

Pasminco Land Realisation & Longer-Term Funding Strategy

The Pasminco Cockle Creek Smelter site is being remediated and redeveloped by Pasminco Cockle Creek Smelter Pty Ltd (subject to Deed of Company Arrangement) (PCCS). The remediation and future development of the site is governed by the Department of Planning and Environment (DP&E) Project Approval (06_184) (Mod 5) and Lake Macquarie City Council (LMCC) subdivision development consents. PCCS, DP&E and LMCC have agreed to meet regularly throughout 2017 and 2018 to work through the concerns of each party regarding the development process, subdivision staging and sale of land within the site.

The purpose of this paper includes:

1. Provision of relevant background information on the site ownership and development chronology.
2. Details of the remaining matters to complete the site's redevelopment for sale of all remediated land.
3. Details of the long-term funding requirements for retained un-remediated land subject to Environmental Management Plans (EMPs) pursuant to Project Approval (06_184) Condition 8.
4. Outline of the Strategy to obtain longer-term funding for Project Approval (06_184) Condition 8 satisfaction.
5. Identify matters of concern for PCCS, DP&E and LMCC in relation to security of longer-term funding requirements.
6. Proposed further discussions to address the concerns of all parties in relation to security of long-term funding required by Project Approval (06_184) Condition 8.

Site Ownership

The PCCS land is owned by Pasminco Cockle Creek Smelter Pty Ltd (PCCS) (subject to Deed of Company Arrangement).

In 2001 PCCS appointed Voluntary Administrators under the *Corporation Act 2001*, subsequently the creditors resolved that PCCS execute a deed of company arrangement which was entered into on the 4th October 2002.

The Deed of Company Arrangement is the legally binding document between the company, its creditors, and the Deed Administrator.

The main benefits of the Deed of Company Arrangement are:

- It allows for the implementation of a remediation process to address the PCCS land being a "Significant Risk of Harm" as defined in the *Contaminated Land Management Act 1997* (CLM Act).
- It allows the implementation of the PCCS Strategy and ultimately the PCCS land to contribute to long term social and economic wellbeing of the local area and the City of Lake Macquarie.
- It provides a greater return to creditors than would not otherwise be available if PCCS were placed into liquidation.

Peter McCluskey and John Lindholm (Partners Ferrier Hodgson) are the Deed Administrators of PCCS.

The duties and responsibilities of the Deed Administrators includes fiduciary duties to the company, its creditors, and members. In addition to these fiduciary duties, Deed Administrators' owe other more specific duties as outlined in the Corporations Act and in case law.

The Strategy's Objectives and Key Milestones

The Strategy commenced in 2003 after the cessation of industrial operations.

The Strategy's principle objectives are to:

- Remediate the PCCS land.
- Progressively realise the remediated land to fund infrastructure works to allow for the full realisation of all land sales across the site.
- Establish a fund for the management and maintenance of the un-remediated (retained) land over the longer term; and
- Return any residual funds to the creditors.

From 2003 to present many strategy milestones have been accomplished including:

- Obtained planning approval for the remediation project.
- Demolition of the PCCS smelter.
- Completing various actions including remediation works and construction of the Containment Cell to clean up the Pasminco land in response to the remediation order and planning approvals.
- Issuing of Site Audit Statements (SAS) and Site Audit Reports (SAR) across the remediated land.
- Completing rezoning of the Pasminco land for residential, commercial, industrial, and environmental land uses.
- Completing major road infrastructure works including the T.C Frith Avenue/Main Road/Munibung Road roundabout to allow further development of the PCCS land.
- Land sales to fund ongoing works on the site, including the Tripad site to Stevens Group for residential development and land adjacent to Main Road to Bunnings who constructed a Bunnings store.
- Establishment of the Bunderra Environmental Fund Ltd (BEF) to manage into the future the funds set aside to maintain the un-remediated (retained) land subject to EMPs; and
- DP&E approval of EMPs for Lot 51 and Lot 600 (the Old lab building).

Remaining Matters to Complete Site Redevelopment

The PCCS land will be subdivided in accordance with the attached **Annexure A** staging plans.

The implementation of the staging plans will allow for the progressive development and sale of the various land parcels with the net sale proceeds providing the necessary longer term funding for BEF.

The next phase of the strategy includes the following tasks:

- Attending to all statutory approvals, Licences and consultations including:
 - Major Project Approval 06_0184 2007 conditions (including modifications).
 - Environmental Protection Licence 5041 conditions (as amended from time to time).
 - Remediation Site 21027 - 10/09/02 notice and Remediation Order 23008 - 01/07/03.
- Obtain and implement LMCC final development approval for DA/716/2016 (LMCC provided the draft conditions of consent included in **Annexure A** for review) to subdivide the PCCS land over four stages, as shown in the staging plans in **Annexure A**, into:
 - Super-lots that have been remediated and validated for various land uses.
 - Lots of retained land that have not been remediated and are to be managed in accordance with EMPs including the Containment Cell Lot 21, Lots 1002 & 1004 and Lot 51 created from the subdivision of Lot 1 DP 523781.
- Selling the remediated/validated lots to fund required land development infrastructure works, fund the management of the un-remediated (retained) land subject to individual EMPs and then to return any surplus funds to the creditors of the Pasminco Group.
- Managing the retained lands subject to their individual EMPs in accordance with statutory approvals/obligations in the longer term.

The Four Stages of Proposed Subdivisions

The proposed lot layout is subject to receipt of development consent for DA/716/2016 from LMCC as shown in **Annexure A**. The four stages of subdivision illustrated in each plan in **Annexure A** are as follows:

- **Stage 1 is excision of the Containment Cell as Lot 21 that currently requires sign off on the Containment Cell EMP by DP&E and EPA with input from LMCC.**
- **Stage 2 includes the roundabout, drainage and road works in Main Road, subdivision to create Lots 1002, 1003, 1004, 1005 & 1006 and establishment of a Voluntary Planning Agreement (VPA) for the dedication of the Munibung Road extension in Lot 1005 to LMCC. Stage 2 subdivision currently requires sign off on the Lot 1002 & Lot 1004 EMPs by DP&E with input from LMCC and EPA.**
- **Stage 3 includes construction and dedication of the internal road around Lot 1003.**
- **Stage 4 is enacting the VPA dedication of Munibung Rd in Lot 1005 to LMCC.**

Key actions for the strategy include:

Remediation Order 23008 dated 1 July 2003

An EPA notice of repeal for each parcel of land, subject to the remediation order, is required prior to PCCS remediated land being sold.

Essentially a notice of repeal for a parcel of land is grounded on the SAS and SAR for the parcel of land providing conclusive evidence that the land to be excised from the remediation order is no longer contaminated in such a way as to be significantly contaminated within the meaning of that term under the CLM Act.

All of the PCCS land has been remediated and validated and in accordance with Major Project Approval 06_0184 conditions a number of SASs and SARs have been issued by Graeme Nyland (EPA Accredited Site Auditor 9808) and provided to the EPA and LMCC.

Lots 50 & 51

The sale of Lot 50 is anticipated to be settled in mid - August 2017. The net sale proceeds will be used for infrastructure works, earthworks, litigation, fees and charges, Deed Administrator liabilities and working capital.

Lot 51 will be managed pursuant to its EMP. The EMP's scope of works will be funded from working capital until the BEF has the required funds.

Lots 600 & 601

The sale of Lot 600 containing the renovated Old Lab building is expected in late August 2017. The sale of Lot 601 occurred in late July 2017. The proceeds from these sales will be used for infrastructure works, earthworks, overheads, Deed Administrator liabilities and working capital.

Lot 21 – Containment Cell.

DA/716/2016 Stage 1 creates the Containment Cell as Lot 21 and the balance of land as Lot 22. A loan facility is required for infrastructure works including stage 2 & 3 works, fees and charges and working capital.

No financial institution will accept security over any land owned by PCCS if it includes the Containment Cell. Accordingly, the Containment Cell must be subdivided from the balance of the PCCS land to create Lot 22 before any loan facility will be provided.

Major Project Approval 06_0184 condition 8.6 requires the Containment Cell to be managed in accordance with an EMP approved by the DP&E and EPA. The implementation of the Containment Cell EMP will be funded from working capital until the BEF has the required funds.

The Containment Cell EMP was sent to DP&E and EPA on the 07/06/17 for review/approval. At the request of DP&E the Containment Cell EMP was sent to LMCC on the 10/07/17. **DA/716/2016 draft conditions of consent require DP&E approval of the Containment Cell EMP prior to release of the Stage 1 Containment Cell subdivision certificate.**

Lot 1006 – Residential Land

DA/716/2016 Stage 2 creates Lot 1006.

Lot 1006 is under offer for purchase subject to certain conditions. Conditions of the sale include PCCS completing DA/716/2016 Stage 2 and Stage 3 infrastructure requirements. (It should be noted that the sale contract for Lot 1006 has a sunset date of 30/6/18. In order to comply with the sunset date a civil contractor will be required to commence the infrastructure works in January 2018).

The net sale proceeds from the sale of lots 50, 600 and 601, plus a loan facility, is required to fund the construction of the Stage 2 and Stage 3 infrastructure (roundabout, road and drainage

infrastructure). As noted above, the Containment cell must be subdivided from the balance of the PCCS land before any loan facility can be provided to allow for the infrastructure works to commence.

The net sale proceeds from the sale of Lot 1006 will be used to repay the loan facility, pay fees and charges, as working capital, pay Deed Administrator liabilities, and where possible, any residual will be contributed to the BEF in whole or in part.

Lot 1003 – Mixed Use

DA/716/2016 Stage 2 creates Lot 1003.

Large international retailers (Costco and IKEA) have each expressed strong interest in parts of Lot 1003. When the sale of land moves to contractual agreements further planning works will be required including rezoning some of the land to permit the intended land use and further subdivision. The DA/716/2016 Stage 3 infrastructure works have in part been designed to service future use of Lot 1003.

Based on conservative estimates the sale proceeds from the sale of Lot 1003 will be more than sufficient to fund the longer term liabilities associated with the un-remediated (retained) lands in accordance with their EMPs.

It is anticipated that the quantum of funds required in the BEF will be ascertained and contributed to the BEF by the end of 2019.

Additional monies from the sale of Lot 1003 will be used to pay fees and charges, as working capital, pay Deed Administrator liabilities and otherwise used for the benefit of creditors.

Lot 1005 – Industrial land

DA/716/2016 Stage 2 creates Lot 1005 and requires the formulation of a VPA for the construction of the Munibung Road link by LMCC within Lot 1005 identified as “Road Reserve 21 wide” on the Stage 4 plan in **Annexure A**.

Lot 1005 is intended to be retained at present but may eventually be sold with sale proceeds being used for Deed Administrator liabilities, working capital, and applied by the Deed Administrators towards the BEF (if required) and otherwise used for the benefit of creditors.

Lot 1004

DA/716/2016 Stage 2 creates Lot 1004. Parts of Lot 1004 are remediated to a residential standard and future rezoning and subdivision would permit the sale of this land.

The residual part of Lot 1004 has not been remediated. Consequently, Major Project Approval 06_0184 condition 8.9 requires this portion of Lot 1004 to be managed in accordance with an EMP prepared in consultation with LMCC and approved by the DP&E. The implementation of the Lot 1004 EMP will be funded by the BEF in the longer term.

The Part 1004 EMP was sent to LMCC, DP&E and EPA on the 23&26/06/17 for review/approval.

DA/716/2016 draft conditions of consent require DP&E approval of the Part Lot 1004 EMP prior to release of the Stage 2 subdivision certificate.

Lot 1002

Lot 1002 has not been remediated due to large utility infrastructure within this area. Consequently, Major Project Approval 06_0184 condition 8.9 requires Lot 1002 to be managed in accordance with an EMP prepared in consultation with LMCC and approved by the DP&E. The implementation of the Lot 1002 EMP will be funded by the BEF in the longer term.

The Lot 1002 EMP was sent to LMCC, DP&E and EPA on the 30/06/17 for review/approval.

DA/716/2016 draft conditions of consent require DP&E approval of the Lot 1002 EMP prior to release of the Stage 2 subdivision certificate.

Funding Estimates for EMP Lands (Lot 21, 1002, 1004 & 51) and Sale of Land

On 13/02/16 the Deed Administrator provided correspondence to Ernst and Young setting out the following:

- Their preliminary assessment of the maintenance costs likely to be incurred annually to manage and maintain the Containment Cell and other un-remediated (retained) EMP lands. The estimated annual maintenance sum of \$812,600 would require approximately \$21.5 million to be invested at a return of 3.94% per annum.
- Details regarding the Deed Administrator working with financial experts to identify suitable (low risk) investment products to ensure the required funds are prudently managed over the long term.
- Advice regarding the timing for the progressive receipt of funds from land sales to satisfy Project Approval (06_184) Condition 8.
- Detail of the infrastructure and drainage works required across the PCCS site and how the completion of these works would allow for progressive land sales to be achieved.

The Deed Administrator's estimated sale prices, timing and current sale status for the progressive sale of land are set out below:

Lot	Estimate Sale Price	Estimated Timing	Status July 2017
601	\$1.4M	July 17	Completion July 2017
50	\$3.0M	August 17	Completion August 2017
600	\$2.3M	August 17	Contracts exchanged
1006	\$14.0M	October 18	Contract exchanged with CP requiring internal road construction (Stage 3 subdivision plan)
1003 (Costco)	\$11.5M	December 19	Contractual arrangements not finalised. Rezoning & subdivision required.
1003 (Ikea)	\$22.0M	December 19	Put & Call Option agreement signed May 2017. Rezoning & subdivision required.
1005	\$1m	December 19	No contractual arrangements. LMCC require road dedication to construct balance of Munibung Road
1004 (part)	\$1.25	December 19	Contractual arrangements in place. Rezoning and subdivision required.
1003 (part)	\$1.25	December 19	No contractual arrangements in place. Rezoning and subdivision required.
Total	\$57.7M		

Bunderra Environmental Fund Ltd (BEF)

The BEF was incorporated on 04/06/15. The BEF will hold the funds required to be invested to earn a return to contribute to the annual cost to manage and maintain the un-remediated (retained) land in the long term (i.e. Lots 21 (Containment Cell), 1002, 1004 & 51).

Based on anticipated costs and expenses for the management and maintenance of the un-remediated (retained) land, the sum of approximately \$21.5 million will need to be invested at 3.94% to earn \$812,600 per annum to meet these budgeted maintenance costs.

DP&E, LMCC & PCCS concerns

The following matters summarise the concerns of each party as understood by PCCS:

DP&E Concerns

Major projects 06-0184 development consent Conditions 8.6 & 8.9 requires adequate funding for the implementation of the EMPs in the long term.

DP&E's preference is for the funding to be in place at the time DP&E approve each EMP. DP&E's preference responds to its concerns that money from the sales of land may not be directed to the BEF meaning that there is not adequate funding of each EMP's scope of works until the BEF contains the required funds and is operating.

LMCC Concerns

LMCC's draft DA/716/2016 subdivision consent conditions require DP&E written approval for a nominated EMP prior to the release of the relevant stage subdivision certificate for the land to be sold and land to be retained and managed pursuant to EMPs. LMCC's preference is in part a response to a concern that the un-remediated (retained) land subject to EMPs may not be adequately funded and managed.

LMCC are seeking to construct the missing section of Munibung Road within Lot 1005. PCCS and LMCC will enter a VPA to provide certainty for PCCS to retain control and access across the proposed road area while providing LMCC security regarding the dedication of the road.

To allow construction of the missing section of Munibung Road the Remediation Order must be lifted on Lot 1005 and a SAR/SAS completed. The Remediation Order cannot be lifted until the Containment Cell has its own allotment (Lot 21). The Lot 21 subdivision certificate cannot be released and the title created until DP&E sign off on the Containment Cell EMP pursuant to Condition 8 of Project Approval 06_0184. The LMCC at the direction and on behalf of the DP&E are reluctant to facilitate the subdivision of Lot 21 until they are satisfied that there is adequate funding in place for the Containment Cell EMP.

PCCS Concerns

PCCS requires funds to construct infrastructure (roundabout, road and drainage works) to meet conditions precedent for the sale of land under stage 2 & 3 of DA/716/2016 i.e. Lot 1003 and Lot 1006. To obtain the required funding for the infrastructure from any financial institution, PCCS must provide a mortgage over the PCCS site excluding the Containment Cell. To achieve this the creation of Lot 21 and Lot 22 is required as soon as possible to enable PCCS to offer a mortgage over Lot 22 and to undertake the construction works required to meet the conditions precedent for the proposed land sales.

PCCS's dilemma is that DP&E's and LMCC's mutually conflicting or dependent conditions are preventing PCCS from advancing the subdivision strategy discussed above as:

- LMCC currently require DP&E sign off on the EMPs under Project Approval 06_0184 prior to release of a subdivision certificate for each relevant stage of development under DA/716/2016.
- DP&E have expressed a preference that the EMP funding be in place before it provides sign off on each EMP pursuant to Project Approval 06_0184 Condition 8.
- PCCS cannot provide the lump sum funding for the EMPs until the remediated land is sold.
- PCCS cannot subdivide and sell the remediated land until it completes the necessary infrastructure works.
- PCCS requires a loan facility to fund the infrastructure works and to support this facility PCCS must provide a mortgage as security necessitating prior subdivision works which currently cannot be obtained until LMCC release the subdivision certificate for Stage 1 creating Lot 21 (separate allotment for the Containment Cell).

In summary, without the LMCC subdivision approval the remediated land cannot be developed and sold to provide the required funds for the longer term maintenance obligations for the Containment Cell and the EMP lands.

Discussions to address DP&E and LMCC concerns

PCCS is committed to providing the appropriate funding for the longer term maintenance of the EMP areas and addressing DP&E and LMCC's legitimate concerns in that respect.

Peter McCluskey as Deed Administrator is committed to working closely with DP&E and LMCC to identify a solution to address DP&E and LMCC concerns.

The Deed Administrator will continue to manage and maintain the PCCS site over the coming years, at least until all the land sales are achieved likely by December 2019.

To address concerns that evidence of adequate funding of EMP works is required, the Deed Administrator is able to confirm that the EMP works will continue to be funded from working capital for the foreseeable future. Additionally, a \$100,000 bond has been provided in favour of DP&E for the Lot 51 EMP area as an interim financial security solution.

In the interim period:

- The Deed Administrator will continue to maintain the PCCS site, the EMPs and the Containment Cell until all the land sales are achieved.
- Government Authorities can rely on PCCS's sales program and expected realisations which will be used to manage the EMP lands out of working capital and borrowings (if required).
- **LMCC is requested to amend the draft Conditions of Consent to remove or amend Condition 3 which includes the requirement for sign off of the Containment Cell EMP pursuant to Project Approval 06_0184 Condition 8 to allow the above sales program to be achieved.**

Ferrier Hodgson looks forward to working with DP&E and LMCC to resolve the current concerns and impasse which would then allow works to complete the restoration of the PCCS land that will contribute to long term social and economic wellbeing of the local area and the City of Lake Macquarie.

We suggest that a meeting with DP&E and LMCC be held in early August 2017 (9th August would be preferable) to discuss the above matters in further detail.

Please provide some times and dates that suit your calendars.

We look forward to hearing from you.

Regards

Peter McCluskey
Deed Administrator

Annexure A

DA 716/2016 Draft Conditions of Consent & Subdivision Staging Plans

NOTES:

1. ALL DIMENSIONS AND AREAS ARE APPROXIMATE ONLY AND ARE SUBJECT TO APPROVAL, FINAL SURVEY AND REGISTRATION OF PLAN AT THE LAND AND PROPERTY INFORMATION OFFICE NSW.
2. (A) RIGHT OF ACCESS VARIABLE WIDTH (DP 1207207)
3. (B) PROPOSED EASEMENT FOR WATERMAIN 4 WIDE.
4. (C) PROPOSED EASEMENT FOR DRAIN WATER 15 WIDE.
5. (D) EASEMENT FOR ELECTRICITY & OTHER PURPOSES 3.3 WIDE (DP 1207207)
6. (E) EASEMENT FOR ELECTRICITY AND OTHER PURPOSES 1.5 WIDE (AK402713)
7. NOT ALL EXISTING EASEMENTS ARE SHOWN.

Stage 1

SITE PLAN

0 250 500
 SCALE 1 : 10000 (A3)

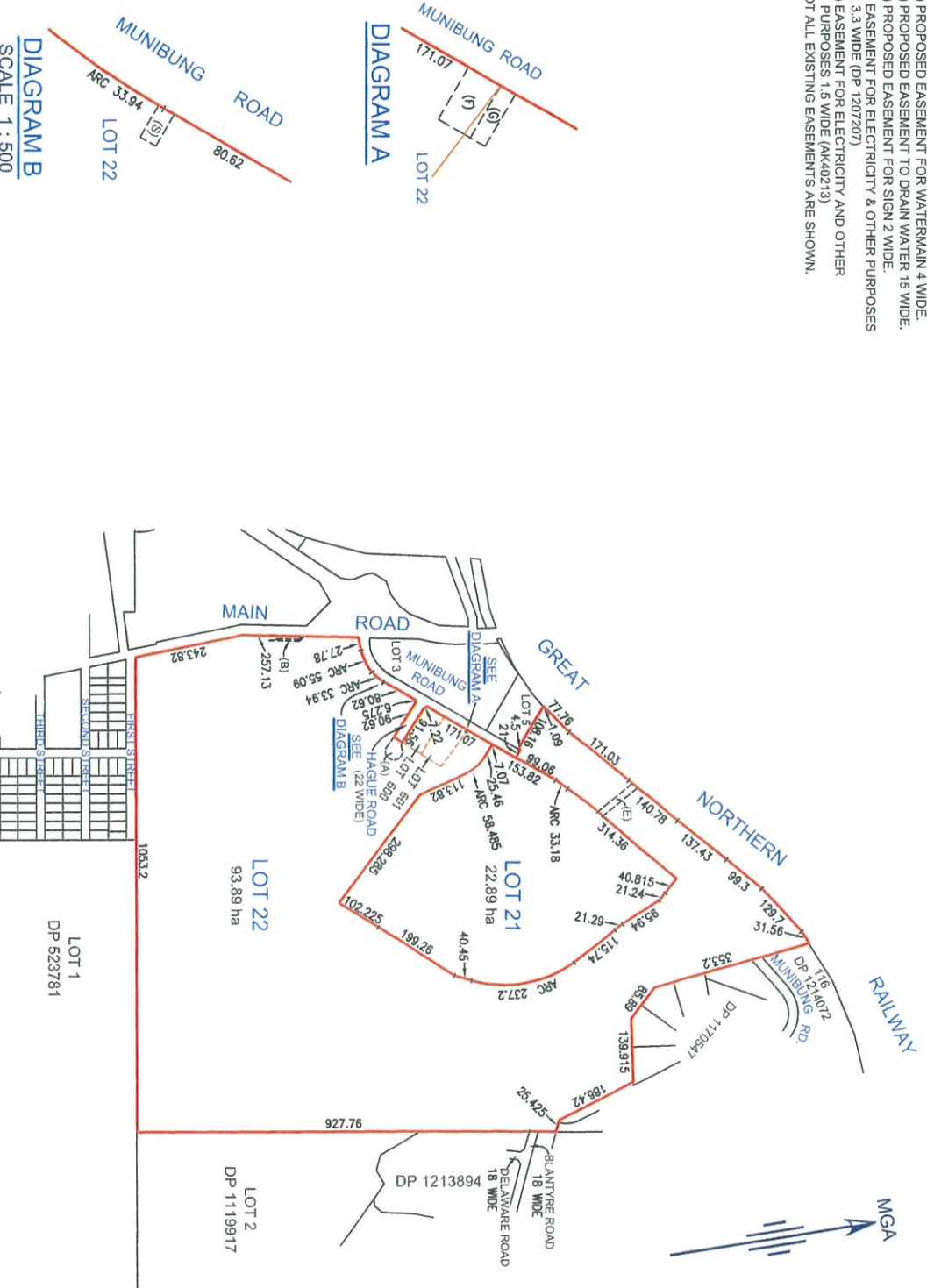


DIAGRAM B
 SCALE 1 : 500

DIAGRAM A

TITLE: PLAN SHOWING STAGE 1 OF A PROPOSED
 SUBDIVISION OF LOT 4 DP 1207207 &
 LOT 1 DP 225720
 LOCATION: MAIN ROAD
 BOOLAROO
 CLIENT: PASMINGO COCKLE CREEK SMELTER Pty Ltd



Amendment	Description	Date	SCALE: As Shown	JOB No:
B	ADDITIONAL STAGE	30.08.2016		
C	UPDATE LOT 21 BOUNDARY	14.10.2016	DATE: 16.12.2016 DATUM: MGA	141
D	MINOR AMENDMENT	17.10.2016	ORIGIN: PM 37996	
E	MINOR AMENDMENTS	23.11.2016	CONTOUR INTERVAL: N/A SUPERVISOR: MC DRAWN: SD	
F	MINOR AMENDMENTS	16.12.2016	DRAWING REF: 141_Stage 1_F REVISION: F	

Copyright in the drawings, information and data recorded hereon is the property of Positive Survey Solutions Pty Ltd and may not be used, copied or reproduced in whole or part for any purpose other than that for which it is supplied without the prior consent of Positive Survey Solutions Pty Ltd.

SITE PLAN



- 3 —

— 2 3 4 5 6 7 8 9 10 11 12 — 13 14 15 16 17 18 19 20

SUBDIVISION OF LOT 4 DB 1307307 &

LOCATION: MAIN ROAD

BOOLAKOO

על ידי הוראת חוקים ופיקוח



Amendment	Description	Date	SCALE: AS SHOWN	JOB NO.:
D	UPGRADE LOT 2 BOUNDARY	14.10.2016	DATE: 19.12.2016	141
E	MINOR AMENDMENT	17.10.2016	DRAWN: MSA	
F	MINOR AMENDMENTS	23.11.2016	ORIGIN: PM 37996	
G	MINOR AMENDMENTS	16.12.2016	CONTOUR INTERVAL: N/A	
H	MINOR AMENDMENTS	19.12.2016	SUPPLYING: MC DRAWN: SD DRAWING REF: 141_Stage 2.H REVISION: H	

SGN-YEVRCS

1. (A) RIGID OF ACCESS VARIABLE WIDTH (DP 1207207)
2. (B) PROPOSED EASEMENT FOR WATERMAIN 4 WIDE
3. (E) PROPOSED EASEMENT TO DRAIN WATER 15 WIDE
4. (S) PROPOSED EASEMENT FOR SIGN 2 WIDE
5. (F) EASEMENT FOR ELECTRICITY & OTHER PURPOSES 3.3 WIDE (DP 1207207)
6. (G) EASEMENT FOR ELECTRICITY AND OTHER PURPOSES 1.3 WIDE (A4d4213)

7. NOT ALL EXISTING EASEMENTS ARE SHOWN.

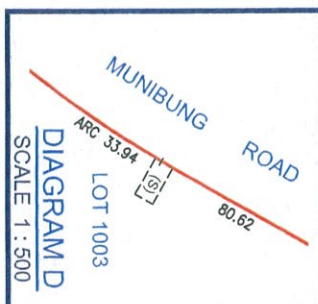


DIAGRAM B
SCALE 1 : 4000 (A3)

TITLE: PLAN SHOWING STAGE 3 OF A PROPOSED

LOT 1 DP 225720

LOCATION: MAIN ROAD BOOLAROO

CLIENT: PASMINGO COCKLE CREEK SMELTER Pty Ltd



Amendment	Date	SCALE: As Shown	JOB No:
C	14.10.2016		141
UPRATE LOT 21 BOUNDARY			
D	17.10.2016	DATE: 19.12.2016 DATUM: MGA	
E	23.11.2016	CONTOUR INTERVAL: N/A	
MINOR AMENDMENTS			
F	16.12.2016	SURVEYOR: MC DRAWM: SD	
MINOR AMENDMENTS		DRAWING REF: 141_Stage 3_H	
G	19.12.2016	REVISION: H	

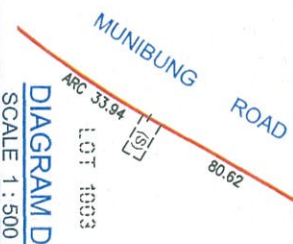
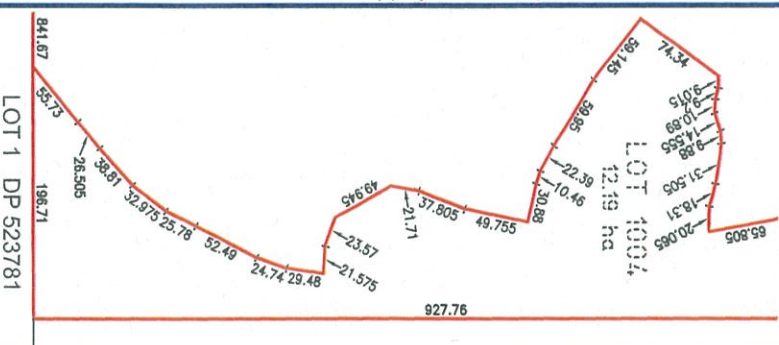
Copyright in the drawings, information and data recorded hereon is the property of Positive Survey Solutions Pty Ltd and may not be used, copied or reproduced in whole or part for any purpose other than that for which it is supplied without the prior consent of Positive Survey Solutions Pty Ltd.

1. (A) RIGHT OF ACCESS VARIABLE WIDTH (DP 1207207)
2. (B) PROPOSED EASEMENT FOR WATERWAY 4 WIDE.
3. (E) PROPOSED EASEMENT TO DRAIN WATER 15 WIDE.
4. (S) PROPOSED EASEMENT FOR SIGNAL 2 WIDE.
5. (F) EASEMENT FOR ELECTRICITY & OTHER PURPOSES 3.3 WIDE (DP 1207207)
6. (G) EASEMENT FOR ELECTRICITY AND OTHER PURPOSES 1.5 WIDE (A440213)

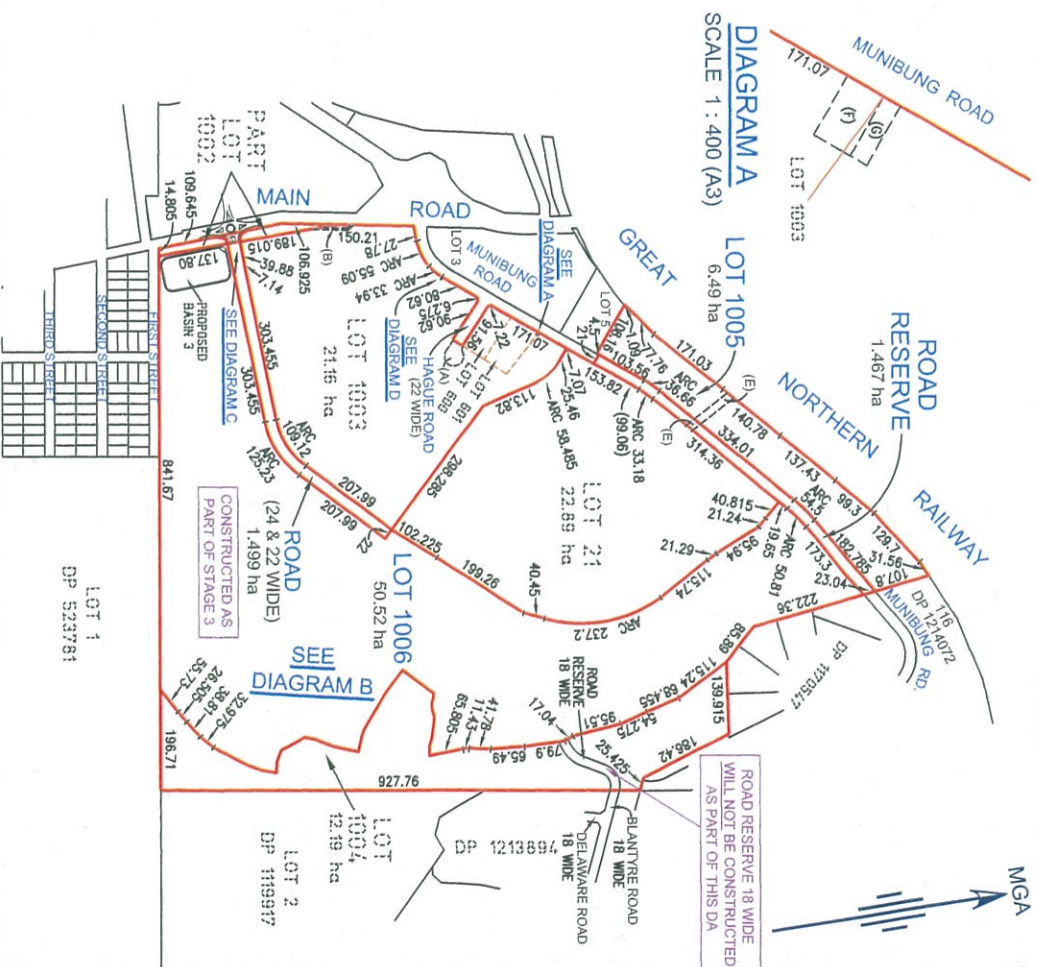
7. NOT ALL EXISTING EASEMENTS ARE SHOWN.



DIAGRAM B
SCALE 1 : 4000 (A3)



SITE PLAN



PASMINGO COCKLE CREEK SMELTER Pty Ltd



Amendment	Description	Date	SCALE: As Shown	JOB NO:
A	INITIAL ISSUE	16.12.2016	DATE: 19.12.2016 ORIGIN: MCA DUTY: PM 57366	141
B	MINOR AMENDMENTS	19.12.2016	CONTOUR INTERVAL: N/A SURVEYOR: MC DRAWING: SD	
C			DRAWING REF: 141_Stage 1-B	
D			REVISION: B	
E				

9 May 2017

FERRIER HODGSON NELSON BAY
C/- Environmental Property Services (Aust) Pty Ltd
9 Yacaaba St
NELSON BAY NSW 2315

Development Application Notice Of Determination

Issued under the Environmental Planning and Assessment Act 1979
Sections 80, 80A & 81 (1)(a)

Development Consent No: DA/716/2016
Property Address: Lot 599 DP 1228699, Lot 1 DP 225720
2A Main Road, BOOLAROO NSW 2284, 1A First Street,
BOOLAROO NSW 2284
Description of Development: 2 Into 6 Lots Staged Subdivision Including Roadworks,
Roundabout And Stormwater Drainage
Determination:
Determination Date:
Consent to operate from:
Consent to lapse on:

Conditions of Consent

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

Reason for the Imposition of Conditions

The reason for the imposition of the following conditions 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, and
 - (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, and
 - (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, and
 - (c) To provide increased opportunity for public involvement and participation in environmental planning and assessment.

The Approved Development And Compliance With Conditions

1. Compliance with Conditions

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

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

A. Statement of Environmental Effects (SEE) by EPS Dated May 2016 Ref 11100

included within Statement of Environmental Effects:-

- a. GCA Stormwater DA report dated May 2016
- b. Seca Solution traffic advice dated April 2016

B. Revision of Application letter by EPS dated 19 December 2016

Included within letter:-

- a. Subdivision layout and staging plans by Positive Survey Solutions
- b. Revisions for SEE
- c. Request for Voluntary Planning Agreement

C. Preliminary Civil Designs plans by GCA for the proposed Main Road roundabout and the Internal Access Road

D. Concept Heritage Sign (1 & 2) by EPS dated October 2016

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

It is the Applicant's responsibility to provide all Compliance Certificates, documentation and other evidence to verify that the conditions and requirements imposed by this consent have been complied with.

Stage 1 Conditions

Stage 1 includes the subdivision of the 2 parent lots (Lot 599 DP 1228699 & Lot 1 DP 225720) to create lots 21 and 22.

2. Stormwater Flow Management

Prior to the release of the Subdivision Certificate for Stage 1, the applicant shall make satisfactory arrangements for the registration a Positive Covenant that requires the owner of proposed Lot 22 to manage all stormwater runoff (up to and including the 100 year ARI flows) from their land such that the capacity of the stormwater drainage system at Main Road is not exceeded.

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

3. Compliance – Environmental Management Protocol

Documentary evidence shall be supplied to Council showing that the State Government of NSW has signed off on the EMP for the Containment Cell on Lot 21 and that the recommendations have been complied with prior to the release of the Stage 1 Subdivision Certificate.

Stage 2 Conditions

Stage 2

- Subdivides Lot 22 (from Stage 1) into 5 lots (1002, 1003, 1004, 1005 & 1006),
- Dedicates two road reserves,
- Constructs a roundabout and other road works within Main Road,
- Installs two Heritage signs,
- Constructs two stormwater detention basins,
- Requires the formulation of a Voluntary Planning Agreement for the construction of Munibung Road.

4. Contamination Remediation and EMP Lots 1002 and 1004

Documentary evidence shall be supplied to Council showing that the State Government of NSW has signed off on the EMP's for lots 1002 & 1004 and that the recommendations have been complied with prior to the release of the stage 2 Subdivision Certificate.

Lot 1003 and 1006 shall be remediated, and a Site Audit Statement prepared by a NSW EPA Accredited Site Auditor shall be provided to Council clearly indicating that the lots are suitable for the intended use. Any conditions included in the Site Audit Statement shall form part of Council's consent.

5. Amendment of Layout

The road reserve to be created with lot 1006, adjacent to lot 1003 shall be widened so as to facilitate a 6 metre wide nature strip, 13 metre wide carriageway and a 4.5 metre wide nature strip (ie minimum 23.5metre wide road reserve).

6. Landscaping and Heritage Works

Landscaping

The Applicant shall undertake landscaping and heritage interpretation works in conjunction with the construction of the roundabout at Main Road.

A final landscaping plan shall be designed in accordance with Council's DCP and guidelines and will require approval by Council with a Construction Certificate prior to commencement of any landscaping works.

Please note that any street trees to be planted shall be at least of a 75 litre pot size.

Correspondence shall be provided from a recognised Landscaping professional, that indicates that the landscaping works have been completed in accordance with the approved plan, prior to the issue of a **Subdivision Certificate**. All landscaping works shall be maintained for a period of twenty four months.

The Applicant shall lodge a cash bond or Bank Guarantee with the Council. The bond or guarantee shall be to the value determined in accordance with Council's "Subdivision Bonds and Guarantees" Policy and will have regard to the value of the capital of the landscaping works and 2 years maintenance (the value of the bank guarantee or bond shall be determined in consultation with Council).

The monies will be released 24 months after planting when Council is satisfied that the landscaping has established.

Heritage Interpretation

Detailed drawings and further information of the proposed interpretation content for the subject site shall be prepared and submitted to Lake Macquarie City Council's Development Planner – Heritage Focus for approval prior to the release of the Construction Certificate.

Prior to issue of a Subdivision Certificate by the Principal Certifying Authority, the approved site heritage interpretation must be implemented to the satisfaction of Lake Macquarie City Council's Development Planner – Heritage Focus.

7. Provision of Drainage Easement

The Applicant shall arrange for the creation of an easements to drain water, (minimum 3 metres wide or the width of the 100 year flow path, whichever is greater), in favour of lots 1006, over lot 1005, so as to provide for the legal discharge of stormwater from lot 1006 to the drainage connection at the Great Northern Railway.

The Registered Proprietor of the land shall subsequently create easements to drain water over those properties in favour of Council, prior to, or at the time of registration of the Final Plan of Subdivision.

8. Construction in Main Road

The Applicant shall construct in Main Road:-

- a roundabout generally in accordance with the concept civil design details by GCA Engineering Solutions (Project 15356C – amendment 2);
- Footpaving from the proposed roundabout to extend to the South along main Road so as to connect to the existing footpaving adjacent to 2 Main Road, Boolaroo;
- For the frontage of proposed lot 1002 & 1003, north of the proposed roundabout, carriageway widening (to a 13 m carriageway), kerb and gutter, drainage and a shared pathway (2.5 metres) shall be constructed;

The works shall include any associated road pavement including drainage and adjustment to existing constructions in accordance with the provisions of the publications and standards identified in this consent.

Any required road widening shall be identified with the Construction Certificate plans.

No works shall commence on site prior to the issue of a **Construction Certificate**.

9. Stormwater Detention Basins

The Stormwater DA Report by GCA Engineering Solutions identifies the requirement to construct two stormwater detention basins (Basins 3 and 3A) to manage the flow rates of water discharging from the Main Road catchment. The conveyance of stormwater discharge from Basin 3A to Basin 3 as well as the conveyance of stormwater from lot 1003 to Basin 3 shall be specifically addressed as part of the civil design documentation. The basins shall be constructed and be operational prior to the release of the Subdivision Certificate for Stage 2.

Plans and calculations for such stormwater controls shall be submitted prior to the issue of a **Construction Certificate**.

10. Dedication of Roads

The Applicant shall arrange, at the time of registration of the Final Plan of Subdivision, for the dedication of the proposed new roads to the public at no cost to Council.

The applicant shall provide Site Audit Statements to show that the land to be dedicated is free of contamination.

11. Voluntary Planning Agreement – Munibung Road

In accordance with the offer by Ferrier Hodgson in their letter to Council dated 27 September 2016, a Voluntary Planning Agreement (VPA) shall be entered into for the transfer of the Munibung Road reserve as identified in Stage 4 development. This VPA is required to be agreed to, and registered on title, prior to the release of the Subdivision Certificate for Stage 2 of this development.

Stage 3 Conditions

Stage 3 constructs the road works, from the proposed roundabout, within the road reserve that was dedicated with Stage 2.

12. Construction of Access Road

The Applicant shall construct the Internal Access Road as identified in the GCA Engineering Solutions plans (Project 15356C – revision dated 2/12/2016). The plans shall be modified to include the widening of the northern nature strip from 4.5 metres wide 6 metres wide. Incorporated within this northern nature strip shall be a 2.5 metre wide concrete shared pathway constructed for the full length of the proposed road.

No works shall commence on site prior to the issue of a **Construction Certificate**.

Stage 4 Conditions

Stage 4 dedicates the road reserve for the Munibung Road link.

13. Dedication of Munibung Road

The Applicant shall arrange for the dedication of the Munibung Road reserve in accordance with the terms of the Voluntary Planning Agreement.

General Conditions (Apply to stages as specified)

Environmental Management

14. Erosion and Sediment Control Plan (Stage 2 & 3)

The Applicant shall submit for approval, with the Construction Certificate, an Erosion and Sediment Control Plan for the development in accordance with Council's Development Control Plan.

Sediment and Erosion Control works shall be carried out in accordance with the approved plan and no work shall commence until the erosion and sediment control works specified in the Plan are in place and their placement has been approved by the Principal Certifying Authority.

15. Erosion Controls (Stage 2 & 3)

Prior to the release of the first Construction Certificate or any works commencing onsite (including, but not limited to, demolition or vegetation clearing), the Applicant shall submit for approval the final Erosion and Sediment Control Plan (ESCP)/Soil and Water Management Plan (SWMP) in accordance with Council's Development Control Plan for the area of disturbance, including plans and full calculations for all erosion and sediment control measures.

The applicant shall arrange for a detailed record of the erosion and sediment controls on the site to be maintained during construction works. The record shall be updated on a daily basis and shall as a minimum contain details on the conditions of the controls and all maintenance and cleaning undertaken.

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

Erosion and sediment control measures shall be installed as part of the initial construction work in the first stage of the development. Minor additional works may be approved by the Principal Certifying Authority during construction works.

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 LMCC's DCP;
- 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.

16. Erosion Control Sign (Stage 2 & 3)

The Applicant shall supply and erect Council's standard Erosion Control Sign as detailed in Standard Drawing No. 3403/1. The sign shall be erected in a prominent location near the entrance to the development prior to the commencement of earthworks.

17. Grassing (Stage 2 & 3)

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

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

18. Noise Control (Stage 2 & 3)

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

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

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

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

Noise Level Restrictions

- (i) Construction period of 4 weeks and under:-

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

- (ii) Construction period greater than 4 weeks:-

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

Provision Of Utility Services

19. Installation of Service Pipes (Stage 2 & 3)

The Applicant shall ensure that all public utility service pipes, mains and conduits are laid and/or installed in all new roads and existing roads, where work is required in existing roads, as part of the construction and drainage works associated with the Subdivision.

The Applicant shall also install conduits to cater for the installation of natural gas services to each proposed lot in conjunction with road and drainage works.

A letter of compliance from each service authority and service company shall be submitted to Council prior to the issue of a **Subdivision Certificate**.

20. Service of Public Utilities (Stage 1, 2 & 3)

The Applicant shall service all lots in the subdivision with water, sewer, underground electricity and underground telecommunications facilities to the requirements of and by arrangements with the relevant supply authorities and company. The applicant shall liaise with AGL in relation to the future reticulation of gas in the subdivision.

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

A letter of compliance from each service authority and service company shall be submitted to Council prior to the issue of a **Subdivision Certificate**.

Note: Applications for two (2) lot or dual occupancy subdivisions will not require 'letters of compliance' to be submitted to Council from Energy Australia or Telstra.

21. Utilities Layout (Stage 2 & 3)

The Applicant shall submit to the Principal Certifying Authority a utilities layout plan showing the location of mains, associated installations and service conduits prior to the issue of a **Subdivision Certificate**.

Roads And Drainage Construction Works

22. Roadways and Drainage Works Standards (Stage 2 & 3)

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.

23. Details Required Prior to Commencement (Stage 2 & 3)

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

- (a) 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 work have been endorsed with a **Construction Certificate** by :-
 - (i) Council, or
 - (ii) an appropriately Accredited certifier accredited in accordance with the Building Professionals Board Accreditation Scheme, and
- (b) the person having the benefit of the development consent:-
 - (i) has appointed a Principal Certifying Authority, and
 - (ii) has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment, and
- (c) the person having the benefit of the development consent has given at least two (2) days notice to Council of the intention to commence works.

In accordance with Council's authority under Section 138 of The Roads Act 1993, a Private Certifier shall not issue a Construction Certificate for any works within an existing public road. A Construction Certificate application must be lodged with Lake Macquarie City Council for the works.

Where Council is the Principal Certifying Authority for a subdivision an application for a Construction Certificate can only be made to Lake Macquarie City Council.

A fee for applications for Construction Certificates will be required to be paid in accordance with Council's fees and charges for Construction Certificates.

Stormwater Management

24. Interallotment Drainage (Engineering Plans) (Stage 2)

The Applicant, when preparing Engineering plans for the development, shall identify any lots that do not drain directly to Council's stormwater drainage systems. For these lots the Registered Proprietor of the land shall arrange for the provision of interallotment drainage pipelines and associated easements to drain water 2 metres wide favouring the allotments served. All stormwater shall be disposed of to either an existing formed Council drainage system or a natural watercourse. Where applicable, the Applicant shall obtain for lodgement with Council written authority from affected owners agreeing to the discharge of stormwater across their properties prior to the issue of a **Construction Certificate**.

The Registered Proprietor of the land shall subsequently create easement(s) to drain water over those properties, prior to, or at the time of registration of the Final Plan of Subdivision.

Council is to be the party empowered to release, vary or modify the easement.

25. Stormwater Standards (Stage 2 & 3)

The Applicant shall arrange for the design and construction of stormwater drainage works in accordance with the requirements of the publications and standards identified in this consent.

No works shall commence on site prior to the issue of a **Construction Certificate** and all works shall be completed prior to the issue of a **Subdivision Certificate**.

Roadways, Accessways And Footways

26. Linemarking and Signposting (Stage 2 & 3)

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.

27. Pavement Standards (Stage 2 & 3)

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 or a Private Certifier prior to road pavements being constructed. 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.

28. Traffic Control Standards (Stage 2 & 3)

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.

29. Notification to Neighbours (Stage 2 & 3)

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.

30. Haulage Routes (Stage 2 & 3)

The Applicant shall submit to Council, in writing, details of the proposed haulage routes to be used during construction works. These details must be submitted a minimum of seven days before the commencement of haulage operations. No haulage operations shall take place prior to the approval of the routes by Council. The haulage routes shall not be varied without the approval of Council.

The Applicant shall maintain and restore the haulage route roads, as near as possible, to their original condition.

31. Fix Damage Caused by Construction Work (Stage 2 & 3)

The Applicant shall make good any damage or injury caused to a public road or associated structures including drains and kerb and gutter, caused as a consequence of the works.

32. Notice of Commencement of Works (Stage 2 & 3)

Construction works shall not commence until a meeting between the contractor and a representative of the Principal Certifying Authority (PCA) has taken place on site.

In accordance with Section 81A(4) the PCA 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.

33. Works as Executed Plan (Stage 2 & 3)

An electronic copy of the Works as Executed Plans, certified by the Consulting Civil Engineer supervising the works or the Registered Surveyor in charge and certified by

the Principal Certifying Authority, shall be supplied to the Council. Where applicable a Registered Surveyor's Certificate certifying that all pipes have been laid within the easements shown on the Final Plan of Subdivision shall also be submitted. The Works as Executed Plan shall, in addition to construction details, show limits and depths of filling, locations of service conduits and street names.

Note that a works as executed plan plotted on film will only be accepted where the original engineering design was hand drawn and not drafted using CAD software.

34. Street Lighting (Stage 2 & 3)

The Applicant shall provide street lighting for the development to the satisfaction of Energy Australia and in accordance with the road classification. The road classification shall be determined by Council and Energy Australia.

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

35. Erection of Street Signs (Stage 2)

The Applicant shall supply and erect new street name signs in accordance with the requirements of Council's standard design requirements. Note that all Private Roads shall be clearly signposted to indicate that they are Private roads and not Public roads.

36. Easement for Support

The Applicant shall arrange for the creation of an "easement for support" on the Final Plan of Subdivision submitted to cover all fill embankments that extend into lots if the side slopes are steeper than one (1) in three (3) and such embankments are in excess of 600mm in height.

37. Submit Road Names for Approval (Stage 2)

Proposed new road names shall be submitted to Council and approved prior to the issue of a **Construction Certificate**.

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

38. Survey Control Marks Interference

The Applicant shall submit a statement from a Registered Surveyor verifying that the works did not interfere with any survey control marks OR the Applicant shall submit verification that the Survey Control Branch of the Department of Lands has been

advised of any marks which will be destroyed and an undertaking that the requirements of the Survey Control Branch will be complied with.

Submission For Subdivision Certificate

There are requirements which must be satisfied before the Principal Certifying Authority may issue the Subdivision Certificate pursuant to Section 109J of the Environmental Planning & Assessment Act 1979 in respect of a subdivision.

39. House Numbering (Stage 1 & 2)

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.

40. Final Plan Submission (Stage 1, 2 & 4)

The Applicant shall submit an application for a **Subdivision Certificate** accompanied by an original copy of the Final Plan of Subdivision. 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.

41. 88B Instrument (Stage 1 & 2)

The Registered Proprietor of the land shall provide an instrument under Section 88B of the Conveyancing Act setting out terms of easements and/or restrictions as to user as may be required by conditions of this consent. Council is to be the party empowered to release, vary or modify those (and only those) easements and/or restrictions required by conditions of this development consent.

42. Compliance Certificate for Works (Stage 2 & 3)

The Applicant shall obtain and submit a **Compliance Certificate/s** to certify that all construction works and associated development have been constructed in accordance with this Development Consent, the **Construction Certificate** and all other standards specified in this consent.

An application for the Compliance Certificate and associated application fees shall be submitted prior to the commencement of works identified on the respective Construction Certificate.

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

Where Council is the Principal Certifying Authority for a subdivision an application for a Compliance Certificate can only be made to Lake Macquarie City Council.

43. Section 50 Certificate (Stage 1, 2 & 4)

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.

44. Subsidence Advisory NSW Concurrence

The Applicant shall comply with the approval granted by Subsidence Advisory NSW for this development. A copy of the approval is attached to this consent.

45. Ausgrid Requirements

The Applicant shall ascertain and comply with the requirements of Ausgrid.

46. Application Fees for Required Certificates

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:

Construction Certificate Stage 2	\$4000.00	Plus \$60 Archival Fee	(inc GST)
Construction Certificate Stage 3	\$8000.00	Plus \$60 Archival Fee	(inc GST)
Compliance Certificate Stage 2	\$5000.00	Plus \$60 Archival Fee	(inc GST)
Compliance Certificate Stage 3	\$10,500.00	Plus \$60 Archival Fee	(inc GST)
Subdivision Certificate	\$140/lot (min fee \$415)	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.

Right of Appeal

If you are dissatisfied with this decision (including a determination on a review under Section 82A), Section 97 of the Environmental Planning and Assessment Act 1979 gives you the right to appeal to the Land and Environment Court within six (6) months:

- (a) after the date on which you receive this notice, or
- (b) the date on which that application is taken to have been determined under Section 82(1).

Section 98 of the Environmental Planning and Assessment Act 1979, does not give a right of appeal to an objector who is dissatisfied with the determination of the Council to grant consent to a development application, unless the application is for designated development (including designated development that is integrated development). The objector may, within twenty eight (28) days after the date on which the notice of the determination was given in accordance with the regulations, and in accordance with rules of the Court, appeal to the Court.

Right of Review

Section 82A of the Environmental Planning and Assessment Act 1979 provides that the applicant may request the Council to review the determination. The request must be made in writing (or on the review application form) within six (6) months after the date as specified in this notice of determination, together with payment of the appropriate fee. **(See exclusions note below).**

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

- (a) A determination to issue or refuse to issue a complying development certificate, or

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

Planning Assessment Commission

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

Advisory Note:

Hunter Water Requirements

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

Should you require further information, please contact the undersigned on 4921 0455 or by e-mail on dpavitt@lakemac.nsw.gov.au.
Yours faithfully



David Pavitt
Principal Development Engineer
Development Assessment and Compliance