

DATE OF DETERMINATION	23 December 2020
PANEL MEMBERS	Alison McCabe (Chair), Juliet Grant, Sandra Hutton and Scott Anson
APOLOGIES	Justin Hamilton
DECLARATIONS OF INTEREST	Jason Pauling declared a conflict of interest as he has voted in relation to this matter as a councillor.

Papers circulated electronically on 15 December 2020.

MATTER DETERMINED

PPSHCC-51 – Lake Macquarie - DA/954/2020 at 12, 20 & 22 Lake Street Windale – Community Facility and Library (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 considered the architecture of the building and the activation of Lake Street. The Panel sought further details regarding all-weather equitable access, acoustic mitigation and tree protection measures and required additional conditions to address these aspects.

Development application

The panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979* subject to the conditions in schedule 2 and the additional conditions outlined below.

The decision was unanimous.

REASONS FOR THE DECISION

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

1. The proposed development will provide a much needed facility for the Windale community;
2. The architecture and the design of the building is unique as a public building and will be an asset to the community;
3. The architecture of the building integrates well into the public domain; and
4. The impacts of the development can be adequately mitigated.

CONDITIONS

The conditions have been altered from those contained in the published report. The development application was approved subject to the conditions attached at Schedule 2 with the following additional new conditions:

- Glazing details: Updated plans shall be submitted to Council prior to the issue of Construction certificate which clearly specify the location, height and extent of glazing provided behind the mesh screen noted in the approved materials and details.
- Equitable access weather protection: Updated plans shall be submitted to Council for approval prior to the issue of Construction certificate which demonstrate covered, all weather access from the designated non-discriminatory car parking space to the nearest building entrance accessed by a





compliant path of travel. The design of the access treatment awning shall be integrated into the design of the architectural built form and landscaping development to Council's satisfaction.

- Tree Protection: The existing eucalyptus adjoining the development site on 79 Lachlan Street (Lot 366 DP 31578), identified as 'tree five' in the approved arborist report, shall be retained. Significant impacts on the root zone or tree canopy shall be avoided in accordance with the tree retention measures outlined elsewhere in this consent.
- Operational Management Plan: An Operational Management Plan (OMP) shall be prepared for the development and submitted to Council prior to the issue of occupation certificate. The OMP shall address potential impacts arising from the operation of the development, including, but not limited to:
 - a) Management of traffic and parking; and
 - b) Measures to ameliorate acoustic impacts on nearby residential receivers.

Operation of the development shall be in accordance with the OMP.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the panel notes that no written submissions were made during public exhibition and therefore no issues of concern were raised.

PANEL MEMBERS	
 Alison McCabe (Chair)	 Juliet Grant
 Sandra Hutton	 Scott Anson

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSHCC-51 – Lake Macquarie - DA/954/2020
2	PROPOSED DEVELOPMENT	Community facility and information and education facility (library)
3	STREET ADDRESS	12 Lake Street, Windale NSW 2306 (Lot 1 DP 224231) 20 Lake Street, Windale NSW 2306 (Lot 359 DP 31578) 22 Lake Street, Windale NSW 2306 (Lot 360 DP 31578)
4	APPLICANT/OWNER	Adriano Pupilli Architects (applicant) Lake Macquarie City Council (owner / operator)
5	TYPE OF REGIONAL DEVELOPMENT	Crown development over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> Coal Mine Subsidence Compensation Act 2017 State Environmental Planning Policy No. 64 – Advertising and Signage State Environmental Planning Policy No. 55 – Remediation of Land State Environmental Planning Policy (Infrastructure) 2007 Lake Macquarie Local Environmental Plan 2014 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Lake Macquarie Development Control Plan 2014 Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i> Coastal zone management plan: Nil The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality The suitability of the site for the development Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Council assessment report: 15 December 2020 Written submissions during public exhibition: nil Council email dated 21 December 2020
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing: 18 August 2020 <ul style="list-style-type: none"> <u>Panel members</u>: Alison McCabe (Chair), Juliet Grant, Sandra Hutton and Scott Anson <u>Council assessment staff</u>: Jonathan Ford <u>Department staff</u>: Lisa Foley Site inspection: <ul style="list-style-type: none"> Alison McCabe (Chair): 25 July 2020 Juliet Grant: 9 October 2020 Sandra Hutton: 17 November 2020 Scott Anson: 17 October 2020 Final briefing to discuss council's recommendation: 22 December 2020 <ul style="list-style-type: none"> <u>Panel members</u>: Alison McCabe (Chair), Juliet Grant, Sandra Hutton and Scott Anson <u>Council assessment staff</u>: Jonathan Ford, Amy Regado, Rhiannon McLardy and Nicole Sellen <u>Department staff</u>: Sung Pak and Lisa Foley

		<ul style="list-style-type: none"> Applicant Briefing: 22 December 2020 <ul style="list-style-type: none"> <u>Panel members</u>: Alison McCabe (Chair), Juliet Grant, Sandra Hutton and Scott Anson <u>Council assessment staff</u>: Jonathan Ford, Amy Regado, Rhiannon McLardy and Nicole Sellen <u>Department staff</u>: Sung Pak and Lisa Foley <u>Applicant representatives</u>: Adriano Pupilli, Amy Cropley, Stephen McAlister, James Walters, Joanne Smith and John Ferguson <p><u>Note</u>: Applicant briefing was requested to respond to the recommendation in the council assessment report</p>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report

SCHEDULE 2

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.

1. Prescribed Conditions

- a) The work shall be carried out in accordance with the requirements of the *Building Code of Australia*.
- b) In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
- c) A sign shall be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
 - i. showing the name, address and telephone number of the Certifying Authority for the work, and
 - ii. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - iii. stating that unauthorised entry to the work site is prohibited.

Any such sign shall be maintained while the building work, subdivision work or demolition work is being carried out, but shall be removed when the work has been completed.

- d) Residential building work within the meaning of the *Home Building Act 1989* shall not be carried out unless the Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
 - i. in the case of work for which a principal contractor is required to be appointed:
 - a. the name and licence number of the principal contractor, and
 - b. the name of the insurer by which the work is insured under Part 6 of that Act,
 - ii. in the case of work to be done by an owner-builder:
 - a. the name of the owner-builder, and
 - b. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so the information notified under (d) becomes out of date, further work must not be carried out unless the Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

2. Approved Documentation

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

- a) Plans Reference:

Architectural plans prepared by: Adriano Pupilli Architects; Project: WIN

Name of Plan	Drawing Number	Issue	Date
Cover Sheet	000A	A	3/7/2020
Site Analysis Plan	002B	B	5/11/2020
Site Plan	003B	B	16/10/2020
Demolition Plan	004B	B	16/10/2020
Ground Floor Plan	008B	B	16/10/2020
Lower Ground Floor Plan	009B	B	16/10/2020
Roof Plan	010B	B	16/10/2020
Sections	011B	B	16/10/2020
Elevations – Northwest and Northeast	012B	B	16/10/2020
Elevations – Southeast and Southwest	013B	B	16/10/2020
Schedule of Colours and Materials	014A	A	3/7/2020
Shadow Diagrams	016A	A	3/7/2020
Waste Management Plan	017A	A	3/7/2020
Photomontages	018A	A	3/7/2020

Landscape plans prepared by: McGregor Coxall

Name of Plan	Drawing Number	Issue	Date
Master Plan	LD-SK-01	F	22/10/2020
Planting Plan	LD-SK-02	F	22/10/2020

Engineering plans prepared by: Erbas; Project Number: SYD18387

Name of Plan	Drawing Number	Issue	Date
Cover Sheet and Legend	SW000	P2	12/10/2020
Soil and Water Management Plan	SW001	P2	12/10/2020
Lower Ground Flood Plan	SW100	P1	3/7/2020
Ground Floor Plan - West	SW101	P2	12/10/2020
Ground Floor Plan - East	SW102	P2	12/10/2020
Roof Plan	SW103	P1	3/7/2020
Detail Sheet 1	SW200	P2	12/10/2020
Detail Sheet 2	SW201	P2	12/10/2020
Detail Sheet 3	SW202	P1	12/10/2020

b) Document Reference:

Document	Reference	Author	Date
Geotechnical Site Investigation	2019-053	Crozier Geotechnical Consultants	June 2020
Acoustic Report	12531231	GHD	November 2020
Arboricultural Impact Assessment	-	Tree Management Strategies	11/11/2020

Details of the development shown in the approved plans and documents referenced are altered in the manner indicated by:

- i. Any amendments made by Council on the approved plans or documents;
- ii. Any notes, markings, or stamps on approved plans or documents, and
- iii. Any conditions contained in this consent.

General Terms of Approval and Concurrence Requirements

3. General Terms of Approval

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

- Subsidence Advisory NSW

4. Subsidence Advisory NSW – General Terms of Approval

The development shall comply with the General Terms of Approval provided by Subsidence Advisory NSW per letter dated 19 November 2020 (ref: TBA20-02194).

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

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

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

5. Construction Certificate

Prior to the commencement of building work or subdivision work, a Construction Certificate shall be obtained.

Note: If the Construction Certificate is issued by a Certifying Authority that is not Council it shall be necessary to lodge the Construction Certificate and other approved documents with

6. Erosion and Sediment Control

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

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

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

7. Stormwater Disposal - Stormwater Detention and Harvesting

A Stormwater Detention and Harvesting Plan shall be submitted. The plan shall be generally in accordance with the plans approved by the consent prepared by erbas Engineers (ref: SYD18387, dated 12/10/2020). The stormwater plans approved by this development consent are not approved for construction. The stormwater plans shall comply with the following:

- a) Stormwater shall be disposed of through a piped system designed in accordance with *Australian Standard AS 3500* by a suitably qualified professional. The design shall be undertaken by a practising Civil Engineer deemed to be suitably experienced by Council and qualified so as to be accepted as a Member of the Institution of Engineers Australia or a Registered Surveyor deemed to be suitably experienced by Council shall be accepted as qualified to prepare plans for drainage works (excluding flood control structures and bridges). Qualifications demonstrating the above may be requested by Council. Stormwater detention measures shall be designed to ensure the development does not increase upstream or downstream flood levels for all recurrence intervals up to and including the 1% Annual Exceedance Probability.
- b) Detention storage shall be calculated and designed in accordance with *Australian Rainfall and Runoff 2019* and the Lake Macquarie City Council guideline – *Handbook for Drainage Design Criteria* and shall conform to the specifications and standards contained in *Development Control Plan 2014 Engineering Guidelines*.
- c) Stormwater harvesting measures shall be designed in accordance with the *Development Control Plan 2014 Water Cycle Management Guideline*. Stormwater drainage plans shall include details of the harvesting system, including rainwater tank details, pump details and reticulation diagrams.
- d) The location of a permanent metal sign (minimum dimensions 150mm x 220mm) shall be detailed on the plans in a visible location near the detention orifice plate or onsite detention entry with the following wording:.

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

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

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

This plate shall not be removed

8. Kerb and Guttering

The kerb blister in Shade Lane in line with the rear of No. 10 Lake Street shall be removed and kerb reinstated to be in line with the remainder of the existing kerb.

A design plan for kerb and guttering, road pavement, and associated drainage shall be submitted for the section of Shade Lane where the kerb blister is to be removed. No works shall commence prior to the issue of a Public Works Certificate in accordance with s138 of the *Roads Act 1993*. Any works on a public road shall be approved by Council.

9. Geotechnical Report Compliance

The recommendations of the Geotechnical Report by Crozier Engineering Consultants (ref: 2019-053, dated June 2020) shall be complied with. Any works undertaken in relation to the development shall embody all relevant recommendations of the Geotechnical Report.

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

10. Parking Areas and Access Ways

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

11. Ausgrid Requirements

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

12. Hunter Water Requirements

The person with the benefit of this consent shall comply with Hunter Water's requirements to provide the development with water supply and sewerage services. A copy of Hunter Water's compliance certificate (Hunter Water Act 1991- Sect 50) shall be submitted with your Construction Certificate application.

13. Acoustic Certification

Plans shall be certified as being designed in accordance with the approved Acoustic Report.

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.

14. Erosion and Sediment Control

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

15. Hoarding and Construction Site Safety Fencing

Construction site safety fencing and/or hoarding shall be provided in accordance with WorkCover requirements. Such fencing and/or hoarding shall be erected wholly within the property boundary unless prior approval from Council is obtained.

Council approval is required to install hoarding, site fencing or overhead protective structures over or adjoining a public place i.e. a footpath or a Public Reserve. No work shall commence until written approval is obtained.

16. Filling Importation and Compaction

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

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

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

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

17. Building Waste

An area for the containment of building waste materials shall be provided within the boundaries of the building site, above natural or excavated ground level, by a screened area of silt stop fabric or

shade cloth, having minimum dimensions of 2.4 x 2.4 x 1.2 metres high OR equivalent size waste disposal bin.

18. Works Within a Public Road Reserve

Approval is granted to open a grassed or natural surface footpath for the installation of all water services, cables, or mains. Upon completion of the work, the footpath shall be restored to its original state and no hazards shall remain that may impact on the public.

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

19. Construction Environmental Management Plan

A Construction Environmental Management Plan (CEMP) shall be prepared for the development and shall specify operational details to minimise any potential impact to adjoining or adjacent properties. The CEMP shall include, but not be limited to, details showing how the construction process will be managed for both the on-site and external areas, showing the expected timeframes for each building phase.

The following matters shall be addressed, to Council's satisfaction, in the CEMP:

- construction vehicles, access and parking;
- traffic management and traffic control;
- primary vehicle routes;
- details on the transportation of fill;
- potential road closures;
- control of vehicles, pedestrians and cyclists at the site access;
- safety of road users;
- parking associated with employees, contractors and site personnel;
- access to and from the work site;
- delivery and storage of equipment and materials;
- hours of work;
- timing of works;
- acoustic management and timetabling measures;
- vibration management;
- dust management procedures;
- waste management infrastructure;
- erosion and sedimentation management controls, and
- hoardings and pedestrian management.

The CEMP shall include a Vehicle Movement Plan and Traffic Control Plan. It shall be prepared with the intention of minimising impact on the operation of the road network during construction. The traffic control plan shall be prepared to meet the requirements of the Roads and Maritime Services (RMS) "Roads and Traffic Authority - Traffic Control at Work Sites" manual June 2010.

20. Asbestos

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



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

21. Dial Before You Dig (Advice)

Prior to commencement of work, the free national community service “Dial Before You Dig” shall be contacted on 1100 regarding the location of underground services in order to prevent injury, personal liability and even death. Enquiries shall provide the property details and the nearest cross street/road.



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.

22. Erosion and Sediment Control

All erosion and sediment controls shall be appropriately managed throughout the development to prevent pollution until the land is considered erosion resistant.

Any pollution from site shall be cleaned up immediately and appropriate repairs made to onsite controls.

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

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

- d) All erosion and sediment control measures are in accordance with *Development Control Plan 2014*.

23. Management of Site - Erosion Prevention and Sediment Control

All disturbed areas shall be revegetated or rendered erosion resistant in accordance with *Development Control Plan 2014 Guidelines – Erosion Prevention and Sediment Control Guidelines* as soon as practical, and no later than the timeframes specified in *Managing Urban Stormwater: Soils and Construction The Blue Book 4th Edition*, Landcom, 2004.

24. Topsoil and Stockpiles of Materials

Topsoil shall only be stripped from approved areas. It may be stockpile onsite for re-use during site rehabilitation and landscaping. Stockpiles of any material including but not limited to, soil, sand, aggregate, and spoil, stored on the site that is capable of being moved by water shall be stored clear of any drainage line or easement, natural watercourse, footpath, kerb, and/or road surface. Suitable erosion and sediment controls shall be installed. The stockpile shall be treated so its surface is resistant to water and wind erosion. No stockpiles shall be located on the public footpath or road reserve without prior written approval from Council.

25. Geotechnical Report Compliance

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

26. Tree Protection Measures

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

- a) Additional tree protection measures shall be implemented in accordance with the Tree Management Plan, as outlined in approved Arboricultural Impact Assessment Report by 'Tree Management Strategies' (Brennan, 11/11/2020).
- b) A suitably qualified Project Arborist (AQF Level 5) shall be in attendance to implement tree protection measures, and to supervise works on site for the duration of construction, particularly when excavations or any other activity is carried out within the identified Tree Protection Zone.
- c) Scope shall be given for the potential repositioning of any required excavation if substantial roots are encountered, which is to be overseen and under instruction from the Project Arborist. A structural engineer may need to be consulted in this regard.
- d) All underground utilities and other required excavations shall be routed away from identified Tree Protection Zones of trees to be retained.

A separate application shall be made to Council in accordance with the *State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017* for the removal of any other trees or others identified for retention. 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.

27. Landscape Works

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

- Where possible, the two existing street trees are to be retained and protected from all works.
- There shall be additional street tree planting of *Tristaniopsis* 'Luscious' 100lt at 10m intervals in identical alignment to existing to *LMCC Standard Landscape Drawings* PLA-LSD-01 shall be constructed. Tree guards shall be installed to new street tree planting equivalent to LSD-GUA-01, low sheen paint colour: Pantone PMS731U as per *LMCC Neighbourhood Centres Streetscape Technical Guidelines*.
- All landscape planting works shall be implemented under the full supervision of a contractor with a current NSW Department of Fair Trading endorsed license in Structural Landscaping.
- All paving works shall be implemented under the full supervision of a contractor with a current NSW Department of Fair Trading endorsed license in Structural Landscaping, Building or Minor Trade – Paving.
- Landscape works shall conform to planting densities as scheduled with all plants at nominated pot sizes and spacing's and be maintained for a minimum of 52 weeks to achieve continuous healthy growth.
- A hard garden retaining edge (timber or concrete) shall be installed to all planting areas adjoining turf surfaces.
- All planted areas shall be covered with minimum 100mm mulch to aid plant establishment.

28. Extension of Footpath

The existing 2.5m footpath fronting Lake Street shall be extended westward for the entire development frontage in accordance with the approved landscape plan and Council's technical drawings.

29. Filling Importation and Compaction

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

30. Building Waste

The enclosure or bin shall be maintained for the term of the construction to the completion of the development.

The enclosure or bin shall be regularly cleaned to ensure proper containment of the building wastes generated on the site.

31. Works Within a Public Road Reserve

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

32. Unobstructed Footpath Access

The person having the benefit of the consent shall maintain unobstructed footpath access within the public road reserve at all times. Building materials shall not be placed or stored within the road reserve.

In the case of sites where it is not possible to keep the footpath or road reserve clear during construction works written approval from Council shall be obtained prior to any closing of the road reserve or footpath area. The closure shall take place in accordance with Council's written approval. The area shall be signposted and such signposting be maintained in a way that ensures public safety at all times.

33. Demolition

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

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

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

34. Site Amenities

Toilet facilities shall be available or provided at the work site before works begin and shall be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

Each toilet shall:

- a) be a standard flushing toilet connected to a public sewer, or
- b) have an approved on-site effluent disposal system under the *Local Government Act 1993*, or
- c) be a temporary chemical closet.

35. Dust Suppression

During the extraction, removal, and transportation of material associated with the works, the person having the benefit of the consent shall ensure that airborne dust is contained within the work site or transport vehicles, and does not impact on the amenity of the surrounding environment.

Effective environmental controls and practices shall be implemented and maintained to the satisfaction of Council or the Certifying Authority.

36. 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.

37. Signage – Over or Adjacent to Public Places

During the placement of signage above or adjacent to a public place (footpath, road or public reserve), pedestrian control measures to protect the public during construction, shall be implemented in accordance with an approved Traffic Management Plan. The Traffic Management Plan shall be prepared by an accredited Traffic Controller, and approved by Council, prior to the erection of the sign.

Throughout the course of demolition and construction of any signage, Council's footpath shall be kept clear at all times to allow unobstructed access by pedestrians. Where it is not possible for Council's footpath to be kept clear, it shall be necessary to make an application to Council's Asset Management Department, to erect barricades and the like, to provide safe pedestrian access.

The contractor installing the signage shall have a current public liability insurance with a reputable insurer of not less than \$20,000,000 in respect of each accident.

38. Noise - Construction Sites

The operating noise level of construction site operations, including machinery, plant and equipment when measured at any affected premises, shall be evaluated and comply with the requirements of the NSW Office of Environment and Heritage publication *Interim Construction Noise Guideline July 2009*.

Approved Construction Times

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

Construction Periods in Excess of 26 Weeks

- a) If the construction period is in excess of 26 weeks, a Noise Management Plan shall be provided to Council prior to the issue of the first construction certificate. Such plan shall be prepared with the assistance of a suitably qualified acoustic engineer, indicating whether the use of machinery, plant and equipment during those operations can be completed without causing offensive noise (as defined in the *Protection of the Environment Operations Act 1997*) in the neighbouring area. The Noise Management Plan shall be complied with at all times during the construction period and shall identify any mitigation measures to control noise, noise monitoring techniques and reporting methods, likely potential impacts from noise and a complaints handling system.

- b) Operational times may be amended with the written advice of Council's General Manager or delegate.

39. Bike Racks

Bike racks shall be as per the *LMCC Neighbourhood Centres Streetscape Technical Guidelines* in locations as shown on the approved plans.

Conditions to be satisfied prior to issue of an Occupation Certificate

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

40. Occupation Certificate

The development shall not be occupied or used prior to the issuing of a Final Occupation Certificate or Partial Occupation Certificate by the Certifying Authority. Where a Partial Occupation Certificate has been issued, only that part of the building to which the Certificate applies may be occupied or used.

41. Stormwater Disposal - Stormwater Detention and Harvesting

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

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

42. Fix Damage Caused by Construction Works

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

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

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

43. Kerb and Guttering

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

44. Geotechnical Report Compliance

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

45. Consolidation of Lots

Prior to the issue of a Partial or Final Occupation Certificate, whichever occurs first, Lot 1 DP 224231, Lot 359 DP 31578 and Lot 360 DP 31578 shall be consolidated and registered at the NSW Land Registry Services and a copy of the registered plan shall be provided to Council.

46. Parking Areas and Access Ways

All parking areas and access ways shall be fully constructed and sealed in accordance with the approved Construction Certificate plans, prior to the issue of the Partial or Final Occupation Certificate, whichever comes first.

47. Landscape Works

At the completion of landscape works, the consulting landscape architect who prepared the documentation shall submit to the Certifying Authority a Landscape Compliance Report. This report shall certify shrub and tree species, pot size, and planting densities and landscape area setout comply with approved landscape documentation and practical completion of the landscaping works has occurred. This report shall certify required street trees are planted specifically as per the locations on the approved documentation and these conditions, and have edging constructed as per the *Lake Macquarie City Council Landscape Standard Drawings March 2019*. The Certifying Authority shall not issue the Final Occupation Certificate without receipt of the Landscape Compliance Report.

48. Boundary Fencing

The existing fence on the southern boundary of the site shall be replaced with a 2.1m high lapped and capped timber fence.

The existing fence on the western boundary of the site shall be replaced with a 2.4m high lapped and capped timber fence.

All costs associated with the removal and replacement of any fence shall be borne by the party with the benefit of the consent and not the relevant neighbouring property owners.

14 days written notice shall be given to the relevant neighbouring property owner of the intention to erect the boundary fencing.

All new or replacement boundary fencing shall be completed prior to the issue of a partial or final occupation certificate, whichever occurs first.

49. Works Within a Public Road Reserve

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

50. Demolition

At the completion of the works, the work site shall be left clear of waste and debris and the site shall be grassed or otherwise rendered erosion resistant.

51. Acoustic Certification

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

52. Certification of Food Premises Fit-out

Prior to the issue of the Partial or Final Occupation Certificate, whichever comes first, the food premises shall be inspected by an appropriately qualified person who shall certify the premises, including the construction and installation of all equipment, fixtures, fittings and finishes therein, complies with *the Food Act 2003, Food Regulation 2010, and Australian Standard AS 4674 Design, construction and fit-out of food premises*.

Operational Conditions

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

53. Landscape Works

All landscape works required under this consent shall undergo an establishment maintenance period of a minimum of 52 weeks to achieve the intent of the landscape design.

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

54. Hours of Operation

Following commencement of occupation, the premises shall operate only between the times stated as follows:

All days: 07:00am – 12:00am

Other internal operations such as cleaning, preparation, and office administration may be undertaken outside of the above hours provided no disturbance to the amenity of the neighbourhood occurs.

55. Lighting

Adequate lighting of at least 20 lux illumination shall be provided at the main building entrances, footpaths at the street boundary and in the rear carpark.

Any lighting shall be installed to ensure minimal glare and light spill onto adjoining properties or roadways. Lighting shall comply with *Australian Standard AS4282-1997*.

56. Signage – Over or Adjacent to Public Places

The owner of the signage shall maintain current public liability insurance for an amount of \$20,000,000 with a reputable insurer while ever the signage is erected over Council owned, maintained or controlled land. A copy of this insurance shall be submitted to the Certifying Authority prior to the issue of the Partial or Final Occupation Certificate, whichever comes first.

57. Noise – Entertainment

The operating noise level of the functions and entertainment provided on the premises shall comply with the following:

- c) The LA10 noise level emitted from the premises shall not exceed the LA90 background noise level in any octave band frequency (31.5Hz - 8kHz inclusive) by more than 5dB between 7:00am and midnight at the boundary of any affected residential premises.
- d) The LA10 noise level emitted from the premises shall not exceed the LA90 background noise level in any octave band frequency (31.5Hz - 8kHz inclusive) between midnight and 7:00am at the boundary of any affected residential premises.

Notwithstanding compliance with the above, the noise from the premises shall not be audible within any habitable room in any residential premises between the hours of midnight and 7:00am.

For the purpose of this condition, the LA10 is taken as the average maximum deflection of the noise emission from the premises.

A 5dB penalty shall be provided for any noise with a low frequency tone between 31.5Hz – 250Hz.

58. Noise - Sleep Arousal

The L1 (one minute) operating noise level during night time hours of the premises, when measured at the window of any affected residential dwelling, shall comply with the NSW Environment Protection Authority (EPA) sleep disturbance criteria, calculated in accordance with the NSW EPA Noise Policy for Industry 2017.

59. Emissions

There shall be no interference with the amenity of the neighbourhood by reason of the emission of any "offensive noise" as defined in the *Protection of the Environment Operations Act 1997*, vibration, smell, fumes, smoke, vapour, steam, soot, ash or dust, or otherwise as a result of the development.

60. Noise – Ongoing Operation of Machinery, Plant and Equipment

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

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

61. Acoustic Mitigation – Community Hall

The following mitigation measures shall be implemented for the use and operation of the community hall:

- Capacity is limited to maximum 200 people;
- Speakers shall be set at an internal reverberant sound pressure level (SPL) of LAeq (15min) 70 dB(A);
- Speakers shall be directed away from the windows to further reduce the noise impact to nearby residential receivers;
- Windows shall be closed after 6pm when the community hall is in use;
- Glazing on the glass doors shall be minimum 6mm thick glass or be a similar material that has Rw 26;
- During maximum occupancy of the community hall, the doors on the southern façade shall be closed.

Right of Appeal

If you are dissatisfied with this decision (including a determination on a review under Section 8.2), Section 8.7 and 8.10 of the Environmental Planning and Assessment Act 1979 gives you the right to appeal to the Land and Environment Court within six months after:

- a) the date on which you receive this notice, or
- b) the date on which that application is taken to have been determined under Section 8.11.

Section 8.8 of the Environmental Planning and Assessment Act 1979, does not give a right of appeal to an objector who is dissatisfied with the determination of the Council to grant consent to a development application, unless the application is for designated development (including designated development that is integrated development). The objector may, within 28 days after the date on which the notice of the determination was given in accordance with the regulations, and in accordance with rules of the Court, appeal to the Court.

Right of Review

Section 8.2 of the Environmental Planning and Assessment Act 1979 provides that the applicant may request the Council to review the determination. The request must be made in writing (or on the review application form) within six months after the date as specified in this notice of determination, together with payment of the appropriate fee. **(See exclusions note below).**

Exclusions: A request to review the determination of a development application pursuant to Section 82A of the Environmental Planning and Assessment Act 1979 can only be undertaken where the consent authority is Council, other than:

- (a) A determination to issue or refuse to issue a complying development certificate, or
- (b) A determination in respect of designated development, or
- (c) A determination in respect of integrated development, or
- (d) A determination made by the Council under Division 4 in respect of an application by the Crown.

Planning Assessment Commission

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