

**DETERMINATION AND STATEMENT OF REASONS**  
HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

<b>DATE OF DETERMINATION</b>	6 December 2022
<b>DATE OF PANEL DECISION</b>	5 December 2022
<b>PANEL MEMBERS</b>	Alison McCabe (Chair), Juliet Grant, Stephen Leathley and Roberta Ryan
<b>APOLOGIES</b>	None
<b>DECLARATIONS OF INTEREST</b>	Sandra Hutton declared a conflict of interest as her recent employer, ADW Johnson, has previously provided advice to the landowner relating to the site and the project. Jason Pauling and Luke Cubis declared conflicts of interest as they have participated in related matters previously within Council.

Papers circulated electronically on 12 October 2022.

**MATTER DETERMINED**

PPSHCC-35 – Lake Macquarie– DA/2238/2017 at 1A Flowers Drive, Catherine Hill Bay – residential subdivision (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 has considered this matter in detail on two (2) previous occasions in October 2021 and October 2022. The Panel had the benefit of detailed assessment reports at these briefings.

The Panel has also had the benefit of numerous briefings and a site inspection over the assessment period.

The Panel in their deliberation of the matter on 13 October 2022, deferred determination for a further report to address the following matters outlined in the record of deferral decision:

- i. Detailed consideration of how the reasons for deferral have been addressed.
- ii. Remediation strategy including the containment strategy and further consideration of proposed method of grouting and geotechnical implications.
- iii. Explanation of relevant section 7.11 Contribution Plans and how they are to be applied.
- iv. Details of the VPA applying to the development including timing of works.
- v. Consideration of the provisions of the Concept Approval and Statement of Commitments – specifically a statement regarding consistency or otherwise.
- vi. Specific description of offsite infrastructure works (roads, electricity, water and sewer) and the assessment of impact.
- vii. Detailed description of the mapped wetlands under the SEPP (Resilience and Hazards) 2021 and potential impacts – including height of retaining walls and assessment against the provisions.
- viii. Flowers Drive – a comparison against the controls in the Urban Design Guidelines and what is proposed including details of fencing, width of roadworks and impacts on landscape buffer.
- ix. An assessment of the layout and urban design of the subdivision – including compliance with lot sizes and amount of passive and active space required.
- x. An assessment of how Lemon Tree and Workshop Park contribute to open space requirements and the mechanisms proposed to ensure they function as open space in perpetuity.
- xi. Detail of on-site flood impacts and evacuation routes and how this is addressed or mitigated.

- xii. Completion of the Biodiversity Assessment.
- xiii. Assessment of the social impacts of the proposal with reference to additional information received.
- xiv. Plan showing what is being dedicated to Council, including a dimensioned plan showing the dedication to Flowers Drive.

Arising from the deferral, amended Landscape Plans and Engineering Plans, were provided. The documentation also included clarification of:

- Fencing details;
- Location of inter-allotment drainage;
- Location of retaining walls and consistency between Landscape Plans and Engineering Plans;
- Lands to be dedicated to Council;
- Location of contamination cell.

The Panel in its deliberation also sought details of what the amended plans dealt with and requested a dimensioned plan showing the Flowers Drive pavement, landscape buffer and existing vegetation and APZ requirement on lots.

Council officers prepared a further supplementary report on 14 November 2022 which the Panel has considered in addition to the previous assessment reports. A further memo uploaded to the portal on 18 November 2022 was also provided to identify the changes to plans and documentation and provided additional details regarding the Flowers Drive interface, road pavement and fencing details.

As the Panel has previously noted, the application has a high level of complexity given it is a Part 4 Application arising from a Part 3A Concept Approval granted in 2012. It is the subject of a Voluntary Planning Agreement (VPA), and a s34A(3) Certification under the Biodiversity Conservation (Savings and Transitional) Regulation 2017. The application has been under assessment for five (5) years which has resulted in changes in statutory planning framework over the course of the assessment, and the need to update information to ensure it is current. The application has also been amended to respond to the conditions of the Concept Approval, Statement of Commitments and jurisdictional requirements.

The context of the site, in a sensitive location surrounded by National Park – contributes to the complexity.

The Panel is satisfied that the application, as amended, contains sufficient detail for the Panel to understand the proposed development, potential impacts and any required mitigation measures. This was not the case in October 2021.

The Panel is satisfied that the site can be remediated to be made suitable for the proposed use. The Panel notes that conditions requiring restriction on the lots containing the containment cell have been proposed.

The Panel having regard to the totality of conservation measures proposed is satisfied that the biodiversity impacts are reasonable. The development proposed is consistent with the Part 3A Concept Approval and is of a form anticipated by that approval. The requirements of that consent have been met. The Panel is also satisfied with the subdivision layout, and landscape outcomes, and considers that the proposed retaining walls can be suitably screened.

A fundamental and key aspect of the Concept Approval was the landscape outcomes of the proposal – in the form of the delivery of Workshop Park and Lemon Tree Park and the vegetation buffer along Flowers Drive.

The provision of these parks is important to the amenity and character of the new suburb. While Council has indicated that they do not want them to be dedicated to Council – the Panel is of the opinion that appropriate mechanisms need to be in place to ensure retention of the lots as open space, ongoing maintenance and public access. Conditions have been drafted to require a restriction as to use requiring, use as open space, maintenance and general public access between sunrise and sunset.

A condition has also been drafted to ensure all lots within Hamlet A and B have a right of access to both parks to ensure their ongoing function as open space for the benefit of the new community.

One of the key outcomes of the Part 3A Approval was the requirement for a 20 metre landscape buffer along Flowers Drive – of which 10 metres was to be an APZ. This landscape buffer was to be on private property. The application proposes a minimum 10 metres within the Flowers Drive road reservation and retention of existing vegetation within the Flowers Drive road reservation and 10 metres on private lands – which will also be managed as an APZ.

The Panel is satisfied that with some additional dedication of land, Flowers Drive can accommodate the road and a minimum 10 metre landscape buffer, and that part of the buffer in public ownership is a better outcome – noting that the width of the buffer is the same.

The Panel has been advised that there are limited works in Flowers Drive comprising pavement re sheet and street tie works, new speed hump and upgrade to bus stops. The fencing proposed along Flowers Drive is an open metal slatted / palisade type, a maximum of 1.8 metres high, and is required by covenant. This is to ensure an appropriate streetscape presentation to the entry along Flowers Drive. Additional conditions are proposed to require the fence to be of vertical proportions and open (not solid) to contribute to the streetscape.

Any damage to Flowers Drive over the course of construction will also need to be rectified. The existing vegetation in Flowers Drive is to be protected and retained and can be accommodated with the works proposed.

Construction impacts have been documented and can be managed. The offsite infrastructure works that are external to the development have been adequately documented, and potential impacts assessed. The Panel notes that these works will be the subject of separate approval processes.

The application now includes grouting which will require a concrete batching plant on-site for a specified time for the sole purpose of the grouting works. The Panel is satisfied that the batching plant is an ancillary and incidental function of the development, and that the impacts can be appropriately managed.

Lands and infrastructure to be dedicated to Council have been clearly documented on an amended plan and has been included in the recommended conditions.

The development has had a long and complicated history. The proposed 209 lots are the outcome of the original Part 3A Approval. The Panel notes that the land has been subsequently zoned for residential development.

The Panel is satisfied that the proposed development as amended is suitable for the site and that the environmental and social impacts can be appropriately managed and mitigated.

A revised set of conditions accompanied the supplementary report. The Panel has amended these in their deliberation as outlined below.

The Panel supports the development subject to the conditions attached to the supplementary report of 14 November 2022 and as further amended.

### **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.

The decision was unanimous.

### **REASONS FOR THE DECISION**

The Panel determined to approve the application for the following reasons:

1. The proposed development is consistent with the strategic planning framework.
2. The impacts of the development are considered reasonable and can be appropriately mitigated.
3. The layout, relationship to surrounding lands and landscape outcomes are appropriate.
4. The infrastructure required for the development can be provided without unreasonable impacts.
5. The provision of open space including Lemon Tree and Workshop Parks and the landscaping of public domain are appropriate for the form and nature of the proposal and are considered to be an essential element of the acceptability of the proposal.

## CONDITIONS

The development application was approved subject to the conditions attached at Schedule 2. The conditions have been amended from those attached to the supplementary report of 14 November 2022 as follows:





- (i) Amendment to Condition 28 to provide additional prescription around fence details and landscape of Flowers Drive.
- (ii) Additional Condition 28A relating to landscape plan and Plan of Management for Lemon Tree and Workshop Parks.
- (iii) Amendment to Condition 29 to include works to Lemon Tree and Workshop Parks.
- (iv) Amendment to Condition 40 to require an appropriately qualified person to prepare the community consultation program.
- (v) Amendment to Condition 45 to include contact details.
- (vi) Addition of Condition 105A requiring certification of work to Lemon Tree and Workshop Parks.
- (vii) Amendment to Condition 116 to require lots 442 and 443 to be used as open space, specify access times and require maintenance in perpetuity.
- (viii) Addition of Condition 117 requiring a right of pedestrian access across lots 442 and 443 for all lots within Hamlet A and B – other than lots to be dedicated to Council.
- (ix) Addition of Condition 118 relating to covenant on lots 502 and 503 advising of containment cell.
- (x) Formatting, spelling and numbering changes.

## 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:

- Increased traffic in Catherine Hill Bay village;
- Traffic safety at intersection of Flowers Drive and Pacific Highway;
- Stormwater management;
- Ecology impacts due to clearing;
- Utility provision;
- European and Aboriginal Heritage;
- Confirmation of the Statement of Commitments;
- Visual impacts;
- Construction impacts;
- Tenancy arrangements.

The Panel imposed additional requirements relating to Flowers Drive, fencing details and the use of lots 442 and 443.

PANEL MEMBERS	
 Alison McCabe (Chair)	 Juliet Grant
 Stephen Leathley	 Roberta Ryan

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSHCC-35 – Lake Macquarie– DA/2238/2017
2	PROPOSED DEVELOPMENT	Subdivision of two (2) lots into 209 residential lots and two (2) park super lots, two (2) public reserves and four (4) drainage reserves, associated infrastructure heritage walkway and land dedication.
3	STREET ADDRESS	1A, 2B, 41 and 69A Flowers Drive, Catherine Hill Bay
4	APPLICANT/OWNER	Monteath and Powys Pty Ltd / Wallalong Land Development Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Coastal subdivision
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>• Environmental planning instruments (October 2021) <ul style="list-style-type: none"> <li>○ State Environmental Planning Policy (State and Regional Development) 2011</li> <li>○ State Environmental Planning Policy (Infrastructure) 2007</li> <li>○ State Environmental Planning Policy 44 - Koala Habitat Protection</li> <li>○ State Environmental Planning Policy No. 55 – Remediation of land</li> <li>○ State Environmental Planning Policy 71 - Coastal Protection.</li> <li>○ Lake Macquarie Local Environmental Plan 2014</li> </ul> </li> <li>• Draft environmental planning instruments (October 2021) <ul style="list-style-type: none"> <li>○ Draft SEPP Coastal Management 2018</li> <li>○ Draft Environment SEPP</li> <li>○ Draft Design and Place SEPP</li> <li>○ Draft Environmental Planning and Assessment Regulation 2022</li> </ul> </li> <li>• Environmental Planning Instruments (October 2022) <ul style="list-style-type: none"> <li>○ State Environmental Planning Policy (State and Regional Development) 2021</li> <li>○ State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>○ State Environmental Planning Policy (Biodiversity and Conservation) 2021</li> <li>○ State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>○ Lake Macquarie Local Environmental Plan (2014)</li> </ul> </li> <li>• Draft environmental planning instruments (October 2022) <ul style="list-style-type: none"> <li>○ Draft amendment RZ/2/2021 to Lake Macquarie LEP 2014</li> </ul> </li> <li>• Development control plans: <ul style="list-style-type: none"> <li>○ Nil</li> </ul> </li> <li>• Planning agreements: <ul style="list-style-type: none"> <li>○ Planning agreement entered into under section 93F between Minister for Planning and Infrastructure, Minister administering <i>National Parks and Wildlife Act 1974</i>, Coal &amp; Allied Operations Pty Ltd, and Catherine Hill Bay Land Pty Ltd.</li> </ul> </li> <li>• Provisions of the <i>Environmental Planning and Assessment Regulation 2021</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	<b>MATERIAL CONSIDERED BY THE PANEL</b>	<ul style="list-style-type: none"> <li>• Council assessment report: 6 October 2021</li> <li>• Council memorandum: 7 October 2021</li> <li>• Council memorandum: 12 October 2021</li> <li>• Documents tabled during submitter briefing: 13 October 2021</li> <li>• Supplementary Council assessment memorandum: 12 October 2022</li> <li>• Supplementary Council assessment memorandum: 14 November 2022</li> <li>• Supplementary Council memo uploaded 18 November 2022</li> <li>• Written submissions during public exhibition: eight (8)</li> </ul>
8	<b>MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL</b>	<ul style="list-style-type: none"> <li>• Briefing: 3 June 2020 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Alison McCabe (Chair), Juliet Grant, Paul LeMottee and Ryan Palmer</li> <li>○ <u>Council assessment staff</u>: David Pavitt, Heath Robertson, Elizabeth Lambert, Amy Regado and Michael Little</li> </ul> </li> <li>• Applicant briefing: 9 September 2020 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Alison McCabe (Chair), Juliet Grant and Scott Anson</li> <li>○ <u>Council assessment staff</u>: David Pavitt and Elizabeth Lambert</li> <li>○ <u>Applicant representatives</u>: Darren Nicholson, Jason Wasiak, Greg Williams and Kosta Flamiatos</li> </ul> <p><u>Note</u>: Applicant briefing was requested to provide the Panel with clarification and to respond to issues</p> </li> <li>• Briefing: 14 July 2021 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Alison McCabe (Chair), Juliet Grant and Roberta Ryan</li> <li>○ <u>Council assessment staff</u>: Elizabeth Lambert, Amy Regado, David Pavitt and Alex Bennett</li> <li>○ <u>Department staff</u>: Leanne Harris, Carolyn Hunt and Lisa Foley</li> </ul> </li> <li>• Site inspections: <ul style="list-style-type: none"> <li>○ <u>Alison McCabe</u> (Chair): 9 September 2020</li> <li>○ <u>Juliet Grant</u>: 9 September 2020</li> </ul> </li> <li>• Briefing to discuss Council's recommendation: 13 October 2021 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Alison McCabe (Chair), Juliet Grant, Stephen Leathley and Roberta Ryan</li> <li>○ <u>Council assessment staff</u>: Elizabeth Lambert, Amy Regado, David Pavitt and Alex Bennett</li> <li>○ <u>Department staff</u>: Leanne Harris and Lisa Foley</li> </ul> </li> <li>• Submitter Briefing: 13 October 2021 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Alison McCabe (Chair), Juliet Grant, Stephen Leathley and Roberta Ryan</li> <li>○ <u>Council assessment staff</u>: Elizabeth Lambert, Amy Regado, David Pavitt and Alex Bennett</li> <li>○ <u>Department staff</u>: Leanne Harris and Lisa Foley</li> <li>○ <u>Submitters</u>: Sue Whyte, Paul Myors, Jann Kinsela and Sandy Bourke</li> </ul> <p><u>Note</u>: Submitter briefing was requested to respond to the recommendation in the Council assessment report</p> </li> <li>• Applicant Briefing: 13 October 2021 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Alison McCabe (Chair), Juliet Grant, Stephen Leathley and Roberta Ryan</li> </ul> </li> </ul>

- Council assessment staff: Elizabeth Lambert, Amy Regado, David Pavitt and Alex Bennett
  - Department staff: Leanne Harris and Lisa Foley
  - Applicant representatives: Kosta Flamiatos, Geoffrey Rock, Darren Nicholson, Greg Williams and Jason Wasiak
- Note: Applicant briefing was requested to respond to the recommendation in the Council assessment report

- Briefing: 1 June 2022

- Panel members: Alison McCabe (Chair), Juliet Grant, Stephen Leathley and Roberta Ryan
- Council assessment staff: Elizabeth Lambert, Amy Regado and David Pavitt
- Department staff: Leanne Harris, Carolyn Hunt and Lisa Foley

- Briefing: 4 August 2022

- Panel members: Alison McCabe (Chair) and Stephen Leathley
- Council assessment staff: Amy Regado, David Pavitt and Alex Bennett
- Department staff: Leanne Harris, Carolyn Hunt, Maitree Bhowmick and Lisa Foley

- Briefing to discuss Council's recommendation: 19 October 2022

- Panel members: Alison McCabe (Chair), Juliet Grant, Stephen Leathley and Roberta Ryan
- Council assessment staff: Amy Regado, David Pavitt and Alex Bennett
- Department staff: Leanne Harris, Carolyn Hunt and Lisa Foley

- Submitter Briefing: 19 October 2022

- Panel members: Alison McCabe (Chair), Juliet Grant, Stephen Leathley and Roberta Ryan
  - Council assessment staff: Amy Regado, David Pavitt and Alex Bennett
  - Department staff: Leanne Harris
  - Submitters: Sue Whyte on behalf of Catherine Hill Bay Progress Association and Damien Hawcroft
- Note: Submitter briefing was requested to respond to the recommendation in the Council assessment report

- Applicant Briefing: 19 October 2022

- Panel members: Alison McCabe (Chair), Juliet Grant, Stephen Leathley and Roberta Ryan
- Council assessment staff: Amy Regado, David Pavitt and Alex Bennett
- Department staff: Leanne Harris
- Applicant representatives: Kosta Flamiatos, Geoffrey Rock, Greg Williams and Jason Wasiak

Note: Applicant briefing was requested to respond to the recommendation in the Council assessment report

- Briefing: 1 December 2022

- Panel members: Alison McCabe (Chair), Juliet Grant, Stephen Leathley and Roberta Ryan
- Council assessment staff: Amy Regado and David Pavitt
- Department staff: Leanne Harris and Kate McKinnon

9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Supplementary Assessment Report dated 14 November 2022.



**Schedule 2**

**Appendix A - Draft conditions of consent**

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

**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. The Approved Development and Compliance with Conditions**

The approval comprises the application, the plans, and the documents set out in the paragraph below and the conditions of consent. The proposed development may only proceed in accordance with these documents.

The development shall be carried out in accordance with the conditions of consent and the following documents (as may be varied by the conditions of consent):

- a) Statement of Environmental Effects by Monteath & Powys and JW Planning, Reference: 17/0467, dated 5 October 2022
- b) Appendix G - Ecological Assessment Report by RPS, Reference: 24530-2, dated January 2011.
- c) Appendix H - Flood Impact Assessment by SMEC, Reference: 30011459, dated 21/02/2014.
- d) Appendix I - Geotechnical Assessment by Douglas Partners, Reference: 39662.06-01, dated 12 October 2010.

- e) Appendix J - Mining Risk Assessment by Douglas Partners, Reference: 39662.07, dated October 2010
- f) Appendix K - Plan of Proposed Subdivision by Monteath & Powys, Reference: 2017/0467, Version 9 dated November 2022.
- g) Appendix L - Staging Plan by Monteath & Powys, Reference: 2017/0467, dated 15/03/2022.
- h) Appendix M - Additional Ecological Information Report by RPS, Reference: 117656, dated February 2014.
- i) Appendix N - Landscaping Plan by Moir Landscape Architecture, Reference: 1824, Version Q dated 3/11/2022.
- j) Appendix O - Landscape Master Plan Report by Moir Landscape Architecture, Reference: 0953, dated February 2014.
- k) Appendix S - Stormwater Management Plan by SMEC, Reference: 30011459, dated 21.02.2014.
- l) Appendix T - Traffic and Transport Study by Hyder, Reference: AA001459, dated October 2010.
- m) Appendix U - Traffic Impact Study by Hyder, Reference: AA001459, dated August 2013.
- n) Appendix V - Heritage Impact Assessment by ERM, Reference: 0111477, dated June 2011.
- o) Appendix W - Social Infrastructure Study by Urbis, Reference: KAJ24007, dated November 2010.
- p) Appendix Y - Urban Design Guidelines by Allen Jack Cottier, Reference: 06\_061-I, dated January 2013.
- q) Appendix Z - Preliminary Site Investigation by ESP, Reference: J32592, dated February 2016.
- r) Appendix AA - Aboriginal Cultural Heritage Management Plan by RPS, Reference: PR118295-1, dated 18.12.2013.
- s) Appendix AD - Bushfire Management Plan by Bushfire Planning Australia, Reference: 1950, dated 11.05.2021.
- t) Appendix AO - Heritage Letter by EJE Heritage, Reference: 9686-itr-her-002, dated 26 May 2020.
- u) Appendix AQ - Biodiversity Letter by MJD Environmental, Reference: 19061, dated 16 August 2021.
- v) Appendix AR - Arboricultural Impact Evaluation Report by Treeology, Reference: 02-0821, dated 4 November 2022.
- w) Appendix AS - Preliminary Services Route Plan by GCA, dated 02/08/2021
- x) Appendix AV - Social Impact Assessment by Flagship Communications, dated March 2022
- y) Appendix AW - Vegetation and Habitat Management Plan by MJD Environmental, Reference: 19061, dated September 2022
- z) Appendix AX - Preliminary Grouting Plan by GCA, Reference: 19259C, dated 04/02/2022
- aa) Appendix AY - Hamlet A Concept Engineering Plans by GCA, Reference: 19259C, October 2022
- bb) Appendix AZ - Hamlet B Concept Engineering Plans by GCA, Reference: 19259C, October 2022

- cc) Appendix BB - Heritage Walkway Engineering Concept Design Plans by GCA, Reference: 19259C,
- dd) Appendix BC - Hamlet B Containment Cell Plans by GCA, Reference 19259C, dated November 2022
- ee) Appendix BE - Remediation Action Plan by Qualtest, Reference: NEW21P-0118-AA.rev1, dated 7 March 2022.
- ff) Appendix BF - Supplementary Contamination Assessment by Qualtest, Reference: NEW21P-0118-AC, dated 7 March 2022
- gg) Appendix BG - Acid Sulfate Soil Management Plan by Qualtest, Reference: NEW20P-0118-AD, dated 19 January 2022
- hh) Appendix BJ - Construction Environmental Management Plan by Monteath & Powys, Reference: 17/0467, dated 30/03/2022
- ii) Appendix BK - Construction Traffic Impact Report by Monteath & Powys, Reference: 17/0467, dated 30/03/2022
- jj) Appendix BS – Statement of Heritage Impact – Cottage CH31 8 Colliery Road Catherine Hill Bay.
- kk) Land Dedication Plan by Monteath and Powys, Reference 17/0467, Revision 2 dated 2/11/22

It is the responsibility of the person having the benefit of the consent to meet all expenses incurred in undertaking the development including expenses incurred in complying with conditions imposed by this consent.

It is the responsibility of the person having the benefit of the consent to provide all compliance certificates, documentation and other evidence to verify that the conditions and requirements imposed by this consent have been complied with.

## Agency Conditions

### 2. NSW Rural Fire Service Approval Conditions

The New South Wales Rural Fire Service (NSW RFS) advises that the Subdivision Bush Fire Attack Level (BAL) Masterplan prepared by Bushfire Planning Australia (*Titled: Project 1950: Middle Camp, Catherine Hill Bay Hamlet A, Figure 13, and dated 24/05/2021 & Hamlet B Figure 14 dated 5/11/2020*) is satisfactory and subject to the following conditions:

1. The recommended conditions have been issued on the basis of the stand alone performance solution set out in *Bushfire Planning Australia, Bushfire Management Plan, Residential Subdivision, Middle Camp, Catherine Hill Bay (Ref: 1950, VI, dated 11 May 2021* authored by Stuart Greville).

This will result in the proposed lots not being able to achieve construction of BAL 29 utilising the acceptable solutions of PBP 2019. This shall exclude the lots from being eligible for complying development under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*. Conditions included require future dwelling construction to the BAL set out in the performance solution. Where dwellings are to be constructed in accordance with the BALs set out in the abovementioned document, the NSW RFS considers that this constitutes consultation with the NSW RFS under *the Environmental Planning & Assessment Act 1979* and further referral to the NSW RFS is not required.

The APZs for proposed Lots 501,502,503,504,505,508,509,510 & 511, abutting the perimeter road towards the south located in Hamlet B, have been based on a performance based solution in the bush fire report prepared by *Bushfire Planning Australia, Bushfire Management Plan, Residential Subdivision, Middle Camp, Catherine Hill Bay, (Ref: 1950, VI dated 11 May 2021* authored by Stuart Greville). As a result, these lots may not have a building envelope able to meet the deemed-to-satisfy

separation distances for BAL 29. In these circumstances, future proposals for complying development may be affected and any development applications would be required to provide site specific modelling to demonstrate the ability to achieve BAL 29.

The current NSW RFS assessment is based on the applicants updated Plans of Proposed Subdivision of Lots 1 & 2 Dp1180181 Catherine Hill Bay, Ref No: 17/0467, prepared by Monteath & Powys Surveyors Pty Ltd, dated 08/09/2020, Sheet Nos 1 & 2, Revision 7, Lots 417-419 and Lots 302 -321 Amended, dated 06/12/21.

## **Asset Protection Zones**

*Intent of measures: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.*

2. Prior to the issue of a subdivision certificate for each stage (Hamlets A and or Hamlet B) of the proposed subdivision, the APZs identified in the *Subdivision BAL Masterplan prepared by Bushfire Planning Australia (Project 1950: Middle Camp, Catherine Hill Bay Hamlet A, Figure 13, and dated 24/05/2021 & Hamlet B Figure 14 dated 5/11/2020)* relating to that stage must be established to the satisfaction of Council.

Once established, the APZs must be managed as an inner protection area (IPA) in accordance with the requirements of Appendix 4 of *PBP 2019*. When establishing and maintaining an IPA the following requirements apply:

- tree canopy cover should be less than 15% at maturity;
- trees at maturity should not touch or overhang the building;
- lower limbs should be removed up to a height of 2m above the ground;
- tree canopies should be separated by 2 to 5m;
- preference should be given to smooth barked and evergreen trees;
- large discontinuities or gaps in vegetation should be provided to slow down or break the progress of fire towards buildings;
- shrubs should not be located under trees;
- shrubs should not form more than 10% ground cover; and
- clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation.
- grass should be kept mown (as a guide grass should be kept to no more than 100mm in height); and
- leaves and vegetation debris should be removed.

3. At the issue of a subdivision certificate, and in perpetuity to ensure ongoing protection from the impact of bush fires, the entirety of the proposed residential lots in Hamlets A and B, must be managed as an inner protection area (IPA) in accordance with the requirements of Appendix 4 of *PBP 2019*. When establishing and maintaining an IPA the following requirements apply:

- tree canopy cover should be less than 15% at maturity;
- trees at maturity should not touch or overhang the building;
- lower limbs should be removed up to a height of 2m above the ground;
- tree canopies should be separated by 2 to 5m;
- preference should be given to smooth barked and evergreen trees;
- large discontinuities or gaps in vegetation should be provided to slow down or break the progress of fire towards buildings;
- shrubs should not be located under trees;
- shrubs should not form more than 10% ground cover;
- clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation.

- grass should be kept mown (as a guide grass should be kept to no more than 100mm in height); and
  - leaves and vegetation debris should be removed.
4. Temporary APZs must be provided around each release area, where they adjoin a fire hazard for a minimum distance of 100 metres, when located on future residential zoned land, during the construction phases (either Hamlet A and or Hamlet B) of the proposed subdivision and until the next stage has begun. These APZs need to be established in conjunction with the Subdivision BAL Masterplan prepared by Bushfire Planning Australia (Titled: Project 1950: Middle Camp, Catherine Hill Bay Hamlet A, Figure 13, and dated 24/05/2021 & Hamlet B Figure 14 dated 5/11/2020).
  5. At the issue of a subdivision certificate, suitably worded instrument(s) created pursuant to Section 88 of the Conveyancing Act 1919 must be placed on the proposed lots (listed below), which requires the provision of the APZs and prohibits the construction of buildings other than class 10b structures within the Flame Zone APZ as described within the Subdivision BAL Masterplan prepared by Bushfire Planning Australia (Titled: Project 1950: Middle Camp, Catherine Hill Bay Hamlet A, Figure 13, and dated 24/05/2021 & Hamlet B Figure 14 dated 5/11/2020), particularly in Reference to:
    - Hamlet A, Lots 101 to 117 (17 lots) inclusive 10 metres (m) wide APZ located parallel to the western site boundary abutting Flowers Drive.
    - Hamlet B, Lots 501 to 505 (5 lots) inclusive 20m wide APZ located parallel to the southern site boundary, and;
    - Hamlet B, Lots 508 to 511 (4 lots) inclusive 24 to 9m wide tapering APZ located abutting the southern site boundary.

The name of authority empowered to release, vary or modify the instrument shall be Lake Macquarie City Council.

### **Access (1) Public Roads**

*Intent of measures: to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area.*

6. Perimeter roads within Project 1950: *Middle Camp, Catherine Hill Bay Hamlet A, Figure 13, and dated 24/05/2021 & Hamlet B Figure 14 dated 5/11/2020* must comply with the general requirements of Table 5.3b of *PBP 2019* and the following:
  - are two-way sealed roads;
  - minimum 8m carriageway width kerb to kerb;
  - parking is provided outside of the carriageway width;
  - hydrants are located clear of parking areas;
  - are through roads, and these are linked to the internal road system at an interval of no greater than 500m;
  - curves of roads have a minimum inner radius of 6m;
  - the maximum grade road is 15 degrees and average grade of not more than 10 degrees;
  - the road cross fall does not exceed 3 degrees; and
  - a minimum vertical clearance of 4m to any overhanging obstructions, including tree branches, is provided.
7. Non-perimeter roads within Project 1950: *Middle Camp, Catherine Hill Bay Hamlet A, Figure 13, and dated 24/05/2021 & Hamlet B Figure 14 dated 5/11/2020* must comply with the general requirements of Table 5.3b of *PBP 2019* and the following:
  - minimum 5.5m carriageway width kerb to kerb;
  - parking is provided outside of the carriageway width;

- hydrants are located clear of parking areas;
- roads are through roads, and these are linked to the internal road system at an interval of no greater than 500m;
- curves of roads have a minimum inner radius of 6m;
- the road cross fall does not exceed 3 degrees; and
- A minimum vertical clearance of 4m to any overhanging obstructions, including tree branches, is provided.

### **Access (3) Property Access**

*Intent of measures: to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area.*

8. Property access roads must comply with the general requirements of Table 5.3b of *PBP 2019* and the following:
  - property access roads are two-wheel drive, all-weather roads;
  - minimum 4m carriageway width, 1 m verge areas located to both sides of carriage way to the perimeter road located within Hamlet A, on its north eastern site boundary;
  - in forest, woodland and heath situations, rural property access roads have passing bays every 200m that are 20m long by 2m wide, making a minimum trafficable width of 6m at the passing bay;
  - a minimum vertical clearance of 4m to any overhanging obstructions, including tree branches;
  - provide a suitable turning area in accordance with Appendix 3;
  - curves have a minimum inner radius of 6m and are minimal in number to allow for rapid access and egress;
  - the minimum distance between inner and outer curves is 6m; the cross fall is not more than 10 degrees;
  - maximum grades for sealed roads do not exceed 15 degrees and not more than 10 degrees for unsealed roads;
  - a development comprising more than three dwellings has access by dedication of a road and not by right of way; and,
  - Some short constrictions in the access may be accepted where they are not less than 3.5m wide, extend for no more than 30m and where the obstruction cannot be reasonably avoided or removed. The gradients applicable to public roads also apply to community style development property access roads in addition to the above.
9. Property access roads to any existing dwellings (being retained until such time as there will be developed and or demolished) within the development area, shall always be accessible and maintained to comply with 5.3b of *PBP 2019*, until such time that the sites become accessible by the proposed public roads.

### **Water & Utility Services**

*Intent of measures: to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building.*

10. The provision of water, electricity and gas within Project 1950: *Middle Camp, Catherine Hill Bay Hamlet A, Figure 13, and dated 24/10/2021 & Hamlet B Figure 14 dated 5/11/2020* must comply the following in accordance with Table 5.3c of *PBP 2019*:
  - reticulated water is to be provided to the development where available;
  - fire hydrant, spacing, design and sizing complies with the relevant clauses of Australian Standard AS 2419.1:2005;

- hydrants are and not located within any road carriageway;
- reticulated water supply to urban subdivisions uses a ring main system for areas with perimeter roads;
- fire hydrant flows and pressures comply with the relevant clauses of AS 2419.1:2005;
- all above-ground water service pipes are metal, including and up to any taps;
- where practicable, electrical transmission lines are underground;
- where overhead, electrical transmission lines are proposed as follows:
  - lines are installed with short pole spacing (30m), unless crossing gullies, gorges or riparian areas; and
  - no part of a tree is closer to a power line than the distance set out in accordance with the specifications in *ISSC3 Guideline for Managing Vegetation Near Power Lines*.
- reticulated or bottled gas is installed and maintained in accordance with AS/NZS 1596:2014 and the requirements of relevant
- authorities, and metal piping is used;
- reticulated or bottled gas is installed and maintained in accordance with AS/NZS 1596:2014 The storage and handling - of LP Gas, the requirements of relevant authorities, and metal piping is used;
- all fixed gas cylinders are kept clear of all flammable materials to a distance of 10m and shielded on the hazard side;
- connections to and from gas cylinders are metal; polymer-sheathed flexible gas supply lines are not used; and
- above-ground gas service pipes are metal, including and up to any outlets.

## Landscaping

*Intent of measures: to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities. To achieve this, the following conditions must apply:*

11. Future landscaping within either Hamlets A and B, *Project 1950: Middle Camp, Catherine Hill Bay Hamlet A, Figure 13, and dated 24/05/2021 & Hamlet B Figure 14 dated 5/11/2020*, including within the proposed Bio Retention Basins, Wet Basins and Embankment/Batter Planting, shall be provide and maintained. In addition any landscaping located within the required asset protection zone must comply with Appendix 4 of *PBP 2019*. In this regard, the following principles are to be incorporated:
  - A minimum 1 metre wide area, suitable for pedestrian traffic, must be provided around the immediate curtilage of the building;
  - Planting is limited in the immediate vicinity of the building;
  - Planting does not provide a continuous canopy to the building (i.e. trees or shrubs isolated or small clusters);
  - Landscape species are chosen to ensure tree canopy cover is less than 15% (IPA), and less than 30% (OPA) at maturity and trees do no touch or overhang buildings;
  - Avoid species with rough bark, or which retain/shed bark in strips or retain dead material in their canopies;
  - Use smooth bark species of trees species which generally do not carry a fire up the bark into the crown;
  - Avoid planting of deciduous species that may increase fuel at surface / ground level (i.e. leaf litter);
  - Avoid climbing species to walls and pergolas;

- Locate combustible materials such as woodchips/mulch, flammable fuel stores away from the building;
- Locate combustible structures such as garden sheds, pergolas and materials such as timber garden furniture away from the building; and
- Low flammability vegetation species are used.

### 3. Subsidence Advisory NSW Conditions

#### GENERAL TERMS OF APPROVAL – Hamlet A

Issued in accordance with Section 4.47 of the Environmental Planning & Assessment Act 1979 for the subdivision / development of land.

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As delegate for Subsidence Advisory NSW under delegation executed 14 June 2022, general terms of approval are granted for the development described in Schedule 1, subject to the conditions attached in Schedule 2

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#### SCHEDULE 1

Ref:	<b>TSUB22-00172</b>
DA:	<b>DA/2238/2017</b>
Lot and DP:	<b>LOT 1 DP 1180181</b>
Site Address:	<b>1A FLOWERS DRIVE CATHERINE HILL BAY</b>
Proposal:	<b>1 INTO 51 LOT SUBDIVISION</b>
Mine Subsidence District:	<b>SWANSEA-NORTH ENTRANCE</b>

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#### SCHEDULE 2

#### GENERAL TERMS OF APPROVAL

#### GENERAL

##### Plans, Standards and Guidelines

1. These General Terms of Approval (GTAs) only apply to the subdivision development described in the plans and associated documentation relating to **DA/2238/2017** and provided to Subsidence Advisory NSW.

Any amendments or subsequent modifications to the development may render these GTAs invalid.

If the proposed development is amended or the development consent modified, Subsidence Advisory NSW must be notified to determine if any variations to these GTAs are required.

2. This approval expires 5 years after the date the approval was granted if construction work has not physically commenced.
3. Subsidence Advisory NSW is to be notified of any changes to lot numbering and the registered DP number.
4. Approval *under Clause 22 of the Coal Mine Subsidence Compensation Act 2017* is also required for the erection of all improvements on the land.

As a guide, improvements shall comply with Subsidence Advisory NSW nominated Surface Development Guidelines, or otherwise assessed on merit.



## GENERAL TERMS OF APPROVAL – Hamlet B

Issued in accordance with Section 4.47 of the Environmental Planning & Assessment Act 1979 for the subdivision / development of land.

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As delegate for Subsidence Advisory NSW under delegation executed 14 June 2022, general terms of approval are granted for the development described in Schedule 1, subject to the conditions attached in Schedule 2

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### SCHEDULE 1

Ref:	<b>TSUB22-00178</b>
DA:	<b>DA/2238/2017</b>
Lot and DP:	<b>LOT 2 DP 1180181</b>
Site Address:	<b>1A FLOWERS DRIVE CATHERINE HILL BAY</b>
Proposal:	<b>1 INTO 161 LOT SUBDIVISION – HAMLET B</b>
Mine Subsidence District:	<b>SWANSEA-NORTH ENTRANCE</b>

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### SCHEDULE 2

#### GENERAL TERMS OF APPROVAL

##### GENERAL

##### Plans, Standards and Guidelines

1. These General Terms of Approval (GTAs) only apply to the subdivision development described in the plans and associated documentation relating to **DA/2238/2017** and provided to Subsidence Advisory NSW.

Any amendments or subsequent modifications to the development may render these GTAs invalid.

If the proposed development is amended or the development consent modified, Subsidence Advisory NSW must be notified to determine if any variations to these GTAs are required.

2. This approval expires 5 years after the date the approval was granted if subdivision works have not physically commenced.
3. Subsidence Advisory NSW must be notified of any changes to lot numbering and the registered DP number.

##### SITE WORKS

4. The proposed structure(s) associated with subdivision preliminary works shall be designed to be "safe, serviceable and any damage from mine subsidence shall be limited to 'slight' damage in accordance with AS2870 (Damage Classification), and readily repairable" for the lots overlying the Great Northern Seam Workings using the subsidence parameters outlined below:
  - a) Maximum horizontal strains (+/-): 2 mm/m
  - b) Maximum tilt: 2 mm/m
  - c) Maximum radius of curvature: 5 km

Any ancillary structures or services identified in the subdivision plan shall be designed with flexible joints and remain safe, serviceable and repairable using mine subsidence design parameters noted above.

Subdivision roadworks identified in the identified in the subdivision plan shall be designed as a flexible pavement with a bitumen or asphalt treated surface over one or more unbound base courses in accordance with the relevant Australian Standards and Codes of Practice.

5. Submit final plans which include certification by a qualified engineer to the effect that the subdivision preliminary works will remain “safe, serviceable and readily repairable” taking into consideration the mine subsidence parameters outlined in Condition 4.

#### 6. **Grouting – Wallarah Seam Workings**

Submit a proposal to remove the risk of mine subsidence by a suitable means, such as grouting all workings in the Wallarah seam underlying the subdivision. Submit for acceptance by Subsidence Advisory NSW prior to commencing work a:

- a. **Grout Design**, including grout locations (dimensioned in plan and elevation), and design parameters for any residual mine subsidence.
  - b. **Grout Implementation Plan**; including a site plan (showing property boundaries within 200m of the site), grout locations (dimensioned in plan and elevation), proposed bore locations, and grout designer’s endorsement.
  - c. **Grout Verification Plan**; showing the location of verification holes and the grout designer’s endorsement.
7. Arrange for an independent peer review of the grouting design and implementation plan by a suitably qualified engineer acceptable to the Subsidence Advisory NSW.
  8. On completion of grouting, submit a **Grout Verification Output Report** endorsed by the grout designer and site verification engineers for compliance with the accepted Grouting Plan.
  9. Approval under Clause 22 of the Coal Mine Subsidence Compensation Act 2017 is also required for the erection of all improvements on the land.

As a guide, improvements shall comply with Subsidence Advisory NSW nominated Surface Development Guidelines, or otherwise assessed on merit.

#### 4. **Ausgrid Requirements**

From Ausgrid Letter Dated 11/10/2021

##### **Supply of Electricity**

Large Developments/Subdivisions/Developments in or near Easements advice on connection options.

There are limitations that apply to the installation of electrical infrastructure. The developer must submit a NECF-01 – ‘Preliminary Enquiry’ form for a response from Ausgrid must be received before a Construction Certificate is issued.

It is recommended for the developer to engage an electrical consultant/contractor to complete a Connection Application via <https://www.ausgrid.com.au/Connections/Get-connected> for the connection of the proposed development to the adjacent electricity network infrastructure. An assessment will be carried out based on the information provided which may include whether or not the existing network can support the expected electrical load of the development. For some developments, a substation may be required on-site.

If an upgrade to the electricity network is necessary, the timeframe between the submission of the connection application and availability to connect the development will vary and may be exposed to a lengthy design and construction period. The submission of the Connection

Application will allow us to begin planning and processing the connection and hopefully minimise any delays.

### **Electricity Infrastructure**

There are existing private (non-Ausgrid) overhead mains & poles in the proposed development areas Hamlet A & B that will need to be decommissioned & removed prior to the connection of the new Lots

Service and Installation Rules of New South Wales requires each lot within a subdivision to have a single separate supply, free of encroachment.

If electricity supply to the Lot(s) is a consent condition, the developer is to apply for a Notice of Arrangements letter from Ausgrid at or near the completion of this work, via the following link: <https://www.ausgrid.com.au/Connections/special-connections/subdivisions>. In cases where electricity supply to the Lot(s) is a consent condition, plans must not be released by council without the Notice of Arrangements letter from Ausgrid

### **Existing Electricity Easements**

Ausgrid's geographical system shows an 11,000 V overhead power line with associated electricity easement traversing the North Eastern reserve of Hamlet B within the development. During the staging of any development works within the easement, Ausgrid must first assess the proposed activity. Please direct the developer to Ausgrid's website, [www.ausgrid.com.au](http://www.ausgrid.com.au) to download our "Living with Electricity Easements" brochure.

## **5. Transport for New South Wales – Intersection Upgrades – Pacific Highway**

The intersection of the Pacific Highway and Flowers Drive shall be upgraded in accordance with Condition 1.36 of the Concept Approval and the VPA (between the State of NSW and the landowner) to the satisfaction of Transport for New South Wales. The intersection shall be operational prior to the release of the Subdivision Certificate that creates the first residential lot.

## **6. National Parks and Wildlife Service**

### **Access and boundary fencing**

The applicant is to engage with the NSW National Parks and Wildlife Service on the location, design and standard of all fencing along the boundary of Munmorah State Conservation Area.

### **Signage**

The applicant is to engage with the NSW National Parks and Wildlife Service on the location, design and standard of signage along the boundary of the Munmorah State Conservation Area.

### **Weed Management**

The applicant is to engage with the NSW National Parks and Wildlife Service on the development of a detailed weed management plan for the interface with Munmorah State Conservation Area which will be implemented at the applicant's expense and to NSW National Parks and Wildlife Service's satisfaction prior to the release of the subdivision certificate.

### **Dilapidation**

Reports detailing the results of Vegetation Clearing compliance, Interface and Wetland Dilapidation Monitoring are to be provided to Council within one month of survey. Reports are to include the following at minimum:

- Data recorded as per Section 6.1, 8.2 and 8.3 of the Vegetation and Habitat Management Plan (VHMP);
- Photos at each monitoring point;
- Status of works against any relevant performance criteria or baseline survey;
- Any corrective actions that may be required and/or have been employed; and

- Details of any coordination/ correspondence carried out or required with NPWS in relation to matters managed under this VHMP.

Reports generated in relation to the watercourse dilapidation and interface monitoring are to be provided to Council and to NPWS Central Coast Area Office at the same time.

### **Rectification Works**

- Prior to the release of the subdivision certificate for the final Stage, the person having the benefit of the consent shall have arranged and paid for a suitably qualified person to complete a dilapidation survey report on each anniversary of the completion of the works for three (3) consecutive years, in accordance with the approved Vegetation and Habitat Management Plan.
  - The person having the benefit of the consent shall ensure any damage or alteration occurring to the watercourse identified in the dilapidation survey reports must be repaired to the requirements and satisfaction of the NSW National Parks and Wildlife Service.
- All costs incurred in achieving compliance with this condition shall be borne by the person having the benefit of the consent. The person having the benefit of the consent shall lodge a cash bond or Bank Guarantee with the Council for an amount agreed by the NSW National Parks and Wildlife Service, which will only be released after any works identified during the final (third) annual monitoring survey have been completed to the satisfaction of the NPWS National Parks and Wildlife Service. The bond or guarantee shall be to the value determined in accordance with Council's "Subdivision Bonds and Guarantees" Policy, current at that time.

### **General**

- This consent does not permit, approve or otherwise authorise any activities, works, actions or access on lands reserved or acquired under the National Parks and Wildlife Act 1974. Prior written consent from the NSW National Parks and Wildlife Service is needed for any such activity or access, or the potential repatriation of Aboriginal cultural material.
- No haybales or strawbales are to be used in or close to any riparian zones or in the catchment of Munmorah State Conservation Area. Loose mulch should also not be used in riparian zones unless stabilised with jute or coir mesh overlay.
- Installation of site-construction temporary fencing plus appropriate signage along all boundaries of the development site to prevent unauthorised access and encroachment into neighbouring lands including Munmorah State Conservation Area during all phases of construction.

## **Fees, Charges and Contributions**

### **7. Contribution To Provision or Improvements of Amenities or Services**

In accordance with the provisions of the *Environmental Planning and Assessment Act 1979* – Sect 7.11 and the Lake Macquarie City Council *Development Contributions (2004) Citywide – Belmont Contributions Catchment*, the monetary contributions in the attached Contributions Schedule shall be paid to Council for the purposes identified in that Schedule.

The contributions payable (current as at October 2022) shall be in accordance with the table below:

<b>Stage</b>	<b>Additional lots</b>	<b>Amount Payable</b>
1	49	\$1,050,075.39
2	45	\$964,354.95
3	53	\$1,135,795.83

4	41	\$878,634.51
5	19	\$407,172.09
<b>Total additional lots</b>	<b>207</b>	<b>\$4,436,032.77</b>

- Note the above table includes an overall 8% reduction in Contributions attributable to Recreation Facilities in recognition of the required construction of the Heritage Walkway

The contributions shall be paid to Council as follows:

- Development Applications involving staged subdivision – prior to the release of the Subdivision Certificate for that respective stage;
- Development Applications involving building work – prior to the release of the first Construction Certificate for that respective stage;
- Development Applications involving both subdivision and building work – prior to the release of the Subdivision Certificate or first Construction Certificate, whichever occurs first for that respective stage;
- Development Applications where no Construction Certificate or Subdivision Certificate is required – prior to the commencement of any construction work or prior to any occupation, whichever occurs first for that respective stage;
- Complying Development Certificates - prior to any work authorised by the application or certificate commencing for that respective stage.

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

- From the date this determination is made until payment, the amounts of the contributions payable will be indexed and adjusted at the close of business on:
  - 14 August,
  - 14 November,
  - 14 February, and
  - 14 May

in each year in accordance with the Consumer Price Index published by the Australian Bureau of Statistics and the provisions of the Lake Macquarie Section 94 Contributions Plan No. 1 – City Wide (2004).

The first date for indexation and adjustment shall be the date above which is closest to but follows the date on which the Notice of Determination becomes effective.

Consumer Price Index details are available from Council's Community Planning Department and the Australian Bureau of Statistics.

A copy of the Lake Macquarie Section 94 Contributions Plan No. 1 – City Wide (2004) is available for inspection at the Council's Administrative Building during Council's ordinary office hours.

## CONTRIBUTION FEE SCHEDULE

DESCRIPTION	FEE AMOUNT
CWB-Belmont Catchment - OSA Land - CPI	\$2,120,255.06
CWB-Belmont Catchment - RF Capital - CPI	\$1,462,838.14
CWB-Belmont Catchment - Management - CPI	\$48,175.11
CWB-Belmont Catchment - CF - East Lake Land - CPI	\$175,357.98

**TOTAL \$4,436,032.77**

- Note the above schedule includes an overall 8% reduction in Contributions attributable to Recreation Facilities in recognition of the required construction of the Heritage Walkway

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

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

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

**8. Erosion Controls**

The Soil and Water Management Plan (SWMP) shall be updated in accordance with *Development Control Plan 2014 and Guidelines* to be consistent with the final design for the civil works. The plan shall include plans and full calculations for all erosion and sediment control measures. The plan shall be submitted to Council for approval.

The plan shall be accompanied by a Statement of Compliance to certify that:

- a) The plan has been developed by an appropriately qualified and experienced professional in erosion and sediment control;
- b) The plan complies with the requirements for the area of disturbance as per *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. Gross Pollutant Trap**

A design shall be submitted to Council for Gross Pollutant Traps. The design shall be in accordance with the requirements of *Development Control Plan 2014 and associated Guidelines*. Provision shall be made for maintenance access roads and maintenance vehicle parking.

An Operation and Maintenance Plan for the Gross Pollutant Traps shall be submitted. The Operation and Maintenance Plan shall be in accordance with the *Stormwater Quality Improvement Device (SQID) Guidelines*.

**10. Water Quality Control Facilities**

In accordance with the requirements of Conditions 1.12, 1.17 & 1.22 of the Concept Approval (MP10\_0089)

Designs shall be submitted for permanent Stormwater Quality Facilities generally in accordance with the design and plans prepared by SMEC, Reference: 30011459, dated 21.02.2014. The design shall be prepared in accordance with the requirements of *Development Control Plan 2014 and Guidelines*.

The design shall include details of the extent and location of fencing, provide details of maintenance access and details of landscaping and species for the facility and its surrounds.

The plans for the facility shall detail the construction stages, i.e. the plans shall detail the design of the facility as a sediment basin and the plans shall detail the design of the facility in its final form.

An Operation and Maintenance Plan prepared in accordance with *Stormwater Quality Improvement Device (SQID) Guidelines* shall be submitted for approval.

Construction sequencing for the Stormwater Quality Facilities shall be as follows:-

- a) Phase 1 – The facility shall be constructed to operate as a sediment basin initially. All final inlet and outlet structures shall be installed at this stage (unless alternate arrangements have been agreed by Council). The facility shall be maintained as a sediment basin until 80% of the lots draining to it have had housing constructed or a period of two years has passed since the release of the Subdivision Certificate.
- b) Phase 2 – A bond or bank guarantee shall be lodged with Council for the works to complete the SQID. The bond or guarantee shall be to the value determined in accordance with *Subdivision Bonds and Guarantees Policy* and shall have regard to the value of the capital of the landscaping works and 2 years maintenance.
- c) Phase 3 – Once the catchment has been substantially developed (80% of the lots or two years whichever is the lesser), the sediment basin shall be decommissioned and the final approved facility constructed and landscaped.

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

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

- a) *Australian Rainfall and Runoff, 2019.*
- 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.

## **12. Show Lots Clear of 100 Year Flood Level**

Stormwater designs and calculations shall be submitted to show that all lots are clear of the 1:100 year flood level. This condition shall also apply to lots which would be affected by substantial overland flow, which may necessitate the carrying out of works to ensure properly drained and flood free conditions.

Note: Lots that are not 500mm clear of the 1:100 year flood level shall be subject to floor height control and shall be identified as Flood Control Lots.

## **13. Disposal of Stormwater to a Watercourse or Council Easement**

Stormwater shall be disposed of to either an existing Council drainage system or natural watercourse.

Where stormwater works are located on private property, that is not part of the development site, written authority shall be obtained from the land owner for the works and for the

subsequent creation of an easement. The written authority to discharge stormwater across the property and agreement to create an easement for drainage shall be provided to Council.

#### **14. Interallotment Drainage (Engineering Plans)**

The engineering plans for the development shall identify any lots that do not drain directly to Council's stormwater drainage systems. For those lots, provision shall be made for interallotment drainage pipelines and associated easements to drain water two metres wide favouring the allotments served. All stormwater shall be disposed of to either an existing formed Council drainage system or a natural watercourse.

Where stormwater works shall be located on private property, that is not part of the development site, written authority shall be obtained from the land owner for the works and for the subsequent creation of an easement.

#### **15. Stormwater Standards**

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

#### **16. Linemarking and Signposting**

All regulatory linemarking and sign posting on public roads shall be submitted to Council's Traffic Facilities and Road Safety Committee for approval. The works shall not commence until approved by the Committee.

#### **17. Pavement Standards**

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

Designs for road pavements shall be prepared by a geotechnical consultant and shall be submitted to Council.

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.

#### **18. Transport for New South Wales Approval Required**

Transport for New South Wales (TfNSW) shall approve all engineering plans and specifications, for works on or impacting upon a Classified Road, prior to the issue of a Subdivision Works Certificate.

The applicant shall lodge all required applications and documentation to satisfy TfNSW.

#### **19. Bushfire Safety Authority from Rural Fire Service**

All the requirements contained in the Bushfire Safety Authority issued by the NSW Rural Fire Service shall be incorporated into the engineering design plans for the development.

A copy of the RFS approval is attached to this consent.

#### **20. 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 Subdivision Works Certificate.

#### **21. 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>Subdivision Works Certificate</b>	<b>Please contact Council for fees</b>	Plus <b>\$85</b> Archival Fee	(inc GST)
<b>Compliance Certificate</b>	<b>Please contact Council for fees</b>	Plus <b>\$85</b> Archival Fee	(inc GST)

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

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 respective Subdivision Works Certificate or Roads Act approval. The Levy shall be paid directly to the Long Service Payments Corporation or to Council as agent for the Corporation.

The above fees are current for the **2022/2023** 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.

## **22. Works Certificate Applications**

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

Any works within existing road reserves shall require approval under Section 138 of the Roads Act.

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.

## **23. Construction Environmental Management Plan**

This condition is in response to Condition 1.47 of the Concept Approval (MP10\_0089).

Those documents, or updated documents, as identified in the Construction Environmental Management Plan (CEMP) by Monteath and Powys shall be provided to Council for assessment. Where appropriate suitable notes shall be included on the civil design plans that are consistent with the CEMP.

Where practicable, site compounds, grouting towers, materials and other ancillary infrastructure shall be positioned with the least visual impact to the surrounding area.

## **24. Heritage Archival and Photographic Recording**

An archival and photographic record of the E-Pitt area shall be undertaken by a suitably qualified heritage consultant in accordance with the Heritage Branch of the Department of Planning and Infrastructure Guidelines *How to Prepare Archival Records of Heritage Items*, NSW Heritage Office, 1995, as revised 1998; and *Photographic Recording Of Heritage Items Using Film or Digital Capture*, Heritage Office 2001, as revised 2006.

Both archival and photographic records shall be submitted to and approved by Lake Macquarie City Council prior to the commencement of any works in Hamlet B, inclusive of demolition. Each document shall consist of one electronic copy, and should include authorization to be publicly or otherwise available on Lake Macquarie's Library Website.

## **25. Archaeological Management Plan**

An Archaeological Management Plan, which includes monitoring of the bulk earthworks within the E-Pitt area and identified archaeological remains, shall be provided to Council's Heritage Planner prior to commencement of works within Hamlet B.

## **26. Heritage Interpretation**

The Principal Certifying Authority must not release any Subdivision Works Certificates that contain heritage interpretation Prior to Lake Macquarie City Council having approved detailed drawings of interpretation devices and their content for the subject site in line with the

approved final Heritage Interpretation Strategy, as included in the Heritage Assessment Report and Statement of Heritage Impact, by EJE dated February 2014, and identified locations in the Landscape Plans – Revision Q, dated November 2022.

## **27. Works Adjacent to State Conservation Area**

To inform the final detailed civil design, the boundary of the site shall be surveyed and sufficient vegetation cleared along the boundaries within the site to allow a suitably qualified arborist to identify where earthworks may impact native trees located in the State Conservation Area.

Where required, an individual tree assessment shall be undertaken by the arborist. The tree assessment is to include management strategies to minimise impacts to the tree. Where the impact to the tree cannot be suitably minimised then the works shall be redesigned in consultation with the arborist and to the satisfaction of Council.

If the works cannot be satisfactorily adjusted within the approved road and lot layout, a modification will be required to be submitted for assessment.

## **28. Landscaping Works**

Landscape Construction documentation shall be prepared in accordance with the requirements of Development Control Plan 2014 and Guidelines. The plans shall be in accordance with these conditions and the concept plan prepared by Moir Landscape Architecture, reference 1824, version Q dated November 2022 and be approved by Council.

### **(a) Flowers Drive Interface Hamlet A**

- (i) Flowers Drive remnant bushland within the road reserve up to the proposed fenceline shall be retained in its entirety and protected from all works for the extent of the frontage from north to south. There shall be no clearing west of the proposed fenceline along the rear of lots 101 to 117 in Hamlet A along Flowers Drive. All vegetation along the full extent of the frontage from Hamlet A northern entrance to the Hamlet B entrance off Flowers Drive shall be retained.
- (ii) Fencing of residential lands backing onto Flowers Drive shall be metal palisade or slatted fence of vertical proportions (not horizontal) 1800 mm high and shall be a dark natural (or black) in colour. The fence shall be open with a solid to void ratio of a minimum 1:2.
- (iii) There shall be continuous planting of minimum height 2000mm high shrubs of species *Acmena*, *Syzygium*, *Rhagodia* at maximum 1500mm centres along the south western corner of Hamlet A where fencing fronts and is visible from, Flowers Drive. There shall be planting of a minimum of nine large low flammability trees within the south western corner of road reserve with one existing *Acmena* species tree to be retained and protected from all works. Tree planting shall only include genus *Ficus*, *Acmena*, *Glochidion*, *Syncarpia*. Ground covers shall be fire retardant native grasses and other plants.

There shall be a minimum planting of nine 75 litre large native trees along the eastern side of Flowers Drive adjoining the public reserve. There shall be a minimum of ten 75 litre large native trees planted along the western side of Flowers Drive in the public reserve.

- (iv) In accordance with the Statement of Commitments the vegetation buffer landscaping shall be maintained for a minimum period of five years after the registration of the Subdivision Certificate for Hamlet A.

### **(b) Retaining Walls**

All retaining walls in the subdivision shall comprise sandstone logs or propriety system that mimics sandstone to ensure consistency of colour and texture.

### **(c) Reserves and State Conservation Area fencing**

All fencing in the public reserve shall be metal post and cable and located within mass planted areas. The fencing shall be along the entirety of both sides of Flowers Drive.

The interface of the development site with the State Conservation Area shall be boundary fenced to the satisfaction of Council and the National Parks and Wildlife Service.

**(d) Reserves Planting**

There shall be no turf planting within the public reserve on the eastern side of Flowers Drive and southern side of Hamlet A. Mass planted low flammability ground covers and clumped endemic tree planting is to be planted within the public reserve.

All existing endemic vegetation is to be retained in the public reserve lands and incorporated into mass planting areas.

Western public reserve is to retain existing continuous turfed area with isolated areas of native vegetation joined to minimise mowing edges. There shall be no turf planting on the western and northern side of the proposed shared pathway.

Tree planting adjacent to Hamlet B entry road to be within public reserve with planting of *Ficus rubiginosa* 75Lt, *Angophora costata*, *Eucalyptus botryoides*, *Eucalyptus robusta* 75lt in mass mulched areas or minimum 2000mm diameter mulched beds. Large tree planting shall only be located where mature root plates and canopy spread will not impact civil infrastructure including retaining walls, and canopy is primarily within public reserve lands.

Planting in detention devices are to be species taken from the Native Vegetation Community Profiles map unit and shall not exceed the fuel loads equivalent to 'Grassland' as defined by Planning for Bushfire 2019.

**(e) State Conservation Area Interface**

Where the development interfaces with the State Conservation Area no turf shall be used. Native groundcovers (e.g., native grasses) are the preferred groundcover for sediment and erosion control.

In all areas around waterways, adjoining areas of native bushland or near the interface with Munmorah State Conservation Area, only locally sourced native seed mixes or sterile seed mixes shall be used.

**(f) Street Trees**

**(i) Hamlet A**

Street trees to be shown planted on the extension of the side property boundary. Only residential lot interfaces to support turf.

Road 2 including northern side of Road 1 connection with Flowers Drive – *Brachychiton* 'Jerilderie Red'.

Remainder of Road 1 – *Hibiscus tiliaceus* 'Rubra' on residential side of road. *Homalanthus populifolius*, *Livistona australis*, *Elaeocarpus reticulatus*, *Glochidion ferdinandi*, *Ficus oronate* 25lt and other low flammability tree species clumped informally abutting NPWS land with low flammability fire retardant native planting to road shoulders.

Road 3 – *Elaeocarpus reticulatus*

Road 4 – *Cupaniopsis anarcardioides*

**(ii) Hamlet B**

Road 7 along northern and western extent of subdivision boundary adjacent to bio-swale *Homalanthus populifolius*, *Livistona australis*, *Glochidion ferdinandii*, *Elaeocarpus reticulatus* and *Ficus oronate* 25lt planted informally entire northern side of road. Use of rock rip-rap within swale and fire retardant native planting to

road shoulders. Road 7 Residential lot street trees – *Acmena smithii* or *Glochidion ferdinandii* with couch turf to residential frontage.

Road 6 along southern boundary ridgeline – *Omalanthus populifolius*, *Ficus fraseri*, *Elaeocarpus reticulatus*, *Glochidion ferdinandii* and *Acmena smithii* 25lt planted in clumps informally along entire southern side of road where no conflicts with retaining wall and retained trees. Road 6 Residential lots – *Acmena smithii* or *Glochidion ferdinandii*. Only residential lot interfaces to support turf vegetation.

Colliery Road – *Tristaniopsis laurina*, *Glochidion ferdinandii*

Road 8 and 9 – *Syzygium smithii*

Road 12 – *Banksia integrifolia*

Road 7 – Hibiscus 'Rubra'

Road 10 – *Elaeocarpus reticulatus*

Road 6 – *Elaeocarpus reticulatus*

Road 11 – *Cupaniopsis anacardioides*

#### **28A. Lemon Tree and Workshop Parks – Landscape Plan and Plan of Management**

A detailed Plan of Management and Landscape Plan shall be prepared for the landscape works in accordance with the Landscape Concept Plan.

A Plan of Management outlining the implementation, management and maintenance and repair schedule required to maintain the quality of the landscape is to be prepared and approved by Council.

The Plan of Management is to include the requirement that the parks are available to the general public between the hours of sunrise and sunset.

#### **29. Landscape construction documentation for Subdivision Works Certificate**

A Subdivision Works Certificate prepared by a qualified landscape architect with experience in preparing landscape construction plans for public domain and works to Lemon Tree and Workshop Parks works is required to prepare landscape construction documentation that address the conditions of consent.

All street trees fronting residential lots shall be planted to PLA-LSD-01 *Lake Macquarie City Council Landscape Standard Drawings March 2019*. Street trees fronting residential lots shall have standard timber tree guards equivalent to PLA-GUA-01 installed. Street trees shall be 75 litre.

All tree planting in public reserves or mass mulched areas shall be to LSD-PLA-05 *Lake Macquarie City Council Landscape Standard Drawings March 2019*.

Establishment period for street trees and vegetation on public land shall be 24 months.

All street trees shall be grown to AS2303:2018 with the landscape consultant sighting documentation from the nursery supplier confirming this. The Landscape Contractor shall remove all pot stakes, labels and wire/rubber/plastic tags from every tree.

The turf species used on all residential roadway interfaces and any other approved locations on public land is to be Couch. This turf species is to be specified on landscape construction documentation.

All street tree planting locations shall be at the extension of the side property boundary with final planting locations confirmed on site with Council's civil and natural assets overseer.

#### **30. Landscaping Witness and Hold Points – General Landscaping and Street Trees**

All landscape and public domain works shall be coordinated during the construction period with Council's Project Management Coordinator contactable on 4921 0333. The following

witness and hold points must be included in the Subdivision Works Certificate landscape construction documentation.

#### The Hold/Witness Points – Checks Required for Street Trees

- a) Set out of tree pits within existing concrete footpath (hold point).
- b) Excavation of tree pits with root barrier and sub-surface drainage installed in accordance with *Lake Macquarie City Council Landscape Standard Drawings March 2019* – relevant street tree details (hold point).
- c) Evidence of certification of all associated imported topsoil for street tree planting in accordance with *AS4419 – 2018* shall be provided to Council's Coordinator Project Management (hold point).
- d) Tree delivery prior to installation and certification to comply with *AS2303-2018 Tree Stock for Landscape Use* (hold point).
- e) Commencement of tree planting (witness point).
- f) Installation of growing medium (witness point).
- g) Completion of tree planting, including the installation of tree guards, in accordance with *Lake Macquarie City Council Landscape Technical Drawings February 2016* (witness point).

### 31. Landscaping Stormwater Quality Improvement Devices (SQID's)

Landscape works of SQID's including but not limited to:

- a) Bio-retention Basins, Bio-retention Swales, Bio-pods, Bio-retention Street Trees
- b) Batters, Embankments, Swales and associated buffer strips
- c) Sedimentation Basins including associated basin embankments, internal batters, edge treatments and basin inlet design

Specification plans for the applicable SQID works shall be submitted for Council approval and include the following. Only endemic planting design informed by the surrounding ecological lands shall be proposed.

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

- a) Completion of subgrade preparation prior to spreading of any imported soil or ameliorated site soil (in accordance with *AS4419 – 2018*) (witness/hold point).
- b) Where ameliorated stockpiled soil or site soil is required and utilised for planting purposes in accordance with *AS4419 – 2018*, evidence of associated amelioration measures shall be provided to Council's Coordinator Project Management (hold point). Should site soil be utilised for planting purposes, soil testing shall be conducted in accordance with *AS4419 – 2018*. A copy of the results shall be provided to Council's Coordinator Project Management, where amelioration of the soil is required, evidence of this application shall be communicated and shall form a witness point.
- c) Completion of nominated soil spreading, mulching, associated proprietary products and planting in accordance with the landscape specifications (witness point).
- d) Certification trees comply with *AS2303-2018 Tree Stock for Landscape Use*.
- e) Completion of all landscape works in accordance with the Development Application and Construction Certificate (hold point).
- f) Manufacturer's warranty and maintenance information for all proprietary products.

### 32. Compliance with the Remediation Action Plan (RAP)

All recommendations contained in the Remediation Action Plan, Ref No. NEW21P-0118-AA.rev1 prepared by Qualtest dated 17 March 2022 shall be incorporated into the

engineering design for the subdivision. All works proposed to be undertaken shall embody the relevant recommendations of the Report.

The RAP shall be supplemented with the following listed documentation in accordance with the interim audit advice (IAA) letter by RAMBOLL dated April 2022 (Appendix AU);

- i) A Validation Sampling and Analysis Quality Plan is prepared and provided for review by the Auditor. The VSAQP includes recommendations outlined in the IAA.
- ii) A Construction Environment Management Plan including a Materials Management Plan is developed for management of the works.
- iii) The final cell design including cut to fill is provided to the Auditor for review.

Soils are placed onsite at depths that do not require an Environmental Management Plan.

### **33. Contamination - Auditor Statement**

A statement shall be provided to Council from the Site Auditor which clearly indicates the final RAP is practical and proposed remediation works shall render the site suitable for the intended use.

### **34. Earthworks Impact to Heritage Dwellings**

Final civil design and earthworks shall have regard to the existing heritage dwellings identified on Lots 209, 226, 232 and 238, and the final design outcomes shall ensure the preservation of these structures/dwellings.

### **35. Road Hump on Flowers Drive**

A design for a road hump to be installed along Flowers Drive north of the entrance to Hamlet A, as identified in the approved Traffic Impact Study, shall be submitted to Council for approval prior to any detailed Civil Works plan approval for roads and drainage. The road hump shall; be installed prior to the release of the Subdivision Certificate for the first residential lot.

### **36. Procurement (Indigenous Community)**

In accordance with the requirements of the Statement of Commitments that form part of Concept Approval (MP10\_0089), prior to any works on site commencing, the Owner will develop a procurement policy for the construction of the subdivision. The policy shall incorporate initiatives to encourage local employment opportunities, including Aboriginals for the duration of the project.

Prior to any works on site commencing, the Owner is to:

- Contribute to the Indigenous community for employment in land care, lake quality improvement etc.
- Establish procurement policies for the Indigenous community during construction (e.g. fencing, landscaping) and ongoing maintenance (e.g. lawn mowing etc).

### **37. Pet Ownership Impacts**

In accordance with the Statement of Commitments that is included with the Concept Approval (MP10\_0089), the Owner is to develop strategies to address potential impacts associated with pet ownership prior to works commencing on site. This may include implementation of appropriate signage and educative programs (for example letter box drops and brochures to be included within the bill of sale for each property). LMCC strategies, policies and programs should be acknowledged in relation to this by current and future residents.

Details relating to this strategy shall be provided to Council for approval and where applicable be placed on the title of the lots via an 88B instrument.

### **38. Bus Stops and Shelters**

Two new bus stops shall be provided on Flowers Drive adjacent to the development site. The works shall include the provision of bus shelters, kerb and gutter (where required), footpaving and signage. A pedestrian refuge shall be provided in Flowers Drive adjacent to the Bus Stops. The design of the bus stops and refuge shall comply with the relevant Australian standards and Council Engineering Guidelines.

The final locations shall be determined through discussions with Council and the local bus operator prior to detailed civil design.

The bus stop works shall be completed prior to the issue of the first Subdivision Certificate in Hamlet B.

### **39. Environmental Management – Protection of State Conservation Area**

A Statement of Interim Management Intent (SIMI) prior to commencement of works of stage 1 subdivision for the protection of transferred conservation lands. The SIMI will relate to the interface (maximum width of 100m) between the development areas and the conservation lands as identified in the plan prepared by Harper Somers.

The Owner's involvement with the SIMI will be limited to:

- Cost of preparing the SIMI.
- The actions arising from the SIMI for a specified period of the lesser of 5 years commencing from the date the SIMI takes effect or until all the lots are sold.

The SIMI will include an orchid management plan for the land contained within the development area precincts only.

### **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 where relevant depending on the stage..

### **40. Community Consultation**

In accordance with the Statement of Commitments forming part of the Concept Approval (MP10\_0089), the applicant is to appoint an appropriately qualified professional to Council's satisfaction to develop and implement a community consultation program prior to commencement of construction for the duration of the construction process. This program is to be approved by the Department of Planning prior to any works on site commencing and will include:

- Regular newsletters/letterbox drops on timing and progress.
- Information on a publicly accessible website.
- Community workshops.
- Appropriate signage on site.
- Contact numbers for complaints/issues etc.

### **41. Excavation Permit**

The person having the benefit of the consent, must apply to Heritage NSW for all necessary approvals required under the Heritage Act 1977, and provide a copy of an excavation permit under Section 140 of the Heritage Act 1977 or an exception under Section 139(4) to Council's Heritage Planner prior to any excavation work being carried out.

### **42. Service of Public Utilities**

Arrangements shall be made with the relevant supply authorities and companies for the servicing of all lots in the subdivision with water, sewer, underground electricity and underground telecommunications facilities. Where available, reticulated gas shall be provided to the lots by arrangements with the local gas authority.

Where required by the Commonwealth Government's *Fibre in New Development's Policy*, the applicant shall arrange for the installation of optical fibre cabling in accordance with the NBN Co. Limited's specification.

#### **43. Details Required Prior to Commencement**

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

- a) a Subdivision Works Certificate has been issued by :-
  - i. Council, or
  - ii. an appropriately Accredited certifier accredited in accordance with the Building and Development Certifiers, and
- b) the person having the benefit of the development consent:-
  - i. has appointed a Certifying Authority, and
  - ii. has notified the consent authority and Council (if the Council is not the consent authority) of the appointment, and
- c) 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 Certificate for any works within an existing public road. For works within an existing public road reserve, a Public Works Certificate application shall be lodged with Council.

Where Council is the Certifying Authority for a subdivision, an application for a Subdivision Works Certificate can only be made to Council.

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

#### **44. Dilapidation Survey Report**

A dilapidation survey report shall be prepared by a suitably qualified person and lodged with Council. The dilapidation survey report shall cover public infrastructure including roads and stormwater drainage on the roads adjoining the development and along any approved haulage routes. Where existing buildings may be damaged by the proposed works, these buildings shall be included in the report.

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

#### **45. 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, a brief description of the works, and contact details of the project manager.

#### **46. Haulage Routes**

Haulage routes be to be used during construction works in accordance with the Construction Environmental Management Plan by Monteath & Powys, Reference: 17/0467, dated 30/03/2022. All haulage shall be via Flowers Drive from the Pacific Highway only. No haulage shall occur through the township of Catherine Hill Bay or Middle Camp. The haulage routes shall not be varied without the approval of Council.

Haulage routes shall be maintained and restored as near as possible, to their original condition during, and at the completion of, works.

#### **47. Notice of Commencement of Works**



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

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

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

#### **48. Ausgrid Requirements**

Ausgrid's requirements for the installation of an electricity service to the development shall be identified. All of Ausgrid's requirements shall be satisfied.

#### **49. Retention of trees and native vegetation**

All native trees and vegetation on the site shall be retained and protected in accordance with *Development Control Plan 2014 Guidelines – Tree Preservation and Native Vegetation Management Guidelines* (Section 6) and the *Australian Standard AS4970-2009 – Protection of Trees on Development Sites* unless it has been identified for removal on the approved plans or documentation.

Exclusion fencing shall be installed around all native vegetation that shall be retained on and adjoining the site to minimise damage, prior to the commencement of works. The person having the benefit of the consent shall notify Lake Macquarie City Council when exclusion fencing has been installed. Vegetation exclusion fencing shall be maintained in good working order for the duration of works.

#### **50. Native tree and vegetation protective measures**

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

All reasonable measures shall be undertaken to protect trees and native vegetation on, and adjoining the site, that shall be retained from damage during construction. Such measures shall include, but not be limited to:

- a) Maintaining exclusion fencing around trees and vegetation that adjoins the construction area to minimise damage to vegetation that shall be retained.

For isolated trees that are to be retained within and immediately adjoining the site a 1.8 metre high chain mesh fence shall be erected along the perimeter of each Tree Protection Zone, prior to works commencing and shall remain intact until construction is completed.

Exclusion fencing shall be sign posted to warn of its purpose (sign example under AS4970).

- b) Prohibiting compaction and the placement of fill within five metres of trees and native vegetation that shall be retained.

For isolated trees that are to be retained within and immediately adjoining the site, excavation shall be carried out by hand, with all care taken not to damage tree roots. If tree roots greater than 30mm are found during works that need to be severed, they shall be cut with a saw (not ripped) under the supervision of a suitably qualified AQF5 arborist or horticulturalist.

- c) Salvaging useable trees and shrubs which are felled for re-use, either in log form, or as woodchip mulch for erosion control and/or site rehabilitation. Non-salvageable material such as roots and stumps shall only be disposed of at an approved site.

- d) Any minor hand pruning of trees shall be carried out in accordance with *Australian Standard AS4373-2007 – Pruning of Amenity Trees*, by a suitably qualified AQF3 arborist or horticulturalist.
- e) Keeping all vehicles, construction materials and refuse within areas approved for buildings, structures, access ways and car parks.
- f) Limiting the number of access points.
- g) Notifying all contractors, sub-contractors, and personnel of vegetation protection requirements of this condition.

A separate application shall be made to Lake Macquarie City Council 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.

#### **51. Water Quality Monitoring**

Water quality monitoring shall occur 6 months prior to the commencement of construction activities in accordance with the approved Water Quality and Hydrologic Monitoring Plan by SMEC (Ref: 30011459, dated 21/02/2014), and satisfying Condition 1.24 of the Concept Approval.

#### **52. Cottage Relocation**

The existing cottage (local heritage item CH31) on proposed lot 226 shall be relocated in accordance with the recommendations of the Statement of Heritage Impact by EJE Heritage (Ref 14038-SOHI-002 dated October 2022) prior to works that may impact the dwelling.

#### **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.

#### **53. Excavation – Non-Indigenous Relics**

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

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

#### **54. Excavation Director**

At all times whilst excavations are being carried out on the site, the Excavation Director shall be on-site to oversee the works.

The name, qualifications and contact details of the Excavation Director shall be forwarded to Council in writing at least 14 days prior to any excavation work being carried out.

#### **55. Erosion Controls**

All works and requirements identified in the approved Erosion and Sediment Control Plan shall be installed as part of the initial construction works in the first stage of the development. The erosion and sediment control works shall be maintained and a detailed record of the erosion and sediment controls on the site shall be updated during construction works. The record shall be updated on a daily basis and shall as a minimum contain details on the conditions of the controls and all maintenance and cleaning undertaken.

The record shall be available for inspection by the Certifying Authority during normal working hours.

Minor additional works shall be approved by the Certifying Authority during construction works.

#### **56. Erosion Control Sign**

Council's standard Erosion and Sediment Control Sign as detailed in Standard Drawing No. EGSD 429 shall be supplied and erected on site by the person with the benefit of the consent. The sign shall be erected in a prominent location at the entrance of the site.

#### **57. Salvage of Trees and Shrubs**

Trees and shrubs which are felled shall be salvaged for re-use, either in log form, or as a woodchip mulch for erosion control and/or site rehabilitation. Non-salvageable material such as roots and stumps shall be disposed of in an approved manner.

#### **58. Grassing and Revegetation**

All areas of the site disturbed by works shall be revegetated to prevent erosion. All areas shall be revegetated as soon as practical, and no later than the times specified in Landcom's – *Managing Urban Stormwater documents (2004)*.

Kikuyu grass shall not be used in areas adjoining native bushland or in drainage lines or channels.

#### **59. Noise Control**

All possible steps shall be taken to silence construction equipment and the operating noise level of plant and equipment shall not give rise to "offensive noise" as defined by the *Protection of the Environment Operations Act 1997*.

The operating noise level of machinery, plant and equipment during construction site operations shall comply with Chapter 171 of the *NSW EPA's Noise Control Manual*.

Construction operations shall be confined between the hours of 7.00am to 6.00pm Monday to Friday and 8.00am to 1.00pm Saturday. If construction operations are inaudible within occupied residential properties then the work period shall be extended on Saturdays to 7.00am to 1.00pm. No construction work shall take place on Sundays or Public Holidays.

Should it be necessary to use mechanical rock breakers or conduct blasting then these operations shall be confined between the hours of 9.00am and 3.30pm Monday to Friday (excluding any Public Holiday).

##### Noise Level Restrictions

##### a) Construction period of four weeks and under:-

The L10 level measured over a period of not less than 15 minutes when the construction site is in operation shall not exceed the background level by more than 20dB(A).

##### b) Construction period greater than four weeks:-

The L10 level measured over a period of not less than 15 minutes when the construction site is in operation shall not exceed the background level by more than 10dB(A).

#### **60. Installation of Service Pipes**

All public utility service pipes, mains and conduits shall be installed in all new roads and existing roads, (where work is required in existing roads), as part of the construction works associated with the subdivision.

Conduits to cater for the installation of natural gas services shall be installed to service each lot in conjunction with road and drainage works.

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

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

## **62. Street Lighting**

Street lighting shall be provided for the development to the satisfaction of Ausgrid and in accordance with the road classification. The road classification shall be determined by Council and Ausgrid.

The street lighting shall include the upgrading of the lighting of the intersection of any new roads with existing roads.

## **63. Earthworks Standards**

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

The inspection and testing of fill shall be at the responsibility level set out below, as defined in Section 8 of AS 3798-2007.

<b>Fill Area</b>	<b>Responsibility Level</b>
Water retaining embankments	1
Road embankments (greater than 2m high)	1
Road embankments (less than 2m high)	2*
Residential allotments	1
Industrial/Commercial allotments	1

\* Level 1 may be used if desired by the applicant.

## **64. Landscape Works**

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

## **65. Compliance with the Remediation Action Plan**

Contamination remediation shall be undertaken in accordance with the Remediation Action Plan, Ref No. NEW21P-0118-AA.rev1 prepared by Qualtest dated 17 March 2022 (as supplemented in accordance with the requirements of the Site Auditor).

Where contaminated material is to be contained at depth on site, this material shall not be contained within any proposed public land such as road, public or drainage reserves.

## **66. Excavation – Aboriginal Relics**

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

All necessary approvals from the Department of Premier and Cabinet - Heritage NSW shall be obtained and a copy provided to Council prior to works recommencing.

## **67. Hollow Bearing Tree Removal**

A qualified ecologist or wildlife carer shall supervise removal of any hollow-bearing trees to ensure mitigation against any native animal welfare issues.

Removal of trees with habitat hollows may be undertaken between September to March to minimise impact to threatened species that could breed and or hibernate within hollows on site.

Trees with habitat hollows shall be removed at least 24 hours after other vegetation approved for removal to encourage any residing fauna to relocate.

Any hollow-bearing trees shall be felled in one to two metre sections, beginning at the top of the crown. Lengths cut from the trees shall be in a manner that shall preserve the hollows with each section inspected and appropriately treated to minimise impact to fauna.

Written confirmation shall be provided to Council's Development Planner Flora and Fauna confirming species detected during hollow bearing tree removal.

Removal of habitat trees shall be undertaken in a staged manner as set out below:

- a) Stage 1 – A preclearance survey shall be conducted with all habitat trees to be marked up with a 'H' and bands placed around the tree barrel using fluorescent paint or flagging tape. Where possible, a matrix of trees shall also be maintained to facilitate movement displaced fauna into refuge habitat. These trees are to be marked up with a band of fluorescent paint or flagging tape around the tree barrel during the pre-clearance survey.
- b) Stage 2 – All trees other than those marked up during Stage 1 are to be removed.
- c) Stage 3 – Habitat trees and matrix of trees (where required) shall be removed under the direct supervision of a qualified ecologist or wildlife carer. Ideally removal of trees with habitat hollows shall be undertaken outside of hollow dependent fauna hibernating and breeding periods (i.e. preferred clearing times occur in March/April and October/November). In the event hollow-bearing trees are to be felled outside of these periods, a qualified ecologist or wildlife carer shall stagwatch hollow-bearing trees in the week prior to clearing and be onsite during tree clearing.

Hollow-bearing trees are to be 'soft felled' by machinery (excavator or similar). The operator shall tap the tree barrel to alert any resident fauna, followed by a period of waiting/observation of no less than one minute. This is to be repeated as required by the supervising ecologist or wildlife carer.

Trees are to be 'soft felled' by the operator and when deemed safe, the supervising ecologist or wildlife carer shall inspect all hollows for fauna. All felled habitat trees are to remain insitu on the ground for at least one night before being stockpiled for processing". Lengths cut from the trees shall be in one or two metre sections, in a manner that will preserve the hollows with each section inspected by the supervising ecologist or wildlife carer.

## **68. Vegetation Habitat Management Plan and Implementation (VHMP)**

Implementation of the VHMP by MJD Environmental (dated Sept 2022) for the Development estate the interface with the State Conservation Area shall commence prior to and/or immediately upon any construction work commencing, as required by the VHMP) and shall be carried out in accordance VFMP.

## **69. Virgin Excavated Natural Material**

Any excavated fill material transported to the site is to satisfy relevant guidelines under the *Protection of the Environment Operations Act 1997* and the *Contaminated Land Management Act 1997*.

The applicant needs to substantiate that only waste virgin excavated natural material (VENM) (eg clay, gravel sand, soil and rock) is accepted as fill that:

- is not mixed with any other waste;

- has been excavated from areas that are not contaminated, as the result of industrial, commercial, mining or agricultural activities, with manufacture chemicals;
- does not contain sulphidic ores or soils; or
- consists of excavated natural materials that meet such criteria as may be approved by the NSW Environment Protection Authority.

Documentation is to be maintained by the property owner detailing the various locations and placement of VENM at the site, and details of the material including its origin, date and time of importation and quantities, so as to provide an investigative trail should an instance of contamination be detected at the site or complaint received.

#### **70. Acid Sulphate Management Plan**

All works on site shall be undertaken in compliance with the recommendations of the approved Acid Sulphate Management Plan by Qualtest Ref NEW20P-0118-AD dated 19 January 2022.

#### **71. 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, whichever 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 Work Health and Safety Regulation 2017. 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.

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

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

#### **73. Construction Environmental Management Plan**

Works shall be undertaken in accordance with the Construction Environmental Management Plan by Monteath and Powys (Ref 17/0467) dated 23/2/2022.

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

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

#### **74. Dedication of Lots as Reserve**

The lots identified as 'Reserve' on the approved plan of subdivision shall be dedicated to Council as public reserve or drainage reserve, whichever is applicable, at no cost to Council. The dedication shall take place at the time of registration of the Final Plan of Subdivision.

The proposed reserves shall be cleared of all rubbish, noxious plants, weeds, exotic plants and hazardous trees, not be subject to mine subsidence risk and be landscaped to the satisfaction of Council prior to the dedication of the lots.

#### **75. Gross Pollutant Trap**

All works associated with the Gross Pollutant Trap shall be completed in accordance with the approved design. Prior to the handover of any Gross Pollutant Traps (GPT) to Council, the GPT shall be inspected and maintained in Council's presence as a means of providing Council's maintenance personnel with an induction on the maintenance requirements of the device.

#### **76. Water Quality Control Facilities**

A bond or bank guarantee shall be submitted to Council for the outstanding works on the Water Quality Control Facility and for two years maintenance of the facility. The bank guarantee shall be released no less than two years after the completion of the facility and establishment of landscaping.

Prior to the release of the bank guarantee a handover inspection checklist (see *SQID Guidelines*) shall be submitted to Council and all landscaping shall be established in accordance with the approved plan to Council's satisfaction.

#### **77. Water Quality Control Monitoring and rectification**

Water quality monitoring shall be undertaken in accordance with the Middle Camp Development Project Water Quality and Hydrologic Monitoring Plan by SMEC. If this monitoring highlights the water quality control facilities are not meeting performance goals, suitable rectification works shall be proposed and undertaken to the satisfaction of Council.

#### **78. Service of Public Utilities**

A letter of compliance from each service authority and service company shall be submitted to Council prior to the issue of a Subdivision Certificate. The letters shall confirm that the relevant service is available to all lots.

If the development is located within an area where NBN services are available, a letter of compliance from the NBN shall be required for all subdivisions.

If reticulated gas is not available for connection, communication with the local gas authority that confirms this is the case shall be provided to Council.

Note: Applications for two lot or dual occupancy subdivisions shall not require letters of compliance to be submitted to Council from Ausgrid or Telstra.

#### **79. Dilapidation Survey Report**

A final dilapidation survey report shall be prepared at the completion of the works to ascertain if any structural or cosmetic damage has occurred to the properties or infrastructure specified in the earlier report. A copy of the report shall be submitted to Council prior to the issue of the Subdivision Certificate.

Any damage identified in the dilapidation survey report shall be repaired prior to the issue of the Subdivision Certificate.

#### **80. Disposal of Stormwater to a Watercourse or Council Easement**

An easement for drainage shall be created over all stormwater works that impact on a private property. The easement shall identify the properties benefitted and burdened. Council shall be a party benefitted if the stormwater system carries any stormwater from a public area. Council shall be identified as the party that can release, vary or modify the easement.

The easement shall be created prior to, or at the time of registration of the Final Plan of Subdivision.

#### **81. Interallotment Drainage (Engineering Plans)**

An easement for drainage shall be created over all interallotment drainage pipelines. The easement shall identify the properties benefitted and burdened.

Council shall be identified as the party that can release, vary or modify the easement.

The easement shall be created prior to, or at the time of registration of the Final Plan of Subdivision.

## **82. Provision of Council Easements**

Easements for drainage shall be created in favour of Council at the locations:

- a) shown on an approved copy of the Subdivision Works Certificate plans; or
- b) indicated in red on an approved copy of the Subdivision Works Certificate plans; and
- c) over any stormwater pipeline that carries stormwater from a public area.

The easement shall have a minimum width of three metres or the width of the 100 year flow path, whichever is greater. The easement shall benefit Council.

Council shall be identified as the party that can release, vary or modify the easement.

The easement shall be created prior to, or at the time of registration of the Final Plan of Subdivision.

## **83. Dedication of Roads**

The final Plan of Subdivision for each stage shall make provision for the proposed new roads to be dedicated to Council. The dedication shall take place at no cost to Council.

All public roads that are to be dedicated shall be fully constructed in accordance with the standards identified in this consent.

## **84. Dedication of Road Widening**

The Plan of Subdivision for Hamlet A shall make provision for the dedication of the land for road widening as shown on the stamped approved plan of subdivision. The dedication shall take place at no cost to Council.

## **85. Fix Damage Caused by Construction Work**

Any damage or injury to a public road, utility services, street trees, stormwater drainage or associated infrastructure caused as a consequence of the development works shall be repaired as close as possible to its original condition.

It is the developer's responsibility to prove that damage was pre-existing or not caused by the development works.

## **86. Works as Executed Plan**

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.

Where applicable a Registered Surveyor's Certificate certifying that all pipes have been laid within the easements shown on the Final Plan of Subdivision shall also be submitted.

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

## **87. Erection of Street Signs**

New street name signs shall be supplied and erected in accordance with the requirements of Council's standard design requirements. All private roads shall be clearly signposted to indicate that they are private roads and not public roads.

## **88. Easement for Support**

An easement for support shall be created on the Final Plan of Subdivision submitted to Council for all fill embankments that extend into lots if the side slopes are steeper than one in three and such embankments are in excess of one metre in height.

## **89. Submit Road Names for Approval**



Proposed new road names shall be submitted to Council for approval.

Council cannot release the Subdivision Certificate unless the proposed public roads have been named in accordance with Clause 162 of the *Roads Act 1993*. The Roads Act requires that the Geographical Names Board be given at least one month's notice of the proposed names.

**90. Bushfire Safety Authority from Rural Fire Service**

All the requirements contained in the Bushfire Safety Authority issued by the NSW Rural Fire Service shall be incorporated into the Final Plan of Subdivision and 88B Instrument for the subdivision.

**91. Earthworks Standards**

A report prepared by a suitably experienced Geotechnical Consultant shall be submitted that certifies that all earthworks and filling have been completed in accordance with the requirements of Australian Standard *AS 3798-2007 Guidelines on Earthworks for Commercial and Residential Developments*. The report shall contain a plan showing the location, depth and classification of all filling in relation to the proposed new lot boundaries.

**92. Site Classification of Lots**

A suitably experienced Geotechnical Consultant shall determine the site classification of each proposed lot in accordance with *AS 2870-2011* (as revised). A report setting out the site classifications for each lot shall be provided to Council.

**93. Demolition or Relocation of Structure**

Demolition work, as defined within the Work Health and Safety Regulation 2017, shall be undertaken by a licensed contractor.

All demolition work shall be undertaken in accordance with *AS 2601-2001 – Demolition of Structures*.

**94. Final Plan Submission**

An application for a Subdivision Certificate for each stage of the development shall be accompanied by an original copy of the Final Plan of Subdivision and Deposited Plan Administration Sheet. The location of all buildings and/or other permanent improvements shall be indicated on one additional plan.

When all conditions of the Development Consent relating to that stage of the development have been satisfied the Subdivision Certificate may be issued.

**95. House Numbering**

A minimum of four weeks prior to lodgement of the Subdivision Certificate with Council, the person having the benefit of the consent shall provide a draft Final Plan of Subdivision to Council's Land Information section by email to [enar@lakemac.nsw.gov.au](mailto:enar@lakemac.nsw.gov.au). Council shall then provide house numbering for the lots within the subdivision for inclusion on the Survey Plan in accordance with Clause 60 of the *Surveying and Spatial Information Regulation 2012*.

**96. Submit Road Names for Approval**

Proposed new road names shall be submitted to Council and approved by Geographical Names Board prior to the issue of a Subdivision Certificate.

Please note that this process may take several weeks to complete and as such Council and the Geographical Names Board shall be consulted and the road naming process commenced so as to not delay the issuing of any Subdivision Certificate.

**97. 88B Instrument**

An instrument under Section 88B of the *Conveyancing Act* shall be submitted to Council. The 88B Instrument shall set out terms of easements and/or restrictions as to user as may be required by conditions of this consent. Council shall be the party empowered to release, vary

or modify those (and only those) easements and/or restrictions required by conditions of this development consent.

#### **98. Compliance Certificate for Works**

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

#### **99. Section 50 Certificate**

A certificate of compliance under Section 50 of the *Hunter Water Act 1991* for this development shall be submitted to Council.

Advice: Council does not forward notification of the subdivision approval to the Hunter Water Corporation. It is the responsibility of the person having the benefit of the consent to make all pertinent arrangements with the Hunter Water Corporation.

#### **100. Ausgrid Easements**

Ausgrid's requirements for the provision of easements and sites for electricity infrastructure shall be identified and complied with.

The location of easements and sites for electricity infrastructure shall be identified on the Final Plan of Subdivision and associated Section 88B Instrument.

A letter of concurrence from Ausgrid shall be provided to confirm that all necessary electrical infrastructure has been supplied and is operational.

#### **101. Application for Subdivision Certificate**

An application for a Subdivision Certificate shall be submitted to Council. The following fee shall apply for the Subdivision Certificate application.

<b>Subdivision Certificate</b>	<b>\$161.00/lot</b>	Plus <b>\$85</b>	(inc GST)
	(min fee \$483.00)	Archival Fee	

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

The above fees are current for the **2022/2023 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.

#### **102. Heritage Interpretation**

The approved site heritage interpretation must be implemented to the satisfaction of Lake Macquarie City Council's Heritage Planner.

#### **103. No Asset Protection Zones located on Road, Public or Drainage Reserves**

No asset protection zones (APZ) shall be located on land to be dedicated to Council. Where these areas are indicated in the bushfire threat assessment as servicing the function of an APZ, suitable landscaping shall be installed such that once established the vegetation of that area will not exceed the relevant fuel levels for an APZ.

#### **104. Compliance with Approved Staging Plan**

In accordance with Condition 1.14 of the Concept Approval a Staging Plan has been developed and subsequently approved by the Department of Planning Industry and Environment (28 January 2021).

The agreed outcomes identified in the approved Staging Plan shall be complied with for the relevant stage where the lot threshold identified is triggered.

- a) Heritage Walkway

- i) Construction and dedication of 1.65km of the walkway (through Lot 1, 2 and 4 DP 1180181) to be complete prior to the release of the Subdivision Certificate for the 100<sup>th</sup> lot or Stage 3, whichever occurs first.
  - ii) Construction and dedication of 0.35km of the walkway (through Lot 3 DP 1180181) to be complete prior to the release of the Subdivision Certificate for the 150<sup>th</sup> lot, or Stage 4, whichever occurs first.
  - iii) \$440,000 contribution to be paid to Council prior to 150<sup>th</sup> lot or Stage 4, whichever occurs first, for recreation facilities in the Catherine Hill Bay area in accordance with the Catherine Hill Bay Precincts Master Plan
  - iv) Suitable easements or land dedication shall be established prior to the construction of the heritage pathway over lot 3 and 4 DP 1180181.
- b) Walkways / Trail
  - i) \$500,000 to be provided to Council for the provision of walking trails in the Catherine Hill Bay area and / or the adjacent National Park prior to the release of the Subdivision Certificate that creates the 150<sup>th</sup> lot or Stage 4, whichever occurs first.
- c) Employment Generation
  - i) \$5,000 to be contributed to Council to go toward employment opportunities in the Swansea area – Prior to release of Subdivision Certificate that creates the first lot.
- d) Sustainability initiatives
  - i) \$444,000 shall be used to promote sustainability initiatives. The content and implementation of this of initiative program shall be agreed to by the State prior to the release of the first Subdivision Certificate.
- e) Aboriginal Community
  - i) \$25,000 (\$5000 per stage) shall be used to establish scholarships for archaeology students for the Aboriginal community. Evidence of the establishment of the scholarships shall be produced prior to the release of each Subdivision Works Certificate.
- f) State Infrastructure Contributions
  - i) The intersection of Flowers Drive and the Pacific Highway shall be upgraded to the satisfaction of TfNSW prior to the release of the Subdivision Certificate that creates the first residential lot.
  - ii) The Emergency Services Contribution shall be paid to the State in accordance with the VPA prior to the release of the Subdivision Certificate that creates the first residential lot.
- g) Park / Reserves Management
  - i) The Heritage Walkway, Linear Park and Gateway Park are to be constructed and landscaped to the satisfaction of Council with their dedication with the respective registration of the accompanying subdivision stage.
  - ii) Lemon Tree and Workshop Park are to be owned, managed and maintained by the owner. A Plan of Management shall be prepared prior to the release of the Subdivision certificate for the fourth construction stage.

## **105. Landscaping Works**

At the practical completion of each stage and prior to the issue of the Compliance Certificate, the landscape consultant that prepared the relevant Works Certificate landscape construction documentation shall submit a Landscape Compliance Report to the LMCC Senior Project Officer (Civil) certifying all public domain landscape works have received the relevant witness and hold point inspections, implemented and maintained in accordance with this Works

Certificate. This compliance report is required prior to LMCC issuing a compliance certificate for the works.

The landscape consultant that prepared the Works Certificate landscape construction plans shall submit Landscape Maintenance Reports to LMCC Senior Project Officer (Civil) at 52 weeks and 104 weeks after practical completion certifying the public domain works are being satisfactorily maintained.

All landscaping works shall be maintained for a period of 24 months except for the supplementary planting within the Flowers Drive Road reserve which is required to be maintained for 60 months.

The person having the benefit of the consent shall lodge a cash bond or Bank Guarantee with Council. The bond or guarantee shall be to the value determined in accordance with the *Subdivision Bonds and Guarantees Policy* and shall have regard to the value of the capital of the landscaping works and two years maintenance (the value of the bank guarantee or bond shall be determined in consultation with Council).

The monies shall be released 24 (or 60) months after planting and when Council is satisfied that the landscaping has established.

#### **105A. Lemon Tree and Workshop Parks**

Prior to the release of the Subdivision Certificate resulting in the creation of lots 442 and 443, the landscape consultant that prepared the Works Certificate landscape documentation shall submit a Landscape Compliance Report to Council certifying that the works have been implemented in accordance with the approved Landscape Plan.

All landscape works shall be maintained in perpetuity and maintained and repaired in accordance with the approved Plan of Management.

The person having the benefit of the consent shall lodge a cash bond or Bank Guarantee with Council. The bond or guarantee shall be to the value determined in accordance with the *Subdivision Bonds and Guarantees Policy* and shall have regard to the value of the capital of the landscaping works and two years maintenance (the value of the bank guarantee or bond shall be determined in consultation with Council).

The monies shall be released 60 months after planting and when Council is satisfied that the landscaping has established.

#### **106. Site Auditor**

An independent Site Auditor shall provide validation that the site has been satisfactorily remediated from contamination and is suitable for the intended use of the site for residential purposes prior to the release of each Subdivision Certificate.

Where contaminated material has been contained at depth on the proposed lots, suitable covenants shall be placed on the relevant lots that identify the nature and depth of the contaminants and any appropriate restrictions on the use of the land. No contaminated material is to remain within any proposed public land such as road, public or drainage reserves.

#### **107. 88B Instrument – Urban Design Guidelines Built Form**

An instrument under Section 88B of the *Conveyancing Act* shall be submitted to Council. The 88B Instrument shall describe the requirement that future dwellings with the development are to be consistent with the approved Urban Design Guidelines in relation to the architectural, dwelling typology and materials controls within the Guidelines. The 88B instrument shall also describe those lots (Lots 237-245, Lots 433-441 and Lots 501-520) that are restricted to single story construction in the southern portion of Hamlet B.

The terms of the 88B instrument shall be to the satisfaction of Council and Council shall be the party empowered to release, vary or modify those (and only those) easements and/or restrictions required by conditions of this development consent.

#### **108. Vegetation Habitat Management Plan and Implementation (VHMP)**

Documentary evidence shall be provided to Council by a suitable qualified person that that VHMP outcomes, including the VHMP works schedule have been met, prior to the issue of the final Subdivision Certificate.

**109. Fencing to Flowers Drive (Hamlet A) Lots**

A positive covenant shall be applied to those lots in Hamlet A, that have a rear common boundary with the Flowers Drive Road reserve. The covenant shall require the owners of those lots to retain and maintain a non-combustible palisade or slatted metal fence of vertical proportions along the boundary at all times in accordance with Condition 28. The fencing shall be a dark natural, or black, in colour. The wording of the covenant shall be to the satisfaction of Council.

**110. Positive Covenant for Landscape Buffer and Asset Protection Zone (Hamlet A)**

A positive covenant shall be applied to those lots in Hamlet A, that have a rear common boundary with the Flowers Drive Road reserve. The covenant shall require the owners of those lots to maintain a 10 metre wide (landscape and asset protection zone) buffer to Flowers Drive.

No structures shall be permitted to be constructed within this buffer.

The wording of the covenant shall be to the satisfaction of Council.

**111. Cottage Relocation – Lot 226**

The relocated cottage (local heritage item CH31) from proposed lot 226 shall be satisfactorily reinstated in its original location in accordance with the recommendations of the Statement of Heritage Impact by EJE Heritage (Ref 14038-SOHI-002 dated October 2022) prior to the release of the Subdivision certificate for the stage that contain lot 226.

**112. Workshop Building – Demolition and Interpretation**

The Workshop building heritage interpretation shall be installed to the satisfaction of Council prior to the release of the Subdivision Certificate for the stage that creates lot 443.

**113. Contaminated Land Remediation and Site Audit Statement**

Prior to the issue of the Subdivision Certificate for each respective stage of the development, a Site Audit Statement prepared by a NSW Environmental Protection Authority Accredited Site Auditor shall be provided to Council clearly stating the site is suitable for the approved use.

**114. Planning Agreement Compliance**

Prior to the issue of the first Subdivision Certificate documentary evidence shall be provided to Council that indicates the obligations of the landowner under VPA 2011/4221 have been satisfied.

**115. Installation of Flood Depth Markers**

Prior to the issue of the Subdivision Certificate that creates the first residential lot, st depth markers and associated warning signs shall be installed in Flowers Drive adjacent to the access road to Hamlet B. The location, design and installation shall be to the satisfaction of Council.

**116. Workshop and Lemon Tree Parks Covenant**

Lots 442 and 443 shall be used for open space purposes.

A covenant under section 88 of the Conveyancing Act shall be applied to Workshop and Lemon Tree Parks (Lots 442 and 443). The terms of the covenant shall be generally consistent with the draft instrument supplied with the application (Appendix BT). The terms must also include provisions for restriction as to use as open space, lawful access for the general public between the hours of sunrise and sunset, maintenance and repair requirements for the owner of the land in perpetuity in accordance with an approved Plan of

Management and provisions for Council to undertake maintenance and repair works, and recover costs, should the owner default on their obligations.

The wording of the final instrument shall be to the satisfaction of Council.

The instrument shall be registered on the title of the lots with the registration of subdivision certificate that creates the lots.

Council is to be the party empowered to release, vary or modify the terms of the instrument.

#### **117. Lemon Tree and Workshop Parks – Right of Pedestrian Access**

The proposed lots within Hamlet A and Hamlet B other than those lots being dedicated to Council shall benefit from a right of pedestrian access across lots 442 and 443 in addition to any general public right.

The terms of the covenant shall be prepared in accordance with Section 88 of the *Conveyancing Act 1919* providing for each lot within Hamlet A and Hamlet B (except for those lots being dedicated to Council) to benefit from a right of pedestrian access for the purposes of recreation use over both lots 442 and 443.

The wording of the final instrument shall be to the satisfaction of Council.

The instrument shall be registered on the title of the lots with the registration of subdivision certificate that creates the lots.

Council is to be the party empowered to release, vary or modify the terms of the instrument.

#### **118. Lots 502 and 503 Containment Cell**

A covenant under section 88 of the *Conveyancing Act 1919* is to be registered on Lots 502 and 503 providing notice of the location and depth of the containment cell and any relevant building restrictions.

The wording of the final instrument shall be to the satisfaction of Council.

The instrument shall be registered on the title of the lots with the registration of subdivision certificate that creates the lots.

Council is to be the party empowered to release, vary or modify the terms of the instrument.