectivity.

Trees shall be known foraging species from the *Banksia*, *Corymbia* and *Eucalyptus* genus.

- A minimum of three 75 litre trees shall be planted along the rear eastern setback and shall be known foraging species from the *Corymbia* and *Eucalyptus* genus equivalent to *Eucalyptus haemastoma*, *Corymbia gummifera*, *Eucalyptus sideroxylon*.
- A minimum of thirty-four 75 litre trees shall be planted along the internal driveway and carpark in locations as per the approved landscape plan and are to be species as scheduled.
- The landscaped batter within the front setback shall have a gradient of 1:4 or shallower as per the approved landscape plan.
- Street trees along Laycock Street shall comprise seven *Corymbia* 'Wildfire' 45 litre trees planted at 10m centres along the streetscape as per PLA-LSD-02 *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.

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

- 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.

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.

#### **47. 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.

#### **48. 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*.

#### **49. 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.

#### **50. 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*.

#### **51. 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.

## **52. Demolition**

Demolition shall only be carried out between 7.00 am and 5.00 pm on Monday to Saturday and no demolition shall be carried out at any time on a Sunday or a public holiday.

All demolition work shall be carried out strictly in accordance with *Australian Standard AS 2601-2001: The Demolition of Structure*.

Waste materials (including excavation, demolition and construction waste materials) shall be managed on the site and then disposed of at an approved waste management facility. During construction all vehicles entering or leaving the site shall have their loads covered, and shall be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads.

## **53. 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.

## **54. 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.

## **55. 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.

## **56. Asbestos**

All works removing asbestos containing materials shall be carried out by a suitably licensed asbestos removalist duly licensed with SafeWork NSW, holding either a Friable (Class A) or a Non- Friable (Class B) Asbestos Removal License, which ever applies, and a current SafeWork NSW Demolition License where works involve demolition.

Measures shall be in place in accordance with *SafeWork NSW* guidelines and the *Occupational Health and Safety Regulations 2001*. Work shall not commence or continue until all necessary safeguards required by SafeWork NSW are fully in place.

Asbestos waste shall only be disposed of at a landfill site authorised to receive such waste and copies of receipts received from such disposal kept and made available for inspection by Council during normal working hours and upon the giving of reasonable notice.

Note: Council's Awaba Waste Management Facility can accept asbestos for a fee, provided the material is safely secured in accordance with the relevant guidelines. At least 24 hours prior notice shall be given to allow an area to be prepared for disposal.

## **57. Build Over Sewer - Hunter Water Corporation Requirements**

The development shall be constructed in accordance with the Hunter Water Corporation requirements for building over sewer.

## **58. 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.

#### **59. 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*.

#### **60. Contaminated Land Remediation and Validation**

The site shall be remediated in accordance with the approved Remediation Action Plan (RAP).

#### **61. Traffic Control Standards**

For the duration of work being carried out as part of this development, the Applicant shall ensure that traffic control is undertaken in accordance with the requirements of *Australian Standards AS 1742 - Manual Uniform Traffic Control Services – Parts 1, 2 and 3*.

#### **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.

#### **62. Occupation Certificate**

The development shall not be occupied or used prior to the issuing of an Occupation Certificate by the Certifying Authority.

Where a partial Occupation Certificate has been issued, only that part of the building to which the Certificate applies may be occupied or used.

Prior to the issue of the final Occupation Certificate, the earthworks, retaining walls and driveways shall be completed to the satisfaction of the Certifying Authority.

#### **63. Commencement of the Use of the Land – Housing for Seniors or People with a Disability**

The development shall be occupied in accordance with the requirements of Chapter 3 Part 1 Clause 18 of *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.

A restriction as to user shall be registered against the title of the property on which development shall be carried out, in accordance with section 88E of the *Conveyancing Act 1919*, limiting the use of any accommodation to which this application relates to the kinds of people referred to below. The development shall only be occupied by:

- a) Seniors, or people who have a disability,
- b) people who live within the same household with seniors or people who have a disability,
- c) staff employed to assist in the administration of and provision of services to housing provided under *SEPP (Housing for Seniors or People with a Disability) 2004*.

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

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

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.

**65. 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.

**66. Geotechnical Report Compliance**

The suitably qualified engineer who inspected the works shall provide written confirmation the constructed works are in accordance with the recommendations of the approved Geotechnical Assessment prepared for the development.

**67. Car Parking**

All car parking spaces, line marking and signage shall be completed prior to the issue of the Occupation Certificate.

**68. Parking Areas and Access Ways**

All parking areas and access ways shall be fully constructed and sealed in accordance with the approved Construction Certificate plans.

**69. Landscape Work**

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. This report shall certify required street trees are planted specifically as per these conditions, and have edging constructed as per the *Lake Macquarie City Council Landscape Standard Drawings March 2019*. The Certifying Authority shall not issue the Occupation Certificate without receipt of the Landscape Compliance Report.

**70. State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 – Design Verification**

Independent verification from an accredited access consultant shall be submitted to the Certifying Authority certifying the development has been constructed in accordance with the *State Environmental Planning Policy*.

**71. Driveway Construction**

The driveway to the garage or car parking area of the development shall be constructed in accordance with the approved Construction Certificate plan.

**72. 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.

**73. 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.

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

Certification from a suitably qualified acoustic consultant shall be submitted prior to the issue of an Occupation Certificate 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*.

**75. Acoustic Certification**

Written confirmation shall be provided from a suitably qualified acoustic consultant certifying works have been completed in accordance with the recommendations of the approved Noise Assessment

prepared for the development and the development is capable of operating in accordance with the design criteria.

**76. Contaminated Land Remediation and Validation**

A suitably qualified and experienced Contaminated Land Consultant shall validate the site has been remediated. Validation shall be provided in accordance with the *Guidelines for Consultants Reporting on Contaminated Sites* (NSW Office of Environment and Heritage 2011). The validation report shall include a clear statement the consultant considers the site to be suitable for the approved use.

Note: Certification from the person who carried out remediation works shall be provided to Council in accordance with the requirements of Clause 18 of *State Environmental Planning Policy No 55 - Remediation of Land*.

**77. Certification of Food Premises Fit-out**

The food premises shall be inspected by an appropriately qualified person who shall certify the premises, including the construction and installation of all equipment, fixtures, fittings and finishes therein, complies with *the Food Act 2003, Food Regulation 2010, and Australian Standard AS 4674 Design, construction and fit-out of food premises*.

**78. 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.

**79. 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.

**80. Provision of Services**

Details demonstrating access to meals, cleaning services, personal care, and nursing care services shall be provided to the Seniors Housing development in accordance with State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004.

**Operational Conditions**

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

**81. Provision of Services**

Access to meals, cleaning services, personal care, and nursing care services in accordance with State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 shall be provided in perpetuity.

**82. Use and Allocation of Car Parking**

No spaces shall be marked, signposted or otherwise identified as being for the sole use of staff only, unless otherwise specified in this consent.

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

**83. 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*.

**84. Lighting**

Any lighting installed shall comply with Australian Standard AS4282-1997.

**85. External Material Reflection**

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

**86. 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.

**87. 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 Noise Assessment.

#### **88. Liquid Gaseous Wastes, Emissions and Odour Control**

Emissions shall be responsibly managed at all times, so as not to cause a danger to public health or loss of amenity or damage to the environment.

Any liquid gaseous wastes, emissions or odours shall be controlled and disposed of in accordance with the *NSW Protection of the Environment Operations Act 1997* and *Regulations 1997*, as amended.

Where it is proposed to treat and discharge waters to the Hunter Water Corporations Sewer, formal approval from the Corporation shall be obtained.

#### **89. Emissions – kitchen and laundry**

Operation of kitchen and laundry ventilation systems shall comply with applicable Australian Standards.

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.

#### **90. Medical / Pathological Waste**

Any contaminated medical or pathological wastes stored on the premises shall be secured in approved containers and disposed of by a registered contractor, in accordance with the requirements of the NSW Department of Health and the NSW Office of Environment and Heritage.

#### **91. Garbage Storage Areas**

Adequate arrangements shall be made for the regular removal and disposal of waste materials.

#### **92. Crime Prevention Through Environmental Design - Operational**

The ongoing operation of the development shall comply with the recommendations of the approved Crime Risk Assessment Report.

#### **Right of Appeal**

If you are dissatisfied with this decision (including a determination on a review under Section 8.2), Division 8.3 of the Environmental Planning and Assessment Act 1979 gives you the right to appeal to the Land and Environment Court.

Note: The Environmental Planning and Assessment Act 1979 does not give a right of appeal to an objector who is dissatisfied with the determination of the Council to grant consent to a development application, unless the application is for designated development (including designated development that is integrated development) either unconditionally or subject to conditions.

## **Right of Review**

Section 8.2 and 8.3 of the Environmental Planning and Assessment Act 1979 provides the applicant may request the Council to review the determination.

Note: A request to review the determination of a development application pursuant to Section 8.2 and 8.3 of the Environmental Planning and Assessment Act 1979 can only be undertaken where the consent authority is Council, other than:

- (a) A determination to issue or refuse to issue a complying development certificate, or
- (b) A determination in respect of designated development, or
- (c) A determination in respect of integrated development, or
- (d) A determination made by the Council under Division 4.6 in respect of an application by the Crown.

## **Planning Assessment Commission**

The Planning Assessment Commission has not conducted a public hearing in respect of this application.

### **Advisory Note:**

#### **Hunter Water Requirements**

The owner is required to comply with the requirements of the Hunter Water Act 1991, relevant to the development. If you require further information, please contact Hunter Water on 1300 657 657.

#### **Bushfire – Development on Bushfire Prone Land**

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.