

DATE OF DETERMINATION	30 November 2021
DATE OF PANEL DECISION	26 November 2021
DATE OF PANEL MEETING	Not applicable
PANEL MEMBERS	Alison McCabe (Chair), Sandra Hutton, Juliet Grant and Roberta Ryan
APOLOGIES	None
DECLARATIONS OF INTEREST	Jason Pauling declared a conflict of interest related to his employment during the Panel briefing on 14 July 2021 and left the briefing immediately. Cr Pauling was not involved in any further briefings, or in the Panel determination.

Papers circulated electronically on 4 November 2021.

MATTER DETERMINED

PPSHCC-80 – Lake Macquarie – DA/202/2016/A at 64, 66, 68, 70, 72 Warners Bay Road, Warners Bay – modification to approved residential aged care facility (as described in Schedule 1)

PANEL CONSIDERATION AND DECISION

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

The Panel had the benefit of a briefing from Council, submitters from the adjoining property to the east (Lymington Village) and the applicant.

The proposed modification involves a significant redesign of the approved residential care facility. Key changes involve the deletion of the car park in the front setback and the relocation of the car parking to a semi-basement structure. The RACF is now proposed as single level. The key changes that have potential to impact upon adjoining properties include the proposed new driveway along the eastern boundary adjoining the common boundary with Lymington Village.

The submitters raised concerns over the proposed boundary fence, and provided the Panel with photographs of the boundary condition and outlook from Lymington Village. The preference was for their existing fencing to be retained. The submitters also raised concern regarding protection of existing vegetation on their property, along the common boundary.

The Panel notes that the development as approved included a 2.2 metre acoustic fence along this boundary. The Panel sought clarification for the need for the acoustic fence to extend all the way along the boundary and queried the servicing hours of operation to 10.00pm. The Panel noted that the modified fence was now proposed at 2.0 metres in height.

The Panel requested a further memo from Council providing clarification on, permissibility, the possibility for amendments to the eastern boundary fence and a table outlining the extent of changes to conditions. The Panel has considered this additional information.

A condition has been drafted to limit the extent of acoustic fencing along the eastern boundary to the edge of the driveway, and to restrict servicing to between the hours of 7.00am to 7.00pm.

The condition also requires approval for the material of the proposed fence along the common boundary.

The Panel considers that the modified application results in an improved streetscape presentation. The impacts arising from the changes can be mitigated and specific conditions have been included in the modified consent to address impacts.

The proposal as modified is a acceptable outcome for the site and surrounding context.

Development application

The Panel determined to approve the modification development application pursuant to section 4.55 of the *Environmental Planning and Assessment Act 1979* subject to the modifications to conditions outlined Schedule 2 and attached in Schedule 3 as a complete set.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel determined to approve the modification application for the reasons outlined in the Council assessment report and the following reasons:

1. The proposed development is substantially the same development when compared against the development as originally approved.
2. The proposed changes do not result in unreasonable impact.

CONDITIONS

The modification application is approved subject to the conditions provided by Council attached to the memo dated 15 November 2021 with the following amendments:

- Condition 39 – clarification of fencing detail and minimisation of impacts from construction;
- Condition 65 – addition of reference to condition 39.





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
- Light spill impacts to adjoining properties
- Landscaping and fencing to interface with adjoining properties

The Panel considers that concerns raised by the community in relation to traffic and light spill have been adequately addressed in the assessment report.

Arising from submissions made, the Panel sought clarification regarding the need for the extent of the acoustic fence along the eastern boundary. The fence has been reduced in length and condition 39 amended to reflect the changes and includes a requirement to consult with the neighbouring property regarding materials.

PANEL MEMBERS	
 Alison McCabe (Chair)	 Juliet Grant
 Sandra Hutton	 Roberta Ryan

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSHCC-80 – Lake Macquarie – DA/202/2016/A
2	PROPOSED DEVELOPMENT	Residential aged care facility - modification
3	STREET ADDRESS	64, 66, 68, 70, 72 Warners Bay Road, Warners Bay Lot 11 DP 656806 and Lots 1, 2, 3, 4 DP 515152
4	APPLICANT OWNER	Knowles Group Arcare Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Section 4.55(2) Modification Application
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ◦ State Environmental Planning Policy No. 55 – Remediation of Land ◦ State Environmental Planning Policy No. 64 – Advertising and Signage ◦ State Environmental Planning Policy (State and Regional Development) 2011 ◦ State Environmental Planning Policy (Infrastructure) 2007 ◦ State Environmental Planning Policy (Coastal Management) 2018 ◦ State Environmental Planning Policy (Koala Habitat Protection) 2021 ◦ Lake Macquarie Local Environmental Plan 2014 • Draft environmental planning instruments: • Development control plans: <ul style="list-style-type: none"> ◦ Lake Macquarie DCP 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: 4 November 2021 • Council memo dated: 15 November 2021 • Written submissions during public exhibition: two (2)
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing: 14 July 2021 <ul style="list-style-type: none"> ◦ <u>Panel members</u>: Alison McCabe (Chair), Sandra Hutton, Juliet Grant and Jason Pauling (Cr Pauling left soon after the briefing began) ◦ <u>Council assessment staff</u>: Liz Lambert, Amy Regado and Fiona Stewart ◦ <u>Department staff</u>: Jane Gibbs, Alexandra Hafner, Leanne Harris, Angela Kenna and Lisa Foley • Briefing: 15 September 2021 <ul style="list-style-type: none"> ◦ <u>Panel members</u>: Alison McCabe (Chair), Juliet Grant, Sandra Hutton and Roberta Ryan ◦ <u>Council assessment staff</u>: Amy Regado and Liz Lambert ◦ <u>Department staff</u>: Leanne Harris and Lisa Foley

		<ul style="list-style-type: none"> • Site inspections: <ul style="list-style-type: none"> ○ <u>Sandra Hutton</u>: 10 November 2021 ○ <u>Juliet Grant</u>: 1 November 2021 • Final briefing to discuss Council's recommendation: 11 November 2021 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Alison McCabe (Chair), Juliet Grant, Sandra Hutton and Roberta Ryan ○ <u>Council assessment staff</u>: Amy Regado, Elizabeth Lambert and Maddy Smith ○ <u>Department staff</u>: Leanne Harris, Carolyn Hunt, Lisa Foley • Submitter Briefing: 11 November 2021 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Alison McCabe (Chair), Juliet Grant and Sandra Hutton ○ <u>Council assessment staff</u>: Amy Regado, Elizabeth Lambert and Maddy Smith ○ <u>Department staff</u>: Carolyn Hunt, Lisa Foley ○ <u>Submitters</u>: Graham Dunlop, Betty Lind, Anne Heath, Jeanette Watkins, Jeanette Beuzeville and Norma Sellers <p><u>Note</u>: Submitter briefing was requested to provide the Panel with clarification on issues raised in submissions</p> • Applicant Briefing: 11 November 2021 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Alison McCabe (Chair), Sandra Hutton and Juliet Grant ○ <u>Council assessment staff</u>: Amy Regado, Elizabeth Lambert and Maddy Smith ○ <u>Department staff</u>: Carolyn Hunt, Lisa Foley ○ <u>Applicant representatives</u>: David Kettle and Janelle Pirone <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	Conditions provided by Council in Memo dated 15 November 2021

SCHEDULE 2

Modification to Condition DA/202/2016/A

Condition no.	Condition description	Change
3	Approved documentation	New plan and documentation references
8	Development contributions	New contribution plan reference
9	Development staging	Deleted, as the application no longer proposes staging.
10	Use of health hub building	Deleted, as the application no longer proposes a health hub.
11	Staff numbers	Updated to reflect new staffing numbers
12	Ancillary uses	Updated to reflect ancillary uses
13	Restriction on balcony use	Updated balcony and room references
14	Window screening	Updated balcony and room references
15	Relocation of egress pathways	Deleted, as these pathways are no longer proposed.
16	Stormwater disposal	Updated to reflect Council's current standard stormwater condition.
17	Additional flood mitigation measures	Reference to previous flood plan deleted.
19	GTAs – Controlled Activity Approval	New GTAs
20	Riparian zone protected in perpetuity	Updated to delete reference to concrete path delineation, and refer to southern extent of building.
22	Construction environmental management plan	Updated to reflect Council's current CEMP condition.
23	Retention of trees and native vegetation	Updated to remove reference to repealed LEP clause for tree removal.
25	Driveway design and construction	Updated to reflect Council's current standard condition.
27	Parking areas and access ways	Updated to reflect Council's current standard condition.
28	Concrete footpath	Updated to reflect Council's current standard condition.
30	Landscape works	Updated to reflect the modification and Council's current standard condition.
31	Tree protection measures	Updated references to Arborist Report and Vegetation SEPP.

Condition no.	Condition description	Change
32	Public domain works – landscaping	Updated to reflect the modification and Council's current standard condition.
37	Service delivery vehicles	Reduced servicing hours
38	Safety and security	Delete reference to previous CPTED report
39	Boundary fencing	Updated to include new eastern boundary fencing outcome, and reformatted. Clarification of detail.
40	Advertising structures and signs	Deleted, as the application proposes signage.
41	Car parking and allocation of spaces	Updated to reflect new car parking numbers, and removal of signage detail.
42	Bicycle parking racks	Updated to include reference to approved plans
44	Disability access requirements	Updated to include reference to approved Access Report
47	GTAs – mine subsidence	Deleted, as the site is no longer in a mine subsidence district
65	Acoustic requirements and certification	Updated to include reference to approved Acoustic Report and Condition 39. Western boundary reference removed as it no longer is required for acoustic purposes. Updated certification details.
66	Noise – ongoing operation	Updated Noise Policy reference
67	Noise – sleep arousal	Updated Noise Policy reference
69	Odour control	Updated to include reference to approved Odour Report.
72	Garbage storage areas	Delete reference to provision of facilities as these have been demonstrated on the approved plans
74	Building over drainage easements	Include detail requiring construction plans to address works with/over easement.
78	Construction and fit-out of food premises	Include detail requiring construction plans to comply with relevant standards
79	Certification of food premises	Include requirement to register food business with Council
81	Public Works Certificate	Updated to reflect Council's current standard condition

Condition no.	Condition description	Change
82	Kerb and gutter	Updated to reflect the modification and Council's current standard condition.
83	Linemarking and signposting	Updated to reflect the modification and Council's current standard condition.
84	Pavement standards	Updated to reflect Council's current standard condition
87	Notice of commencement of works in public domain	Renamed to reflect Council current standard condition
88	Compliance certificate for works	Updated to reflect Council's current standard condition

Schedule 3

Appendix A - Draft modified conditions of consent

Reason for the Imposition of Conditions

The reason for the imposition of the following conditions is to ensure, to Council's satisfaction, the objects of the *Environmental Planning and Assessment Act 1979* (as amended) are achieved:

- (a) To encourage:
 - (i) 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;
 - (ii) The promotion and co-ordination of the orderly and economic use of development of land;
 - (iii) The protection, provision, and co-ordination of communication and utility services;
 - (iv) The provision of land for public purposes;
 - (v) The provision and co-ordination of community services and facilities;
 - (vi) 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;
 - (vii) Ecologically Sustainable Development; and
 - (viii) 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 must 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 must 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 Principal 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 is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

- (d) Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the Principal 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 that the information notified under (d) becomes out of date, further work must not be carried out unless the Principal 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. Inspections

The person having the benefit of the consent shall ensure that critical stage inspections are carried out and notify the Principal Certifying Authority giving adequate notice of the time that each stage of the building/development is ready for inspection.

Note: Failure to have a critical stage inspection conducted by the PCA will constitute a breach of the *Environmental Planning and Assessment Act 1979*. Penalties may apply.

Additional inspections required under other legislation:

- Food Shops - floor, wall, ceiling finishes (prior to fitting and fixtures) to be carried out, by an “authorised officer”, as defined in the *Food Act 2003*;
- Food Shop Completion to be carried out, by an “authorised officer”, as defined in the *Food Act 2003* prior to opening of the premises;
- Skin Penetration Premises inspection - by Council prior to opening of the premises;
- Inspection of Vehicular Access to Property across Footpath (prior to pouring concrete) – Section 138 *Roads Act 1993*.

3. Approved Documentation

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

- (a) Plans Reference:

Plans prepared by: Oksio Architectural; Project: 64-72 Warners Bay Road			
Name of Plan	Drawing No.	Issue	Date
Contextual plan	2	-	30/5/21
Material palette	4	-	30/5/21
Existing condition plan	5	-	30/5/21
Development plan	6	A	23/8/21
Lower floor plan	7	-	30/5/21
Upper floor plan	8	A	23/8/21

Plans prepared by: Oksio Architectural; Project: 64-72 Warners Bay Road			
Name of Plan	Drawing No.	Issue	Date
Roof plan	9	-	30/5/21
Elevations	10	A	23/8/21
Sections	12	-	30/5/21
Sections	13	-	30/5/21
Sections	14	-	30/5/21

Plans prepared by: MPC Consulting Engineers; Project No: 210529			
Name of Plan	Drawing No.	Issue	Date
Lower floor sedimentation and erosion control plan	C01	2	04/08/21
Upper floor sedimentation and erosion control plan	C02	1	27.5.21
Lower floor stormwater plan	C04	2	27.5.21
Upper floor stormwater plan	C05	2	27.5.21

Plans prepared by: Plane Landscape Architects; Project Number: 2130701			
Name of Plan	Drawing No.	Issue	Date
Landscape Concept Plan	M1.004	B	August 2021
Landscape Concept Plan – Internal courtyard	M1.005	B	August 2021
Landscape Concept Plan – Internal courtyard	M1.006	B	August 2021
Landscape materiality	M1.007	B	August 2021
Landscape planting scheme	M1.008	B	August 2021
Landscape tree planting scheme	M1.009	B	August 2021
Landscape planting scheme	M1.010	B	August 2021
Tree planting scheme	M1.011	B	August 2021
Planting scheme	M1.012	B	August 2021
Planting scheme	M1.013	B	August 2021
Planting scheme	M1.014	B	August 2021
Planting scheme – overland flow	M1.015	B	August 2021

Plans prepared by: Braggs Signage; Project Number: J000576			
Name of Plan	Drawing No.	Issue	Date
Signage proposal	--	3	26/05/2021
Freestanding pylon	-	3	26/05/2021
Freestanding pylon	-	3	26/05/2021

(e) Document Reference:

Document	Reference	Author	Date
Stormwater Management Report	210529	MPC Consulting Engineers	May 2021
Vegetation Management Plan	Warners Bay - APP	Firebird ecoSultants P/L	June 2016
Access Design Review Report	64–72 Warners Bay Road, Warners Bay	3D Access	19/05/2021
BCA Compliance Assessment	Q210657	BCA Certifiers	4/05/2021
Report on Geotechnical Investigation and Waste Classification Assessment	Project 81777.00	Douglas Partners	September 2015
Operational Waste Management Plan	64-72 Warners Bay Road, Warners Bay	One Mile Grid	24 May 2021
Odour Assessment Report	12184-701/1	RCA Australia	May 2016
Review of odour assessment	15718-401/a	RCA Australia	August 2021
Arboricultural Impact Appraisal and Method Statement	64-72 Warners Bay Road, Warners Bay, NSW	Naturally Trees	26 May 2021
Acoustic Engineering Report	21095	Cogent Acoustics	23/08/2021
Qualitative flood assessment	NL151532-01	Northrop	27 May 2021

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.

4. 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 Principal Certifying Authority that is not Council it will be necessary to lodge the Construction Certificate and other approved documents with Council within two days of such approval. (Clause 142(2) EPA Regulation 2000).

5. Occupation Certificate

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

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

6. Prior to the issue of the Occupation Certificate

Prior to the issue of the Final Occupation Certificate for each stage of the development, the earthworks, retaining walls and driveways (applicable to that stage) shall be completed to the satisfaction of the Principal Certifying Authority.

7. Commencement of the Use of the Land

The approved use of the land shall not commence until all relevant conditions of this consent have been complied with and a Final or Interim Occupation Certificate has been issued. Where an Interim Occupation Certificate has been issued, only that part of the building to which the Certificate applies may be occupied or used.

8. Contribution to Provision of Public Amenities and Services (Sec. 94)

(a) In accordance with the provisions of the *Environmental Planning and Assessment Act 1979 – Sect 7.11* and the *Lake Macquarie City Council Development Contributions Plan Charlestown Contributions Catchment - 2015*, the monetary contributions in the attached Contributions Schedule must be paid to Council for the purposes identified in that Schedule.

(b) From the date this determination is made until payment, the amounts of the contributions payable under the preceding clause will be indexed and adjusted at the close of business on:

- a) 14 August,
- b) 14 November,
- c) 14 February, and
- d) 14 May;

in each year in accordance with indexation provisions within the Contributions Plan and Directions issued under the *Environmental Planning and Assessment Act 1979 – Sect 7.17*. The first date for indexation will occur on the first abovementioned date after the Notice of Determination becomes effective.

(c) The contributions payable will be the amounts last indexed and adjusted in accordance with Clause (b) above. However, if no amount has been indexed and adjusted because the first date for indexation and adjustment has not arrived, the contributions payable shall be those in clause (a) above.

(d) The contributions shall be paid to Council as follows:

- Development Applications involving subdivision – prior to the release of the Subdivision Certificate;
- Development Applications involving building work – prior to the release of the first Construction Certificate;
- Development Applications involving both subdivision and building work – prior to the release of the Subdivision Certificate or first Construction Certificate, whichever occurs first;
- 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;
- Complying Development Certificates - prior to any work authorised by the application or certificate commencing.

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

Please note that payments made by cheque or electronic transfer - the release of any documentation will be subject to the clearing of those funds.

Indexation details are available from Council's Community Planning Department.

A copy of the Lake Macquarie City Council *Development Contributions Plan Charlestown Contributions Catchment - 2015* may be viewed on Council's website, or a copy is available for inspection at the Council's Administrative Building during Council's ordinary office hours at 126-138 Main Road, Speers Point, NSW.

CONTRIBUTION FEE SCHEDULE

DESCRIPTION	FEE AMOUNT
COA-Public Transport Facilities-CPI	\$1,598.54
COA-Plan Preparation & Administration-CPI	\$25,919.90
	TOTAL \$27,518.44
9. Deleted	
10. Deleted	
11. Staff Numbers	
The maximum number of staff on site at any one time shall not exceed 55.	
12. Ancillary Uses	
The coffee shop, community centre and rooms, hairdresser, wellness centre, kitchen, and laundry shall not be used for separate commercial use. They shall only be used as ancillary to the residential aged care facility for use by residents, visitors, and staff.	
13. Restriction on Balcony Use	
The two balconies/terraces at the rear of the building adjacent to the common lounge areas, shall be restricted in use to between 8.00am and 8.00pm daily, in order to minimise acoustic privacy impacts to adjacent properties. Appropriate signage and/or management practices shall be implemented prior to occupation to facilitate the requirements of this condition.	
14. Window Screening	
Windows on the western elevation (rooms 63-67, 68, 72, 74, 76, 78) shall be provided with fixed angled privacy screens to prevent overlooking to the adjacent rear yards of the properties along Jonathan Street. All of the privacy screens to the western elevation of the building shall be fixed in such a position as to prevent overlooking to adjacent properties.	
A notation(s) shall be added to the plans that the area between the screens and the room windows for these windows, is a "void" in order to provide clarity that these spaces are not intended for additional balconies.	
This additional screening and notation(s) shall be included in the plans submitted to the Principal Certifying Authority with the application for a Construction Certificate.	
15. Deleted	
16. Stormwater Disposal - Stormwater Detention and Harvesting	
The Stormwater Detention and Harvesting system submitted with any Construction Certificate shall be generally in accordance with the approved Stormwater Drainage Report and plans approved by this consent and must comply with the following:	
(a) Stormwater shall be disposed of through a piped system designed in accordance with <i>Australian Standard AS 3500</i> 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 1987” and the Lake Macquarie City Council guideline – “Handbook for Drainage Design Criteria” and shall conform to the specifications and standards contained in DCP 2014 Engineering Guidelines.
- (c) Stormwater harvesting measures shall be constructed and maintained in accordance with the DCP 2014 Water Cycle Management Guideline. Stormwater drainage plans shall include details of the harvesting system (eg rainwater tank and pump details plus 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

Prior to the issue of an Interim or Final Occupation Certificate, whichever occurs first:

- (e) All drainage works shall be carried out generally in accordance with the approved Construction Certificate plans.
- (f) A **Works As Executed Plan** is to be submitted to the Principal Certifying Authority that shows any changes (in different colour) to the approved Construction Certificate plans and endorsed by a registered surveyor.
- (g) Certification by the engineer, is to be submitted to the Principal Certifying Authority that any changes comply with the requirements (a), (b), (c) and (d) as shown above. **Note:** This may be shown on the Works As Executed Plan.

17. Additional Flood Mitigation Measures

The external door to the air lock at the lower ground floor level shall be provided with a flood proof door. The door to the plant room on the western elevation shall be designed with a flood gate or similar and comply with the requirements of the approved flood letter from Northrop.

18. Excavation and Retaining

Only retaining walls indicated on the approved plans shall be constructed under this consent.

No additional excavation/fill is to occur outside the area as shown on the approved plans.

No fill or retaining walls shall be located within any drainage easement located upon the subject property.

Retaining walls, footings and associated drainage works shall be located wholly within the subject property boundaries and shall be connected to the existing stormwater system or other approved stormwater system on the subject property.

Note: Some retaining walls are able to be erected without consent, as Exempt or Complying Development pursuant to State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (SEPP). Prior to erection of any retaining wall not approved under this consent, reference to the SEPP should be undertaken to ascertain whether approval is required.

19. General Terms of Approval - Controlled Activity under the *Water Management Act 2000*

The following general terms of approval have been issued by the Natural Resources Access Regulator on 27 August 2021.

Design of works and structures

Before commencing any proposed controlled activity on waterfront land, an application must be submitted to Natural Resources Access Regulator, and obtained, for a controlled activity approval under the *Water Management Act 2000*.

Erosion and sediment controls

The following plan(s): - Erosion and Sediment Controls Plan must be: A. prepared in accordance with Managing Urban Stormwater: Soils and Construction, Volume 1 (Landcom, 2004), as amended or replaced from time to time, and B. submitted with an application for a controlled activity approval.

The proposed erosion and sediment control works must be inspected and maintained throughout the construction or operation period of the controlled activity and must not be removed until the site is fully stabilised.

Plans, standards and guidelines

A. This General Terms of Approval (GTA) only applies to the proposed controlled activity(s) described in the plans and associated documents found in Schedule 1, relating to Development Application as provided by Council to Natural Resources Access Regulator. B. Any amendments or modifications to the proposed controlled activity(s) may render the GTA invalid. If the proposed controlled activity is amended or modified, Natural Resources Access Regulator, Parramatta Office, must be notified in writing to determine if any variations to the GTA will be required.

The application for a controlled activity approval must include the following document(s): - outlet structures; Erosion and Sediment Control Plan; Soil and Water Management Plan; Vegetation Management Plan.

All documents submitted to Natural Resources Access Regulator as part of an application for a controlled activity approval must be prepared by a suitably qualified person.

Any proposed controlled activity must be carried out in accordance with plans submitted as part of a controlled activity approval application, and approved by Natural Resources Access Regulator.

The application for a controlled activity approval must include plans prepared in accordance with Natural Resources Access Regulator's guidelines located on the website <https://www.industry.nsw.gov.au/water/licensingtrade/approvals/controlled-activities>.

Rehabilitation and maintenance

When the proposed controlled activity is completed, and the rehabilitation plan has been implemented, maintenance of the site must be carried out for a period of 2 years in accordance with that rehabilitation plan submitted as part of the controlled activity approval, and approved by Natural Resources Access Regulator.

Reporting requirements

The consent holder must inform Natural Resources Access Regulator in writing when the proposed construction of the controlled activity has been completed.

Schedule 1

The plans and associated documentation listed in this schedule are referred to in general terms of approval (GTA) issued by NRAR for integrated development associated with DA/202/2016/A as provided by Council:

- Planning Report

20. Riparian Zone Protected in Perpetuity

Native vegetation is to be retained and rehabilitated within the entirety of the 30m riparian buffer to South Creek (from top of creek bank) in accordance with the approved Vegetation Management Plan (VMP).

All planting south of the southern extent of the building (including undercroft) shall comprise riparian vegetation (not turfed) with signage provided to clearly indicate that this area should not be traversed.

The applicant shall create a Public Positive Covenant, under Section 77B of the *Conveyancing Act 1919*, over the area of the site identified as the Vegetated Riparian Zone, requiring that the area be managed in accordance with the requirements of the VMP. The covenant shall also prohibit the erection of any structures (other than those approved under this consent), provision of fill material or clearing of native vegetation within this zone and stipulate that any fencing within this area shall not block stormwater flows or collect debris in storm events.

Council is to be identified as the party empowered to release, vary or modify the Covenant, which shall be created prior to the issue of the final Occupation Certificate for the development.

21. Vegetation Management Plan and Implementation

Implementation of the Final Vegetation Management Plan (Firebird ecoSultants June 2016) shall commence immediately upon any construction work commencing and shall be carried out in accordance with the Vegetation Management Plan (VMP) approved schedule of works. Annual Monitoring statements shall be provided to Council's Development Planner Flora and Fauna verifying compliance with the VMP. Implementation of the VMP may cease once outcomes of the VMP have been met, the works schedule completed and approval for the completion of works has been obtained from Council's Development Planner Flora and Fauna.

22. Construction Environmental Management Plan

Works within public domain

The contractor engaged to undertake the construction works within the public domain shall provide a Construction Management Plan (CMP) to Council, a minimum of seven days prior to commencing any works. The CMP shall be submitted to the City Projects Department at the following email address projectmanagementpat@lakemac.nsw.gov.au. The CMP shall be approved by Council prior to works commencing on site. The CMP shall set out the construction approach for the works and should seek to minimise disruption to the local community.

Works within development site

The contractor engaged to undertake the construction works within the development site shall provide a CMP to the satisfaction of the Certifying Authority, a minimum of seven days prior to commencing any works. The CMP shall be approved by the Certifying Authority prior to works commencing on site. The CMP shall set out the construction approach for the works and should seek to minimise disruption to the local community.

CMPs

Both CMP's must address the following, where required:

Health and Safety

- a) Public safety, amenity and site security,
- b) Traffic control and management,
- c) Pedestrian management,
- d) Construction hours,
- e) Noise control,
- f) Contractor vehicle parking,
- g) Locating existing utilities and services,
- h) Health and Safety requirements.
- i) Acid sulfate and saline soils

Environment

- a) Air quality management,
- b) Erosion and sediment control- base information, monitoring and management,
- c) Waste management,
- d) Material stockpiling,
- e) Vegetation management,
- f) No-go zones,
- g) Heritage management (if applicable).

Quality

- a) Submission of current insurance certificates,
- b) Work method description,
- c) Construction equipment to be used,
- d) Inspection and testing requirements,
- e) CCTV survey of pipework,
- f) Earthworks methodologies,
- g) Haulage routes,
- h) Retaining structure construction methodologies,
- i) Concrete jointing methodologies,
- j) Subsoil drainage installation methodologies,
- k) Stormwater drainage infrastructure installation methodologies,
- l) Stormwater Quality Improvement Device installation methodologies,
- m) Road construction methodologies,
- n) Accessways and footway construction methodologies,
- o) Landscaping installation methodologies,
- p) Utility and services installation methodologies,

- q) Construction and installation methodologies of other structures not otherwise covered above.

All works on site shall be undertaken in accordance with the approved CMP.

A copy of the approved CMP, and any conditions imposed on that plan, shall be kept on site at all times and made available to any officer of Council upon request.

23. Retention of Trees and Native Vegetation

All native vegetation on the site shall be retained and protected unless it:

- (a) has been identified for removal on the approved plans or documentation; or
- (b) has been identified for selective removal by the NSW Rural Fire Service; or
- (c) is a tree or native vegetation, on the site, that is within close proximity to the approved buildings (ie; within 0 to 5 metres of the approved building) and provided it has not been identified for specific retention in any of the approved plans or documentation.

A separate application shall be made to 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.

All reasonable measures shall be undertaken to protect all other native vegetation on the site and on adjoining lands from damage during construction. Such measures shall include but not be limited to:

- (a) installing exclusion fencing around vegetation that adjoins the construction area to minimise damage to vegetation that is to be retained. Exclusion fencing shall be installed prior to the issue of the first Construction Certificate or if no Construction Certificate is necessary, prior to the commencement of works and maintained in good working order for the duration of works. The person having the benefit of the consent shall notify Councils Development Planner Flora and Fauna when exclusion fencing has been installed;
- (b) prohibiting compaction and the placement of fill within 5 metres of trees and native vegetation that are to be retained;
- (c) keeping all vehicles, construction materials and refuse within areas approved for buildings, structures, access ways and car parks;
- (d) limiting the number of access points;
- (e) 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 may only be disposed of at an approved site;
- (f) notifying all contractors, sub-contractors, and personnel of vegetation protection requirements of this condition.

24. Dilapidation Survey Report

Prior to the commencement of works (including demolition) on the land, a dilapidation survey report prepared by a suitably qualified practising engineer, of properties and existing public infrastructure potentially affected by the proposed development, shall be lodged with Council and submitted to the Principal Certifying Authority. The dilapidation survey report shall locate the area within which the damage may be potentially caused to nearby and neighbouring properties as a result of the carrying out of demolition or construction works pursuant to this consent. The report is to include a description of the location and nature of any existing observable defects to the properties and existing public infrastructure, including a photographic record.

A final Dilapidation Survey Report shall be prepared by a suitably qualified practising engineer at the completion of the works to ascertain if any structural or cosmetic damage has

occurred to the properties specified in the earlier report. A copy of the report shall be submitted to Council the Principal Certifying Authority and owners of potentially affected properties and public infrastructure prior to the issue of the Final Occupation Certificate.

25. Driveway Design and Construction

The driveway to the garage or car parking area of the development shall be designed and constructed in accordance with the following requirements and Council Standard Drawing: EGSD-104 (available from Councils website).

A design plan for the driveway to the garage or car parking area of the development shall be submitted. No works shall commence prior to the issue of a Public Works Certificate in accordance with s138 of the *Roads Act 1993*.

- a) The Driveway design levels at the front boundary shall be obtained from Council's Asset Management Department prior to design of the driveway.
- b) The design plan shall include a driveway longitudinal section, incorporating the design level provided by Council and other construction details (i.e. concrete thickness and reinforcement).
- c) In accordance with AS 2890.2:2002 the maximum gradient of any driveway or ramp shall not exceed 1V:6.5H (15.4%).
- d) Where changes of grade occur, suitable transitions shall be designed to meet the "Design Vehicle Ground Clearance Diagrams" in Figure A1 of AS2890.2:2002.

Prior to the issue of the Interim or Final Occupation Certificate, whichever comes first, the driveway to the garage or car parking area of the development shall be constructed in accordance with the approved Construction Certificate plan.

26. Vehicles Access Crossing and Kerb Layback

A paved vehicular access including kerb layback from the property boundary to the street shall be installed in accordance with DCP 2014 Engineering Guidelines and Councils Standard Drawings: EGSD-103, EGSD-201 or EGSD-104 (available from Councils website).

An approval under s138 of the *Roads Act 1993* shall be obtained from Council prior to the issue of any Construction Certificate for those works.

Prior to the commencement of work the person having the benefit of the consent shall contact Council for footpath levels so that a suitable driveway can be constructed to provide vehicular access onto the site.

Prior to the issue of any Occupation Certificate, the paved crossing shall be completed for the building, at the owner's cost.

Any disused kerb and gutter and footpath crossing shall be removed and replaced with full kerb and gutter to match adjoining kerb and gutter to the satisfaction of Council.

27. Parking Areas and Access Ways

All parking areas and access ways shall be designed, constructed, sealed and drained in accordance with the standards nominated in DCP 2014 Guidelines - Engineering Guidelines and the Australian Standard AS2890.

A design plan for parking areas and access ways shall be submitted to Lake Macquarie City Council.

All parking areas and access ways, line marking and signage shall be completed prior to the issue of an Occupation Certificate.

28. Concrete Footpath

Concrete footpaths 1.2 metres wide shall be constructed/reconstructed along the full length of the street frontage at the cost of the person having the benefit of the consent. Concrete footpaving shall be constructed in accordance with Lake Macquarie City Council standard drawing EGSD-301 which is available from Councils website.

A design plan for concrete footpaths 1.2 metres wide along the full length of the street frontage shall be submitted to Lake Macquarie City Council. No works shall commence prior to the issue of a Public Works Certificate in accordance with s138 of the *Roads Act 1993*.

An approval under s138 of the *Roads Act 1993* shall be obtained from Council prior to the issue of any Construction Certificate for those works. No works shall commence prior to the issue of a Construction Certificate.

Prior to the issue of the final Occupation Certificate a certificate shall be issued by the Principal Certifying Authority stating that the work has been undertaken in accordance with the DCP 2014 Engineering Guidelines.

29. Fix Damage Caused by Construction Works

Any damage or injury caused to a public road or associated structures including footpaths, drains, kerb and gutter and utility services caused as a consequence of the construction works shall be made good at the cost of the person with the benefit of the consent.

Any disused kerb and gutter and footpath crossing shall be removed and replaced with full kerb and gutter in accordance with Council's standards to match finished adjoining kerb and gutter. All replacement works are to be completed to the satisfaction of Council prior to the issue of an Occupation Certificate at the cost of the person with the benefit of the consent.

30. Landscape works

Landscape works shall be constructed in accordance with the approved landscape plans and specification.

There shall be three trees on the north western boundary that are retained and protected from all construction works. No trees shall be removed from the riparian zone to the south of the development unless required as part of the approved vegetation management plan.

There shall be a minimum of twenty-four 45 litre trees including one retained tree planted across the front setback.

There shall be a minimum of nineteen trees planted within the riparian zone of the site with all trees being endemic to MU11 Coastal Sheltered Apple Peppermint Forest. There shall be a majority of emergent species *Eucalyptus piperita*, *Angophora costata*, *Corymbia gummifera*, *Eucalyptus umbra*, *Eucalyptus resinifera* subsp. *Resinifera*, *Syncarpia glomulifera* subsp. *glomulifera* and some small trees *Glochidion ferdinandi* var. *ferdinandi*, *Melaleuca linariifolia*, and *Callicoma serratifolia*.

There shall be a continuous maintenance and access path along the southern interface with the riparian zone that shall enable pedestrian movement. There shall be no turf grasses planted along the southern interface.

There shall be a minimum of eight 45 litre trees planted along the eastern setback and continuous high shrub planting along the common boundary. Tree planting shall be proportional to building height.

There shall be a minimum of twenty-one trees planted along the western setback and continuous ground covers within the overland flow path that will not impede the movement of stormwater. Ground cover planting of the overland flow path shall extend into the riparian zone with planting of non-weedy endemic species. There shall be continuous high shrub planting along the western common boundary. Tree planting shall be proportional to building height.

All fencing shall be visually recessive coloured dark grey or green equivalent to *Colorbond* Woodland Grey and Jasper. Fencing across the front setback shall be a maximum height of 1200mm. Fencing styles shall be as per the approved Fencing plan prepared by Plan E M1.007 rev. B.

Street trees along Warners Bay Road shall comprise six 75 litre *Melaleuca linariifolia* planted at centres along the streetscape as per the approved landscape plan and PLA-LSD-02 Lake Macquarie City Council Landscape Standard Drawings March 2019. Street trees shall have

standard timber edging installed and all pot stakes, labels and wire/rubber/plastic tags removed.

All 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 nominated on the approved plans, 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.

The turf species used on all roadway landscapes and any other approved locations on public land shall be couch. This turf species shall be specified on all landscape concept and construction documentation.

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*.

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 these conditions and approved documentation, and practical completion of the landscaping works has occurred. This report shall certify any required street trees are planted specifically as per the nominated 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.

31. Tree Protection Measures

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

Additional tree protection measures are to be implemented in accordance with the Tree Protection Plan and accompanying Recommendations as outlined in approved Arboricultural Impact Appraisal and Method Statement.

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

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

32. Public Domain Works – Landscaping

A Public Works Certificate application shall be lodged with and approved by Council prior to any works in the public domain.

All landscape and public domain works approved by the Public Works Certificate application shall be coordinated during the construction period with Council's Senior Project Officer

(Civil) at projectmanagementpat@lakemac.nsw.gov.au. The witness and hold points set out in the Public Works Certificate landscape construction documentation shall be observed.

The landscape construction documentation shall be completed by a qualified landscape architect (category three landscape consultant) with demonstrated experience in producing landscape construction documentation for public domain works and include the extent of detail required to construct hard and softworks.

The landscape documentation shall reference and comply with the conditions of consent and approved concept landscape plans.

The landscape construction documentation shall integrate with the civil works for road, drainage and footpath infrastructure in the public domain.

The landscape construction documentation shall not comprise concept level landscape plans and shall grey out any landscape works on private land.

Landscape construction documentation shall include details and specification information suitable for construction with no generic reference to concept plans or Council guidelines. Plans shall include tactile ground surface indicators as required to Australian Standards.

The plans shall reference the standard hold and witness points listed below for hard and soft works and shall include contact details for Council's City Projects Department at projectmanagementpat@lakemac.nsw.gov.au or 02 4921 0333 for Council Overseer to assess and sign off on public domain works. Plans shall include a 104 week establishment phase for all hard and softworks within the public domain.

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

The landscape consultant that prepared the Public Works Certificate landscape construction documentation (or a consultant with equivalent qualifications) 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.

Street Trees

Street trees along Warners Bay Road shall comprise six 75 litre *Melaleuca linariifolia* planted at centres along the streetscape as per the approved landscape plan and PLA-LSD-02 *Lake Macquarie City Council Landscape Standard Drawings March 2019*. Street trees shall have standard timber edging installed and all pot stakes, labels and wire/rubber/plastic tags removed. The trees shall be located a minimum of 3000mm from driveways and planted where no conflicts with above or below ground services occur.

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

The detail of these requirements shall be included in the Public Works Certificate landscape construction documentation.

The Hold/Witness Points – Checks Required

- a) Set out of tree pits within existing 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 if required, in accordance with *Lake Macquarie City Council Landscape Technical Drawings February 2016* (witness point).

33. Water Harvesting and Irrigation

The full capacity of the rainwater harvesting tanks is proposed to be used exclusively for irrigation of landscaping on the site.

An automated irrigation system shall be installed for the development to utilise the capacity of the water tanks on a daily basis for watering of the landscaped areas on the site.

34. Management of Site - Erosion Prevention and Sediment Control

All disturbed areas shall be revegetated or rendered erosion resistant in accordance with DCP 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.

35. Topsoil and Stockpiles of Materials

Topsoil shall only be stripped from approved areas and shall be stockpiled for re-use during site rehabilitation and landscaping.

Stockpiles of topsoil, sand, aggregate, spoil or other material stored on the site that is capable of being moved by running water shall be stored clear of any drainage line or easement, natural watercourse, footpath, kerb, and/or road surface. Suitable sediment and erosion control devices shall be installed prior to the stockpile being created. The stockpile shall be treated so its surface is erosion resistant to wind and water action. No stockpiles of topsoil, sand, aggregate, spoil or other material shall be located on the public footpath or road reserve.

36. Consolidation of Lots

Prior to the issue of an Interim or Final Occupation Certificate, whichever occurs first, Lots 11 DP 656806 and Lots 1, 2, 3 and 4 DP 515152 shall be consolidated and registered at the Land and Property Information Services and a copy of the registered plan shall be provided to Council.

37. Service Delivery Vehicles

No service delivery vehicles, buses or any other vehicles fitted with reversing alarms are to access the site between 7:00pm and 7:00am daily, due to potential acoustic impacts to adjacent residential uses.

38. Safety and Security

The development shall incorporate the following minimum measures to achieve Crime Prevention Through Environmental Design outcomes:

- Details regarding proposed access control measures, particularly around the back of house and building entries should be provided at the construction certificate stage.
- Landscaping maintenance should promote natural surveillance with pruning of low branches to approximately 2 metres high, and the pruning of ground cover and hedges at around waist height. Maintenance should also ensure the ongoing effectiveness of lighting and signage.
- Signage should be provided throughout the development, inclusive of car parking areas and vehicle access entrances/exits. The signage is to be clear, legible and useful, to identify areas, uses and any access restrictions, aid way finding throughout the area and reduce opportunity for excuse making behaviour and loitering.
- Consideration should be given to the use of maintenance plans for the site to ensure timely repair of damaged property, lighting, and removal of graffiti.
- Lighting should be designed in accordance with AS 1158.1 to provide appropriate lamps and lighting levels to mitigate pedestrian crime risk and fear. Where damaged or broken, lighting shall be repaired within 48 hours.
- Lighting should provide an appropriate continuous illumination to public areas such as driveways, pathways and parking. Lighting should promote surveillance, aid identification, and mitigate potential entrapment or hiding areas (including the sub floor areas at the rear of the building).
- External lighting is to be directed toward approaches to buildings rather than illuminating observers or vantage points (windows and doors).
- Activation based lighting should be used for less frequently used areas such as emergency egress pathways and fire exits.
- Materials and finishes should be chosen for ease of graffiti removal and any graffiti shall be removed within 24 hours of its appearance.

39. Boundary Fencing

Side boundary fencing shall be constructed on site in accordance with the locations indicated on the approved Landscape Plans or as specified in this condition including fencing to a height of 2m from the existing ground level of the adjoining No. 74 and 82 Warners Bay Road, including the following:

- The fence height to No. 74 Warners Bay Road can be reduced to 1.8m in height north of the front wall of the house (i.e. within the front setback).
- The 2m fence on the eastern boundary with No. 82 Warners Bay Road shall terminate at the southern edge of the delivery / waste area, and return at 90 degrees toward the building and end at the edge of the pathway required for fire egress. The remainder of the southern extent of the fencing shall be palisade style fencing.
- Any new side boundary fencing to the eastern side boundary, along the 30m riparian zone setback from the creek, shall comprise permeable palisade style fencing similar to that existing in this location.
- Fencing is not preferred to the rear boundary at all, however, if any fencing along the southern side (rear) of the building or along the rear boundary is required, shall comprise permeable fencing that permits the movement of both water flows and native fauna. Fencing material shall be determined in accordance with written consent from the respective property owners subject to satisfying overland flow requirements.

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

The removal of existing eastern boundary fencing adjoining No. 82 Warners Bay Road, and construction of new fencing as specified in this condition shall be undertaken sensitively with impacts minimised to vegetation on the adjoining site.

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

40. Deleted

41. Car Parking and Allocation of Spaces

A total of 43 car parking spaces shall be constructed on the site (including one disabled space) in accordance with the minimum requirements of the Australian Standard AS/NZS 2890 as current at the time of construction, and maintained on the land in accordance with the approved plans.

The car parking spaces are to be identified on-site by line marking and must be numbered. The car parking provided shall only be used in conjunction with the uses contained within the development and except as provided for in these conditions are not to be used other than by a staff member or visitor of the development and are not to be used as public carparking.

The required disabled car parking space shall be clearly marked and signposted for the sole use by disabled persons.

All car parking spaces, line marking and signage shall be completed prior to the issue of an Interim or Final Occupation Certificate, whichever occurs first.

42. Bicycle Parking Racks

Secure bicycle parking/storage shall be provided to in accordance with the approved plans and accommodate bicycles for employees of the facility, in a location that is secure and readily accessible by staff.

The installation and dimensions of the bicycle parking/storage shall be in accordance with the Austroads 'Cycling Aspects of Austroads Guides' and Australian Standard AS2890.3:1993. These works shall be completed prior to the issue of the Final Occupation Certificate.

43. Onsite Loading Facility

The onsite loading facility shall be constructed clear of designated car parking spaces and driveways, must be kept clear of goods and must not be used for any storage purposes, including garbage storage.

All loading operations associated with servicing the site, must be carried out within the boundaries of the site, and must not obstruct other properties, access driveways, public roads or footpaths.

44. Disability Access Requirements

Access for people with disabilities must be provided in accordance with the approved Access Design Review Report.

45. Tactile Indicators

The development shall have tactile indicators installed in accordance with AS 1428.4.

Note: The areas of the development to have tactile indicators installed are varied and include kerb ramps and footpaths along the street frontage; carpark pedestrian crossings (street frontage and internal); lifts; stairways and ramps.

46. 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.

47. Deleted

48. Erosion and Sediment Control Plan

Prior to the release of the first Construction Certificate or any works commencing onsite (including, but not limited to, demolition or vegetation clearing), the final Soil and Water Management Plan (SWMP) shall be submitted to, and approved by Council. It shall comply with the following:

- (a) All information required for area of disturbance associated with the development in accordance with Council's DCP;
- (b) Show locations of erosion and sediment control measures for each stage including temporary and permanent controls, prior to demolition, during construction, prior to revegetation, landscaping or building, and the order in which they will be installed for the development and each stage to suit the activity occurring onsite at that time;
- (c) Assessment of the onsite soil type(s) including distribution, sediment type, erosion hazard,
- (d) Calculations for the sizing of any sediment traps (including excavated basins and temporary traps);
- (e) Details of the treatment of sediment-laden water captured in any sediment traps prior to its release from the site to meet Council's nominated water quality criteria for turbidity of less than 50mg/L, including proposed flocculants/coagulants and rates;
- (f) All erosion and sediment control measures shall be appropriate for the Sediment Type onsite;
- (g) Prior to the release offsite of any water (including, but not limited to, ground water, overland flow or rain water) captured onsite, the water shall be tested to ensure its Total Suspended Solids (TSS) level is less than or equal to 50mg/L. A sample of the water shall be retained onsite for inspection by Council or the Private Certifier. The sample shall be at least 250ml and kept in a clean, clear, plastic container. The date and time the sample was taken shall be recorded on the container.
- (h) Aluminium based flocculent products are not permitted to be used without prior written approval from an appropriate LMCC officer.
- (i) Captured water may be removed from site using other methods including, but not limited to, directly into a holding tank on a vacuum or sucker truck. It shall be deposited at an approved waste management facility.
- (j) Clear separation of clean and dirty water;
- (k) Temporary and permanent dust suppression measures on disturbed areas;
- (l) Inspection, maintenance and removal schedules for all erosion and sediment control measures; and
- (m) The applicant shall submit with the Plan, a Statement of Compliance, stating that:
 - The Plan has been developed by an appropriately qualified and experienced professional in erosion and sediment control;
 - The Plan complies with the requirements for the area of disturbance as per DCP 2014 and points (a) to (l) above;
 - The Plan and associated documents, calculations and drawings, have been prepared to a standard which, if properly implemented, will achieve the water release criteria of 50mg/L of Total Suspended Solids (TSS); and
 - All erosion and sediment control measures are in accordance with Council's DCP 2014.

49. Removal, Management and Transportation of Fill

All excavated fill material that is to be removed from the site shall only be distributed to:

- (a) A NSW Office of Environment and Heritage licensed waste disposal facility. A copy of the receipts from the waste disposal facility shall be kept and shall be provided to the Principal Certifying Authority prior to the issue of an Interim or Final Occupation Certificate, whichever occurs first, or authorised officer of Council upon request; or
- (b) A site which has a current development consent for the importation of fill material. A copy of the current development consent for the site to which the material is proposed to be distributed must be provided to the Principal Certifying Authority prior to the issue of an Interim or Final Occupation Certificate, whichever occurs first, or authorised officer upon request.

All removed excavated material shall be transported and disposed of in accordance with the NSW Office of Environment and Heritage guidelines applicable at the time of removal.

50. Filling Importation and Compaction

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

- (a) Uncontaminated 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 are to 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 Principal Certifying Authority or Council upon receipt of a written request.

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."

51. 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 Principal Certifying Authority.

52. Lighting

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.

53. External Material Reflection

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

54. Disability Access Design Audit

A disability access design audit which has been certified by an accredited access consultant shall be submitted, certifying the development's compliance with the Building Code of Australia and the *Disability Discrimination Act 1992* in relation to the provision of equity in access for disabled persons.

This certification shall be submitted to the Principal Certifying Authority with the application for a Construction Certificate.

Note:

- (a) Compliance with the Building Code of Australia only, can still leave a building professional or building owner in contravention of the *Disability Discrimination Act 1992*.
- (b) The Association of Consultants in Access Aust Inc at www.access.asn.au may be able to provide further information.

55. Ausgrid Requirements

Prior to the issue of the first Construction Certificate, any requirements of Ausgrid shall be obtained and a copy of such requirements shall be lodged with Council and the Principal Certifying Authority. All works shall comply with the requirements of Ausgrid.

56. No works on adjoining Public Reserve

The public reserve adjoining the site shall not be affected by site works, construction materials stockpiles, waste, building products and debris, site sheds, spoil placement or the like. No access for vehicles, machinery or goods to the site shall be gained across the public reserve without a written license from Council. All costs associated with such a license shall be payable by the person having the benefit of the consent.

57. 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.

58. Demolition

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

No trees shall be removed from the site unless they are shown for removal on the approved plans, or separately approved by Council.

Erosion and sediment control measures shall be installed prior to any demolition works and maintained in accordance with DCP 2014 Guidelines - Erosion Prevention and Sediment Control Guidelines.

Temporary toilet facilities shall be provided during the course of demolition at a ratio of one toilet, plus one additional toilet for every 20 persons employed at the site.

All demolition work shall be carried out strictly in accordance with *Australian Standard AS 2601—1991: The Demolition of Structures* and as in force at 1 July 1993.

Waste materials (including excavation, demolition and construction waste materials) must be managed on the site and then disposed of at a waste management facility. During construction all vehicles entering or leaving the site must have their loads covered, and must

be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads.

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

59. 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

The approved hours for construction of this development are –

Monday to Friday - 7.00am to 6.00pm.

Saturday – 8am to 1pm.

No construction work shall take place on Sundays or Public Holidays.

Construction Periods in Excess of 26 Weeks

If the construction period is in excess of 26 weeks, a Noise Management Plan (NMP) 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 NMP 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.

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

60. Construction Site Vibration

Vibration on surrounding land from construction site operations shall comply with the Office of Environment and Heritage publication "Assessing Vibration: a technical guideline" February 2006.

61. Building Waste

Prior to any construction work commencing, 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.

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.

Appropriate provision is to be made to prevent wind blown rubbish escaping from the containment.

62. Asbestos

If asbestos is encountered during construction or demolition work, even if the works are partial demolition (eg one wall), measures must be in place in accordance with WorkCover NSW guidelines and the *Occupational Health & Safety Regulations 2001* NSW. Work shall not commence or continue until all the necessary safeguards required by WorkCover NSW are fully in place.

Only contractors who are appropriately licensed for asbestos disposal by WorkCover NSW may carry out the removal and disposal of asbestos from demolition and construction sites.

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.

Asbestos waste must 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 that the material is safely secured in accordance with the relevant guidelines. At least 24 hours prior notice must be given to allow an area to be prepared for disposal.

63. Dial Before You Dig

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 should provide the property details and the nearest cross street/road.



64. 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 must:

- (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.

65. Acoustic Requirements and Certification

The recommendations contained in the approved Acoustic Engineering Report, other than when modified by the requirements of Condition 39, shall be incorporated into the design and construction of the development. In particular:

- Prior to the issue of a Construction Certificate the plan included in the approved Acoustic Engineering Report shall be submitted to and approved by the Principal Certifier.
- An acoustic barrier shall be provided to the carpark on the eastern side of the front setback to a height of 2m.

- The Acoustic barriers shall comprise a fence containing no holes or gaps and makes contact with the ground and has a mass of at least 15kg/m² (ie, lapped and capped palings or Hebel panels).
- Provide appropriate noise screening to mechanical plant enclosure at the rear of the development. For sound power level up to 80 dB(A) this would comprise a 9mm fibre cement screen, or should the total sound power level of the plant exceed 80 dB(A) the enclosure would need to be roofed and have solid walls, essentially making it a plant room.

A suitably qualified acoustic consultant shall be engaged to assist with the preparation of the final building plans and specifications to ensure compliance with any acoustic conditions and that no other noise nuisance is created to the neighbourhood.

Upon completion of the works and prior to the issue of an Interim or Final Occupation Certificate, whichever occurs first, a certificate shall be provided to the Principal Certifying Authority from a suitably qualified acoustic consultant certifying that the works have been completed in accordance with their requirements and the development or proposed use is capable of operating in accordance with the design criteria.

At 90 days of operation a suitably qualified acoustic consultant shall test, measure and certify that the development is operating, at that time, in accordance with the approved acoustic report and submit the document to Council within 14 days of preparation.

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

The Laeq (15 minute) operating noise level of machinery, plant and equipment when measured at the boundary of the nearest residential premises shall comply with either the amenity or intrusiveness criteria calculated in accordance with the *NSW 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.

Prior to the issue of an Interim or Final Occupation Certificate, whichever occurs first, certification from a suitably qualified acoustic consultant shall be submitted to the Principal Certifying Authority, demonstrating compliance with the above.

67. 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 Noise Policy for Industry 2017* sleep arousal criteria, calculated in accordance with Chapter 19 of the NSW Office of Environment and Heritage Noise Control Manual.

68. Bunded Spillage Areas

Chemicals stored in bulk form, or work areas where spillages are likely to occur, shall be bunded in accordance with the *NSW Office of Environment and Heritage Protection Manual – “Bunding and Spill Management.”*

69. Liquid Gaseous Wastes, Emissions and Odour Control

The building shall be constructed to comply with the requirements of the approved Odour Assessment.

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

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

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

70. 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.

71. Medical / Pathological Waste

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

72. Garbage Storage Areas

The garbage washing and bin storage area shall be constructed of, or lined with materials that are durable, impervious to moisture, and capable of being easily cleaned.

The storage area shall be supplied with hot and cold water, roofed and the floor bunded, graded and drained to a sump, which shall be connected to the sewer in accordance with the requirements of the Hunter Water Corporation.

Construction details shall be provided to the Principal Certifying Authority prior to the issue of the first construction certificate.

73. Loading Dock and Driveway

The loading dock and driveway shall be graded and drained to a collection sump for the control of any spillages or cleaning waste generated. Wastes shall be directed to the sewer in accordance with the requirements with the Hunter Water Corporation. Details shall be provided to the Principal Certifying Authority prior to the issue of the first Construction Certificate.

74. Building Over Drainage Easements

Any works within or over an easement for drainage shall not affect or interfere with the structural integrity or operation of the pipe system within that easement. Access for maintenance must be preserved within the easement.

The construction plans shall demonstrate any works within or over an easement for drainage do not affect or interfere with the structural integrity or operation of the pipe system within that easement.

Any damage to the pipe system caused by the works, within or over the easement shall be repaired at the cost of the owner of the land.

Note: The terms of the easement should be consulted prior to commencing any works.

75. Restriction of Site Access to Prevent Unauthorised Filling

The property entry and exit points shall be secured at all times to prevent the unauthorised entry of vehicles, and to ensure that the site manager can control and prevent dumping of waste and potentially contaminated material whilst fill material is being imported or managed on site.

76. Excavation – Aboriginal Relics

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

All necessary approvals from the NSW Office of Environment and Heritage shall be obtained and a copy provided to Council prior to works recommencing.

77. Excavation – Non Indigenous Relics

Should any relics be discovered then 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.

78. Construction and Fit-out of Food Premises

Prior to the issue of any construction certificate involving fit-out works to the food premises, all plans and specifications shall demonstrate compliance with *the Food Act 2003 and Food Regulations under the Act, and relevant Australian Standards*:

(a) General Construction

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

Note: Particular attention should be paid to:

- Routing of plumbing & electrical conduit
- Installation of hand wash basins and cleaners sinks
- Construction of floors, walls and ceilings
- Finishes of floors, walls and ceilings
- Cool room construction
- Installation of fixtures fittings and equipment
- Toilet facilities and airlocks
- Installation of light fittings
- Installation of floor wastes
- Ventilation and exhaust systems

(b) Mechanical Ventilation

Installation of any mechanical ventilation system(s) shall comply with the provisions of Part 2 of the Australian Standard AS1668.

(c) Partition Wall Construction

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

(d) Waste Traps

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

79. Certification of Food Premises Fit-out

Prior to the issue of any Occupation Certificate the food premises shall be inspected by an appropriately qualified person who shall certify that 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”*.

The food business shall be registered with Council under the provisions of the *NSW Food Act 2003*. Registration shall be completed prior to the business commencing trade. Registration can be completed on Council’s website.

80. Public Roadways and Drainage Works Standards

The Applicant shall arrange for all relevant works to be designed and constructed in accordance with the following publications (as amended or updated), as applicable:-

- a. Australian Rainfall and Runoff, 1987.
- b. Council's DCP and supporting guidelines.
- c. AUSTROADS Guide to Road Design Guide.
- d. Roads and Martine 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:-
 - AS1428 - Design for Access and Mobility, Part 1 General Requirements for Access and Part 4 Tactile Indicators,
 - AS2890 - Off Street Parking

Where any inconsistency exists between these documents the Applicant shall verify in writing with Council, the relevant standard to be adopted.

81. Public Works Certificate for Works

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

The application shall include detailed engineering plans and specifications (including a Design Certification Report and Checklists in accordance with *the Lake Macquarie City Council Engineering Guidelines*) relating to the works.

82. Construction of Kerb and Gutter and Associated Works

The Applicant shall construct in Warners Bay Road, for the full frontage of the development site, kerb and gutter, drainage and adjustment to existing constructions (including removal of redundant driveway crossovers) in accordance with the provisions of the publications and standards identified in this consent.

A design plan for the works shall be submitted to Lake Macquarie City Council.

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.

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.

83. Linemarking and Signposting

The applicant shall arrange for the provision of linemarking and sign posting along the Warners Bay Road frontage as follows:-

"No stopping" signs and appropriate linemarking are to be provided as per the approved Civil plans.

A design plan for the works shall be submitted to Lake Macquarie City Council.

No works shall commence prior to the issue of a Public Works Certificate in accordance with s138 of the *Roads Act 1993*.

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

84. Pavement Standards

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

Designs for road pavements shall be submitted to and approved by the Council with the Public Works Certificate application. Where work is to be undertaken within a classified Main Road the pavement design shall also be submitted to the Roads and Traffic Authority for its approval prior to the commencement of works.

85. Traffic Control Standards

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

86. Notification to Neighbours

Written notification shall be given by the Applicant to landowners and residents who live adjacent to the proposed development or who may be affected by the proposed works. The notification should include the expected date of commencement of works and a brief description of the works.

87. Notice of Commencement of Works within the Public Domain

Road construction works shall not commence until a meeting between the contractor and a representative of the Council has taken place on site.

In accordance with Section 81A(4) the Council must 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.

88. Compliance Certificate for Works – Road Works

An application for a Compliance Certificate and the associated application fee shall be submitted to Council prior to the commencement of works identified on the respective Public Works Certificate.

The Compliance Certificate will be required to be issued prior to the issue of the Occupation Certificate.

89. Final Plan Submission

The Applicant shall submit an application for a **Subdivision Certificate** accompanied by an original copy of the Final Plan of Subdivision for the consolidation of lots. The location of all buildings and/or other permanent improvements shall be indicated on one (1) additional full-size print. When all conditions of the Development Consent relating to this subdivision have been satisfactorily complied with the **Subdivision Certificate** will be issued.

90. House Numbering

A minimum of 4 weeks prior to lodgement of the Subdivision Certificate with Council, the applicant shall provide a draft Final Plan of Subdivision to Council's Land Information section. Council will 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.

91. Section 50 Certificate

Prior to the issue of a Subdivision Certificate, a certificate of compliance under **Section 50** of the **Hunter Water Act 1991** for this development shall be submitted to the Principal Certifying Authority.

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

92. Application Fees for Required Certificates for Road Works

The Applicant shall obtain any certificates as required to satisfy the conditions of this Consent.

For Council to process applications for these certificates the following fees would be payable:

Subdivision Certificate	\$415	Plus \$60 Archival Fee	(inc GST)
Construction Certificate	\$600	Plus \$60 Archival Fee	(inc GST)
Compliance Certificate	\$900	Plus \$60 Archival Fee	(inc GST)

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

Where the development includes construction works valued at \$25,000.00 or more, the applicant must pay the Long Service Levy, as detailed in the Building and Construction Industry Long Service Payments Scheme. The Levy must be paid prior to the issue of the Construction Certificate. The Levy may be paid directly to the Long Service Payments Corporation or to Council as agent for the Corporation. The Levy rate is 0.35% of the cost of building and construction works.

The above application fees are subject to change each financial year without notice and confirmation should be obtained from Council prior to the lodgement of any application.

General Terms of Approval

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

- Mine Subsidence Board
- Department of Primary Industries - Water