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SCHEDULE 2

RECOMMENDED CONDITIONS OF APPROVAL

MAJOR PROJECT NO. 08_0014

PART A—ADMINISTRATIVE CONDITIONS

A1 *Project Description*

Project approval is granted only to carrying out the project described in detail below:

62 residential lot and 1 drainage lot subdivision, asset protection zones, roads, footpaths, tree and vegetation removal, stormwater drainage infrastructure, intersection upgrades, construction of bus shelters, landscaping and vegetation retention and management

A2 *Project in Accordance with Plans*

The project will be undertaken in accordance with the Environmental Assessment, the Preferred Project Report and the following drawings:

Plan of subdivision prepared by de Witt Consulting at Appendix 3 of the Response to Submissions 4 May 2009			
Drawing No.	Revision	Name of Plan	Date
013-SUBDIV-30.04.09 Plan No.1	H	Proposed Plan of Subdivision Lot 9 DP244002 & Lot 358 DP 755242	30.04.09
Landscape Drawings prepared by Terras at Appendix 14 of the Environmental Assessment			
Drawing No.	Revision	Name of Plan	Date
L01	D	Landscape Plan- Morisset Park subdivision	05.05.08
L02	D	Entry Feature	05.05.08
L03	D	Details- Morisset Park subdivision	05.05.08
Survey Drawings prepared by Northrop for additional information to the Response to Submissions 14 July 2009			
Drawing No.	Revision	Name of Plan	Date
C02 DA	D	Concept Stormwater Management Plan	07.07.09
C03 DA	D	Details sheet	07.07.09

except for:

- (1) any modifications which are 'Exempt and Complying Development' as identified in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* or as may be necessary for the purpose of compliance with the BCA and any Australian Standards incorporated in the BCA;
- (2) otherwise provided by the conditions of this approval.

A3 *Project in Accordance with Documents*

The project will be undertaken in accordance with the following documents:

- (1) *Environmental Assessment Report* prepared by de Witt Consulting on behalf of Postfox Pty Ltd dated November 2008;
- (2) *Response to Submissions* prepared by de Witt Consulting on behalf of Postfox Pty Ltd dated 4 May 2009; and
- (3) Additional Information prepared by de Witt Consulting on behalf of Postfox Pty Ltd dated 14 July 2009.

A4 *Inconsistency between documents*

In the event of any inconsistency between conditions of this approval, the proponent's Statement of Commitments and the drawings/documents referred to above, the conditions of this approval prevail.

A5 *Building Code of Australia*

All work must be carried out in accordance with the requirements of the *Building Code of Australia*.

PART B—PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

Design Details and Changes

B1 *Design Modifications*

In order to ensure appropriate management of the asset protection zone benefitting Lot 4, the configuration of Lot 4 is to be extended by 10 metres in a westerly direction, so the footprint of the required outer protection zone is contained within Lot 4, increasing the lot size to 1120m² and decreasing the lot size of Lot 3 to 9260m².

A plan depicting these modifications shall be submitted to and approved by the Director prior to the issue of a Construction Certificate.

Remediation / Demolition / Earthworks

B2 *Remediation of Land*

Prior to the issue of a Construction Certificate the Proponent shall submit to the PCA a Phase 2 Contamination Assessment Report and, if required, a Remedial Action Plan and a Hazardous Materials Survey. The Remedial Action Plan must be accompanied by a statement from a site auditor accredited by the Environmental Protection Agency to issue site audit statements.

Construction Management

B3 *Construction Management Plan*

Prior to the issue of a Construction Certificate a Construction Management Plan shall be submitted to and approved by the PCA. A copy of the approved plan shall be submitted to Council. The Plan shall address, but not be limited to, the following matters where relevant:

- (1) hours of work;
- (2) contact details of site manager;
- (3) traffic and pedestrian management;

- (4) noise and vibration management;
- (5) construction waste management;
- (6) tree protection measures;
- (7) erosion and sediment control; and,
- (8) flora and fauna management.

B4 Erosion and Sedimentation Control

Soil erosion and sediment control measures shall be designed in accordance with the document *Managing Urban Stormwater–Soils & Construction Volume 1 (2004) by Landcom*. Details are to be submitted to the satisfaction of the PCA prior to the issue of the Construction Certificate.

B5 Traffic & Pedestrian Management Plan

Prior to the issue of the Construction Certificate a Traffic and Pedestrian Management Plan in accordance with AS1742 and RTA publication 'Traffic Control at Works Sites' Version 2 shall be prepared by an RTA accredited person, and shall be submitted to and approved by the PCA. Safe public access shall be provided at all times. The Plan shall address, but not be limited to, the following matters:

- (1) ingress and egress of vehicles to the site,
- (2) loading and unloading, including construction zones,
- (3) predicted traffic volumes, types and routes, and
- (4) pedestrian and traffic management methods.

The Proponent shall submit a copy of the approved plan to Council.

B6 Stormwater Management and Drainage Works Design

The development shall not increase the peak stormwater discharge or limits of upstream and downstream flooding for floods over the range of 1:1 years to 1:100 years. Plans and calculations for stormwater controls to achieve this standard shall be submitted prior to the issue of a Construction Certificate and the works shall be completed as part of the initial construction work in the first stage of the development. Designs shall incorporate maintenance access roads and fencing in accordance with Council's standard requirements.

Final design plans of the stormwater drainage systems within the proposed subdivision and adjoining road reserves of Morisset Park Road and Chifley Road, prepared by a suitably qualified person and in accordance with the requirements of Council shall be submitted to and approved by the Certifying Authority prior to issue of a Construction Certificate. The hydrology and hydraulic calculations shall be based on models described in the current edition of *Australian Rainfall and Runoff*.

(1) Gross Pollutant Trap

The design and construction of a Gross Pollutant Trap and Trash Rack shall be in accordance with the requirements of DCP 1 (Volume 2 – Engineering Guidelines Part 3). Provision shall be made for maintenance access roads and maintenance vehicle parking.

Satisfactory plans and calculations for such Gross Pollutant Trap and Trash Rack shall be submitted prior to the issue of a Construction Certificate.

A "Maintenance Plan" is to be included with the Construction Certificate documentation, in accordance with Council's "Stormwater Treatment Framework & Stormwater Quality Improvement Device Guidelines".

(2) Water Quality Control Facilities

A permanent Stormwater Quality Facilities shall be designed and constructed generally in accordance with the design and plans prepared by Northrop Consulting Engineers.

Plans and calculations for such Stormwater Quality Control Facilities shall be submitted for approval prior to the issue of a Construction Certificate. The plan shall also include details of the extent and location of fencing (Council shall be contacted for a copy of the standard detail of the fencing. NB this standard detail may be updated from time to time), provide details of maintenance access and details of landscaping and species for the facility and their surrounds.

A "Maintenance Plan" is to be included with the Construction Certificate documentation, in accordance with Council's "Stormwater Treatment Framework & Stormwater Quality Improvement Device Guidelines".

B7 Interallotment Drainage (Engineering Plans)

Prior to the issue of a Construction Certificate engineering plans for the development are to be provided that 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 Proponent shall obtain for lodgement with Council written authority from affected owners agreeing to the discharge of stormwater across their properties.

B8 Provision of Council Easements

The Proponent shall arrange for the creation of easements to drain water from the site across adjacent properties where necessary, (minimum 3 metres wide or the width of the 100 year flow path, whichever is greater), in favour of Council.

Prior to the release of a Construction Certificate for civil and drainage works on the development site written evidence shall be provided to the Council that appropriate easements for drainage have been created in order to legally drain the public roads and lots to be created within the development to the Council street drainage system outside of the development.

B9 Road Design

- 1) The following shall be provided to service the subdivision:
 - a. Kerb and gutter, stormwater drainage, full road width pavement including traffic facilities and paved footpaths shall be constructed along the full length of the new roads.
 - b. An AUR geometric intersection shall be constructed for Morisset Park Road and Chifley Road;
 - c. An AUR geometric intersection shall be constructed for Morisset Park Road and the New Access Road to the subdivision, including the provision of bus amenity;
 - d. The carriageway along Morisset Park Road shall be widened along the frontage of the site to 6.5 metres from the centreline of the existing road and be provided with kerb and guttering and associated drainage and footpaving; and
 - e. The carriageway along Chifley Road shall be widened along the frontage of the site to 4 metres from the centreline of the existing road and be provided with kerb and guttering and associated drainage and footpaving.

- 2) Roadways and Drainage Works Standards

- a. 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:-
 - i. Australian Rainfall and Runoff, 1987.
 - ii. AUSTROADS Guide To Traffic Engineering Practice.
 - iii. LMCC DCP 1 (Volumes 1 and 2) and supporting guidelines.
 - iv. Roads and Traffic Authority Road Design Guide.
 - v. Roads and Traffic Authority Interim Guide To Signs and Markings.
 - vi. Managing Urban Stormwater documents (2004).by Landcom.
 - vii. The Constructed Wetlands Manual - Department of Land and Water Conservation, 1998.
 - viii. LMCC Subdivision Code
 - b. Where any inconsistency exists between these documents the Applicant shall verify in writing with Council, the relevant standard to be adopted.
- 3) Pavement Standards
- Residential road pavements shall be designed in accordance with "A Guide To The Design Of New Pavements For Light Traffic" - AUSTROADS 1998. Main and Industrial road pavements are to be designed in accordance with "Pavement Design, A Guide to the Structural Design of Road Pavements" - AUSTROADS 1992. Designs for road pavements shall be submitted to and approved by the PCA 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 approval prior to the commencement of works.
- 4) Intersection Design
- The pavement design for the intersection shall include a geotechnical investigation to assess the capability of the existing pavement to accommodate any new turning movements. Any costs associated with rehabilitation and sealing of the existing pavement to meet the road design ESA's shall be borne by the developer. The design speed for the intersection shall be established prior to design. The general configuration for the lanes shall be a travelling lane, a cyclesafe lane/shoulder and a footpath area
- 5) Details Required Prior to Commencement
- a. Prior to the issue of a construction certificate:
 - i. 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 will require approval by the PCA. Note that for all works on existing public roads an application for a construction certificate can only be made to Lake Macquarie City Council (in accordance with Council's authority under the Roads Act).

B10 Compliance-Geotechnical Report

The Applicant shall comply with the recommendations of the Geotechnical Report by Coffey Geosciences in relation to slope stability and contamination matters. Any works proposed to be undertaken in relation to the application shall embody all the relevant recommendations of the Geotechnical Consultants.

All engineering plans shall be endorsed by and carry the original signatures of the Geotechnical Consultants (ie not photocopies). The endorsement shall state that the proposed works are in accordance with the recommendations of the Geotechnical Report, prior to the issue of a Construction Certificate.

Landscaping

B11 Landscape Plan

In order to ensure environmental sustainability, a revised landscape plan, based on the Landscape Plans prepared by Terras, incorporating the following:

- (1) The use of locally endemic native species in all landscaping undertaken for the subdivision construction; and
- (2) Any street trees to be planted shall be at least of a 75 – 100 litre pot size in accordance with Council's standard detail (or approved variation).

Details shall be submitted to and approved by the Council prior to the issue of any Construction Certificate.

B12 Vegetation Management-Lot 3

- 1) Vegetation within Lot 3, outside the Asset Protection Zone (APZ), is to be managed in perpetuity for the purpose of conservation of native vegetation and threatened species habitat. The vegetation is to be managed in accordance with a Vegetation Management Plan. The Vegetation Management Plan is to be approved by the Director prior to the construction certificate being issued. This Plan is to detail:
 - a. Measures to control feral and domestic animals;
 - b. Measures to control weeds;
 - c. Fire management measures and an ecological fire regime;
 - d. Specifications of fencing to ensure that vehicles, including trail bikes, are prevented from entering the vegetated area of Lot 3 outside the APZ;
 - e. Specifications for ongoing protection of the reserve from impacts associated with adjacent residential areas;
 - f. Ratio of nest boxes provided within Lot 3 in comparison to hollows removed from the subdivision site;
 - g. Nest box location and management;
 - h. Details of long-term monitoring and implementation;
 - i. Mapping and photographs of vegetation condition/weed cover as a baseline from which site rehabilitation/management can be measured;
 - j. Educational/Regulatory style signage; and
 - k. Gantt chart or similar clearly outlining the activity, costing and timing of vegetation management actions.
- 2) Stormwater drainage is not to be directed into the vegetation outside of the Inner Protection Area of the APZ.
- 3) Domestic animals are to be prohibited from the entering the bushland outside the APZ of Lot 3.
- 4) The northern limit of the Asset Protection Zone is to be surveyed and delineated by a registered surveyor, in accordance with the Plan of subdivision prepared by de Witt Consulting, dated 30.04.09. The boundary is to be delineated with a fence or capped 50mm diameter round galvanised pipes concreted into the ground at 5m intervals.
- 5) The Vegetation Management Plan is to be prepared by an appropriately qualified and experienced person with minimum qualifications of TAFE Certificate III in Bush Regeneration or Conservation and Land Management - Natural Area Restoration and 4 years bush regeneration experience.

- 6) A monitoring report is to be submitted to the Department annually (1 July) detailing the works undertaken in order to comply with the recommendations of the Vegetation Management Plan.

B13 Tree Removal Plan

A Tree Removal Plan is to be produced detailing each tree required to be removed either because it is dangerous or for the creation of the Roads, Footpaths, Drainage Works, Building Envelopes and Asset Protection Zones for each lot.

The Plan is to be produced by a suitably qualified arborist and shall ensure:

- 1) each tree is identified by a number, its species, its health and whether it is to be retained or removed;
- 2) retention of all trees not required to be removed either because they are dangerous or to fulfil Asset Protection Zone requirements or to accommodate building envelopes and driveways or for the provision of services; and
- 3) retention of all trees within public and road reserves, except where required to be removed for because they are dangerous or for the provision of services and construction of roads.

The Plan is to detail:

- 1) Existing site conditions (contours, vegetation, drainage etc.);
- 2) All existing and proposed infrastructure including underground services;
- 3) Approximate location and description of structures and vegetation on adjacent property;
- 4) Vegetation to be retained;
- 5) Trees identified as dangerous that require removal;
- 6) The proposed tree removal method including inspection of hollows by a suitably qualified person prior to felling;
- 7) Appropriate design and installation of nest boxes within trees on Lot 3 at a rate of 3 to one for each hollow-bearing tree required to be removed from the site. Details should be provided of methods to be used to permanently attach nest boxes at an appropriate height to suitable trees within Lot 3;
- 8) Safeguards for the protection of fauna both prior to, during and following the works, including the presence of a suitably qualified person during the entire felling operation to ensure that proper management of any affected fauna, in accordance with DECC Translocation Guidelines, can be effectively managed; and
- 9) The means of protecting trees and vegetation nominated for retention during construction of all works. All areas that are to be left undisturbed are to be cordoned off from areas of construction works.

The Tree Removal Plan is to be submitted to Council for approval prior to the issue of the Construction Certificate.

B14 Weed Control Plan

Prior to the issue of the Construction Certificate a Weed Control Plan for the entire site is to be produced by an appropriately qualified person and approved by Council. The Weed Control Plan shall detail weed management to be undertaken by the proponent across the site until 80% of all lots have been sold.

B15 Provision of Bus Bays and Bus Shelters

The developer is to provide two bus shelters. Bus shelters are required on either side of Morisset Park Road, within the road reserve, in close proximity to the site. The design and location of the bus shelters are to be to Council's satisfaction.

B16 Submit Road Names For Approval

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

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).

PART C—PRIOR TO COMMENCEMENT OF WORKS

Notification Requirements

C1 Notice to be Given Prior to Commencement / Excavation

- 1) The Principal Certifying Authority and Council shall be given written notice, at least 48 hours prior to the commencement of excavation, shoring or underpinning works on the site for each stage of the project.
- 2) The Principal Certifying Authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the Principal Certifying Authority via the notice under Section 81A of the *Environmental Planning and Assessment Act 1979*.

C2 Haulage Routes

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

Demolition Works

C3 Statement of Compliance with Australian Standards

The demolition work shall comply with the provisions of Australian Standard AS2601: 2001 *The Demolition of Structures*. The work plans required by AS2601: 2001 shall be accompanied by a written statement from a suitably qualified person that the proposals contained in the work plan comply with the safety requirements of the Standard. The work plans and the statement of compliance shall be submitted to the satisfaction of the PCA prior to the commencement of works.

Hazardous Materials

C4 Removal of Hazardous Materials

All hazardous materials shall be removed from the site and shall be disposed of at an approved waste disposal facility in accordance with the requirements of the relevant legislation, codes, standards and guidelines, prior to the commencement of any building

works. Details demonstrating compliance with the relevant legislative requirements, particularly the method of containment and control of emission of fibres to the air, are to be submitted to the satisfaction of the PCA prior to the removal of any hazardous materials.

C5 Site Audit

Prior to the commencement of subdivision construction works, a Site Audit conducted by a suitably qualified person shall be undertaken to ascertain that all identified hazardous materials have been removed from the site and shall be submitted to the PCA.

Structural Works

C6 Structural Details

Prior to the commencement of construction at each stage of the project, the Proponent shall submit to the satisfaction of the Principal Certifying Authority structural drawings prepared and signed by a suitably qualified practising Structural Engineer that comply with:

- (1) the relevant clauses of the BCA,
- (2) the relevant project approval,
- (3) drawings and specifications comprising the Construction Certificate, and
- (4) the relevant Australian Standards listed in the BCA (Specification A1.3).

C7 Retaining Walls

Prior to commencement of works for any stage of the project a certificate of adequacy of design, signed by a practising Structural Engineer on all proposed retaining walls in excess of 1.2m in height, must be provided to the Principal Certifying Authority. The certificate must also address any loads or possible loads on the wall from structures adjacent to the wall and must be supported by a geotechnical assessment of the founding material.

Pollution Control

C8 Erosion and Sediment Control

Prior to commencement of work on the site for each stage of the project, all erosion and sedimentation control measures are to be installed and operational including the provision of a "shake down" area where required to the satisfaction of the Principal Certifying Authority.

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

Services

C9 Existing Services

The Proponent shall accurately locate and identify any existing sewer main, stormwater line, watermain or other underground infrastructure within or adjacent to the site and the Principal Certifying Authority advised of its location and depth prior to commencing works for each stage of the subdivision and ensure there shall be no conflict between the proposed development and existing infrastructure prior to start of any works.

The water main that runs along the Morisset Park Road frontage shall be relocated into an appropriate location below the footpath to be constructed in this location.

Contact Details

C10 Contact Telephone Number

Prior to the commencement of the works for each stage of the project, the Proponent shall forward to the Department and Council a 24 hour telephone number to be operated for the duration of the construction works.

PART D—DURING CONSTRUCTION

Construction Management

D1 Approved Plans to be On-site

A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the site at all times and shall be readily available for perusal by any officer of the Department, Council or the PCA.

D2 Site Notice

A site notice(s) shall be prominently displayed at the boundaries of the site for the purposes of informing the public of project details including, but not limited to:

- 1) Details of the Builder, Principal Certifying Authority and Structural Engineer for all stages of the project;
- 2) The approved hours of work;
- 3) the name of the site/project manager, the responsible managing company (if any), its address and 24 hour contact phone number for any inquiries, including construction/noise complaint are to be displayed on the site notice; and
- 4) To state that unauthorised entry to the site is not permitted.

D3 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.

D4 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.

Provision of Utility Services

D5 Service of Public Utilities

The Applicant shall service all lots in the subdivision with water, sewer, underground electricity and underground telephone 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.

D6 Installation of Service Pipes

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.

D7 *Linemarking and Signposting*

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.

Bushfire Protection

D8 *Bushfire Protection Requirements*

- 1) At the commencement of building works and in perpetuity, asset protection zones (APZ) shall be provided in accordance with the recommendations contained within the Bushfire Threat Assessment prepared by Harper Somers O'Sullivan, ref.24818, dated November 2008 (in particular Figure 4.1 APZ's Option 2). Inner and Outer Protection Areas shall be managed as outlined in section 4.1.3 and Appendix 5 of *Planning for Bushfire Protection 2006* and the NSW Rural Fire Service's document *Standards for asset protection zones*;
- 2) Public road access and water, electricity and gas are to comply with section 4.1.3 of *Planning for Bush Fire Protection 2006*;
- 3) Landscaping is to be in accordance with Appendix 5 of *Planning for Bush Fire Protection 2006*.

D9 *Protection of Trees – Street Trees*

All street trees and native vegetation shall be protected at all times during construction. Any tree on the footpath, which is damaged or removed during construction of any stage of the project, shall be replaced, to the satisfaction of Council.

D10 *Tree Removal and Protection of Trees – On-site Trees*

All trees on the site that are not approved for removal are to be suitably protected by way of tree guards, barriers or other measures as necessary are to be provided to protect root system, trunk and branches, during construction of any stage of the project.

All trees on site that are approved for removal are to be removed in accordance with the approved Tree Removal Plan.

An application shall be made to Council in accordance with Clause 34 of Council's LMLEP 2004 for the removal of any other trees.

D11 *Salvage of Trees and Shrubs*

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

Structural Works

D12 *Setting Out of Structures*

Structures shall be set out by a registered surveyor to verify the correct position of each structure in relation to property boundaries and the approved alignment levels. The registered surveyor shall submit a plan to the PCA certifying that structural works are in accordance with the approved development application.

Site Maintenance

D13 Erosion and Sediment Control

All erosion and sediment control measures, as designed in accordance with the approved plans are to be effectively implemented and maintained at or above design capacity for the duration of the construction works for each stage of the project, and until such time as all ground disturbed by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment.

Areas of the site disturbed by works shall be grassed 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.

D14 Landscaping

Landscaping is to be undertaken in accordance with the approved landscape plan.

D15 Disposal of Seepage and Stormwater

Any seepage or rainwater collected on-site during construction shall not be pumped to the street stormwater system unless separate prior approval is given in writing by Council.

D16 Dust Control Measures

Adequate measures shall be taken to prevent dust from affecting the amenity of the neighbourhood during construction. In particular, the following measures must be adopted:

- (1) Physical barriers shall be erected at right angles to the prevailing wind direction or shall be placed around or over dust sources to prevent wind or activity from generating dust emissions,
- (2) Earthworks and scheduling activities shall be managed to coincide with the next stage of development to minimise the amount of time the site is left cut or exposed,
- (3) All materials shall be stored or stockpiled at the best locations,
- (4) The surface should be dampened slightly to prevent dust from becoming airborne but should not be wet to the extent that run-off occurs,
- (5) All vehicles carrying spoil or rubble to or from the site shall at all times be covered to prevent the escape of dust or other material,
- (6) All equipment wheels shall be washed before exiting the site using manual or automated sprayers and drive-through washing bays,
- (7) Gates shall be closed between vehicle movements and shall be fitted with shade cloth, and
- (8) Cleaning of footpaths and roadways shall be carried out regularly.

Noise and Vibration

D17 Hours of Work

The hours of construction for all stages of the project, including the delivery of materials to and from the site, shall be restricted as follows:

- (1) between 7:00 am and 6:00 pm, Mondays to Fridays inclusive;
- (2) between 8:00 am and 1:00 pm, Saturdays;
- (3) no work on Sundays and public holidays.

Works may be undertaken outside these hours where:

- (4) the delivery of materials is required outside these hours by the Police or other authorities;
- (5) it is required in an emergency to avoid the loss of life, damage to property and/or to prevent environmental harm;
- (6) the work is approved through the Construction Noise and Vibration Management Plan; and
- (7) residents likely to be affected by the works are notified of the timing and duration of these works at least 48 hours prior to the commencement of the works.

D18 Construction Noise Objective

- 1) The construction noise objective for all stages of the project is to manage noise from construction activities (as measured by a $L_{A10(15\text{minute})}$ descriptor) so it does not exceed the background L_{A90} noise level by more than 5dB(A).
- 2) Background noise levels are those identified in the Environmental Assessment or otherwise identified in the approved Construction Management Plan. The Proponent shall implement all feasible noise mitigation and management measures with the aim of achieving the construction noise objective.
- 3) Any activities that have the potential for noise emissions that exceed the objective must be identified and managed in accordance with the approved Construction Management Plan.
- 4) If the noise from a construction activity is substantially tonal or impulsive in nature (as described in Chapter 4 of the NSW Industrial Noise Policy), 5dB(A) must be added to the measured construction noise level when comparing the measured noise with the construction noise objective.

D19 Construction Noise Management

For all stages of the project, the Proponent shall:

- (1) schedule rock breaking, rock hammering, sheet piling, pile driving and any similar activity only between the following hours unless otherwise approved in the Construction Management Plan:
 - (a) 9.00 am to 12.00 pm, Monday to Friday;
 - (b) 2.00 pm to 5.00 pm Monday to Friday; and
 - (c) 9.00 am to 12.00 pm, Saturday
- (2) ensure that wherever practical, and where sensitive receivers may be affected, piling activities are completed using bored piles. If driven piles are required they must only be installed where approved in the Construction Management Plan.

D20 *Vibration Criteria*

For all stages of the project, vibration resulting from construction of all stages of the project must not exceed the evaluation criteria presented in the *Environmental Noise Management – Assessing Vibration: A Technical Guide* (DEC, 2006).

D21 *Street Lighting*

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.

D22 *Erection of Street Signs*

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.

Heritage

D23 *Impact of Below Ground (Sub-surface) Works – Non-Aboriginal Objects*

If any archaeological relics are uncovered during the course of the work in any stage of the project, then all works shall cease immediately in that area and the NSW Heritage Office contacted. Depending on the possible significance of the relics, an archaeological assessment and an excavation permit under the NSW *Heritage Act 1977* may be required before further works can continue in that area.

D24 *Impact of Below Ground (Sub-surface) Works – Aboriginal Objects*

In the event that future works during any stage of the project disturb Aboriginal cultural materials, works at or adjacent to the material must stop immediately. Temporary fencing must be erected around the site and the material must be identified by an independent and appropriately qualified archaeological consultant. The Department of Environment and Climate Change, the Relevant Local Aboriginal Land Council (LALC) and the relevant Aboriginal community must be informed. These groups will advise on the most appropriate course of action to follow. Works must not resume at the location without the prior written consent of the Department of Environment and Climate Change, the Relevant LALC and the relevant Aboriginal community.

PART E—PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

E1 *Part 4A Certificate*

Prior to the registration of final subdivision plan in the Office of the Registrar-General, a Part 4A certificate shall be obtained under section 109D(1)(d) of the *Environmental Planning and Assessment Act 1979* for each stage of the subdivision.

E2 *Compliance Certificate*

Prior to the application for a Subdivision Certificate for the subdivision a Compliance Certificate or Certificates shall be obtained from the PCA for the following:-

- a) Compliance Certificate - Roads
- b) Compliance Certificate - Water Reticulation

- c) Compliance Certificate - Sewerage Reticulation
- d) Compliance Certificate – Drainage

E3 Public Utilities Layout

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

Earthworks

E4 Retaining Walls

All retaining walls are to be certified by a suitably qualified geotechnical/structural engineer. The certification is to be submitted with the Subdivision Certificate application for each affected staged of the subdivision and shall state that the retaining walls have been designed and constructed in accordance with AS4678-2002 Earth Retaining Structures and are structurally sound.

E5 Geotechnical Report-Filling

The Applicant shall arrange for all fill to be placed in accordance with the standards specified in Table 5.1 of AS3798 1990 "Guidelines on Earthworks for Commercial and Residential Developments".

Prior to the issue of the Subdivision Certificate, the Applicant shall submit a report from a suitably experienced Geotechnical Testing Authority confirming that all filling complies with the above minimum standard. The inspection and testing shall be at the responsibility level set out below, as defined in Appendix B of AS 3798-1990.

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

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

E6 Site Classification for Lots

The Application shall arrange for a suitably experienced Geotechnical Consultant to determine the site classification of each proposed lot in accordance with AS 2870-1996. The site classifications shall be provided to Council prior to the issue of the Subdivision Certificate.

Remediation

E7 Verification of Remediation Works

Upon completion of the remediation works on the site, the Proponent shall submit a detailed Site Audit Summary Report and Site Audit Statement and Validation Report to the Certifying Authority. The site audit must be prepared in accordance with the Contaminated Land Management Act 1997 and completed by a site auditor accredited by the Environmental Protection Agency to issue site audit statements. The site audit must verify that the land is suitable for the proposed uses.

E8 *Repair Damaged Council Assets*

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.

E9 *No Parking Signs*

No Parking signs are to be provided along one side of all internal roads to ensure compliance with access requirements of *Planning for Bushfire Protection (2006)*.

E10 *Works as Executed Plan*

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.

E11 *Landscaping*

Correspondence shall be provided from a recognised Landscaping professional, that indicates that the landscaping works have been completed in accordance with the approved plan. All landscaping works shall be maintained for a period of twelve months.

The Applicant shall lodge a cash bond or Bank Guarantee with the Council for the sum of **\$50000**. The monies will be released 12 months after planting when Council is satisfied that the landscaping has established.

E12 *Dual Occupancy / Small Lot Housing*

The Applicant shall identify at least three lots within the subdivision layout that would be suitable for Dual Occupancy development (in accordance with Lake Macquarie Council LEP and DCP 1). A restrictive covenant shall be applied to the lots that restricts future development on the lots to Dual Occupancy development only.

Alternatively a number of lots may be consolidated to provide a "super" lot that is capable of containing at least six Small Lot Housing dwellings. A restrictive covenant shall be applied to limit the future development of the lot to Small Lot Housing only.

Council is to be party to release, vary or modify any restriction.

E13 *Registration of Easements / Restrictions to use / Right of carriageway*

- 1) The creation of easements for services, rights of carriageway and restrictions as to user are applicable under Section 88B of the *Conveyancing Act 1919*, including (but not limited to) the following:
 - a. Easements for sewer, water supply and drainage over all public services/infrastructure on private property.
 - b. Drainage Easements are to be placed over all subsurface drains and interallotment drainage, benefiting and burdening the property owners.
 - c. Easement for support must be created 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 six hundred (600)mm in height.

- 2) Any Section 88B Instrument creating restrictions as to user, rights of carriageway or easements which benefit Council shall contain a provision enabling such restrictions, easements or rights of way to be revoked, varied or modified only with the consent of Council.
- 3) In addition to the above certification, the following is to be included in a Section 88E Instrument to accompany the final plan of subdivision.
 - a. Restriction as to user on Lots 1, 2, 3, 4, 48, 57 & 58 requiring the provision and maintenance of an asset protection zone on each respective lot in accordance with the approved Plan of Subdivision prepared by de Witt Consulting, and section 4.1.3 and Appendix 5 of *Planning for Bushfire Protection 2006* and the NSW Rural Fire Service's document *Standards for asset protection zones*.
 - b. A covenant requiring that the land on Lot 3 to the north of the asset protection zone is to be managed in perpetuity by the owner of the lot for conservation and in accordance with the approved Vegetation Management Plan.
 - c. Any boundary fence constructed over the drainage easement between Lot 9 and Lot 2 DP244002 must not obstruct stormwater flows through the easement.
- 4) The restriction is to be clearly marked on the plan of subdivision and Council is to be nominated as the sole party to vary, modify and/or extinguish the restriction.

Services

E14 Utilities –Telephone and Electricity Services

The project is to be connected to all available services (water, electricity and telephone) prior to issue of the Subdivision Certificate. Such connections, and any extension of services required to the development, are to be carried out at full cost to the Proponent.

E15 Dedication of Internal Roads

All internal roads shall be constructed by the proponent and dedicated to Council as public roads prior to issue of a Subdivision Certificate. Upon dedication and at the end of the maintenance period Council will be responsible for the on-going maintenance of the roads.

E16 Dedication of Lot as Drainage Reserve

The Applicant shall dedicate Lot 63 to Council as drainage reserve at no cost to Council. The dedication shall take place at the time of registration of the Final Plan.

E17 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.

E18 Compliance Certificate for Works

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.

E19 Final Plan Submission

The Applicant shall submit an application for a Subdivision Certificate accompanied by the Final Plan of Subdivision, ten (10) copies, an A3 copy if filling of any lot has taken place and the location of all buildings and/or other permanent improvements indicated on one (1) full-size print. When all conditions of the Project Approval relating to this subdivision have been satisfactorily complied with the Subdivision Certificate will be issued.

Monetary Contributions

E20 Section 94 Contributions

1) Contribution To Provision Of Services (Sec. 94)

- (a) In accordance with the provisions of Section 94 of the Environmental Planning and Assessment Act 1979 and the Lake Macquarie Section 94 Contributions Plan No. 1 – City Wide (2004) as amended, the monetary contributions in the following table shall be paid to Council for the purposes identified in that Schedule.

(b)

Contribution Fee Schedule	
Description	Fee Amount
Citywide OSA Land	\$536,504.00
Citywide RF Capital Fee	\$340,266.00
Citywide CF West Lake Capital Fee	\$132,493.00
Citywide CF West Lake Land Fee	\$33,940.00
Citywide Management Fee	\$10,193.00
Total	\$1,053,396.00

- (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:
- 14 August,
 - 14 November,
 - 14 February, and
 - 14 May
- (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 release of the development consent or prior to issue of the first Certificate of Occupancy, whichever occurs first.

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

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

2) Contribution To Provision Of Services (Sec. 94) - Traffic Signals

- (a) In accordance with the provisions of Section 94B(2) of the Environmental Planning and Assessment Act 1979, a monetary contribution of the lesser of \$35,910 or 13.3% of the actual construction cost to upgrade the intersection of Fishery Point Road and Station Street for traffic signals. The construction costs shall include, but not be limited to, signals, and associated road works, kerb and guttering, signage, linemarking, and drainage.
- (b) The contributions shall be paid to Council as follows:
 - Development applications involving subdivision – prior to the release of the Subdivision Certificate.

ADVISORY NOTES

AN1 Requirements of Public Authorities for Connection to Services

The Proponent shall comply with the requirements of any public authorities (e.g. Energy Australia, Telstra Australia, AGL, etc) in regard to the connection to, relocation and/or adjustment of the services affected by the construction of the proposed structure. Any costs in the relocation, adjustment or support of services shall be the responsibility of the Proponent. Details of compliance with the requirements of any relevant public authorities are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

AN2 Bushfire Protection Requirements

New construction shall comply with Australian Standard AS3959-1999 '*Construction of buildings in bush-fire prone areas*'.

AN3 Mine Subsidence Board

On registration of the final subdivision plan the Mine Subsidence Board is to be notified of lot numbers and the registered DP number.

Approval of the Mine Subsidence Board is required for the erection of all improvements.

As a guide to persons intending to erect improvements on this property, the Board has adopted the following surface guidelines subject to them being erected on reinforced concrete footings and/or slabs to comply with AS 2870. The following improvements are limited to a maximum length of 30 metres.

- 1) Single or two storey timber or steel framed improvements clad with weatherboards or similar materials;
- 2) Single or two storey brick veneer improvements;
- 3) Full masonry and other types of improvements will be considered for this property under the Board's 'Graduated Guidelines for Residential Construction'. The improvements will be subject to length restriction and may require engineering design. Details of the requirements may be obtained from the Board's technical staff.

Architectural plans submitted to the Mine Subsidence Board for approval must show the location and detailing of articulation/control joints in brickwork to comply with the requirements of the Building Code of Australia and best building practices.

AN4 Compliance with Building Code of Australia

The Proponent is advised to consult with the Certifying Authority about any modifications needed to comply with the BCA prior to submitting the application for a Construction Certificate.

AN5 Structural Capability for Existing Structures

The structural capabilities of any existing structure will need to meet the requirements of the BCA and may require engaging a structural engineer.

AN6 Use of Mobile Cranes

The Proponent shall obtain all necessary permits required for the use of mobile cranes on or surrounding the site, prior to the commencement of works. In particular, the following matters shall be complied with to the satisfaction of the PCA:

- (1) For special operations including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on site tower cranes which warrant the on street use of mobile cranes, permits must be obtained from Council:
 - (a) at least 48 hours prior to the works for partial road closures which, in the opinion of Council will create minimal traffic disruptions, and
 - (b) at least 4 weeks prior to the works for full road closures and partial road closures which, in the opinion of Council, will create significant traffic disruptions.
- (2) The use of mobile cranes must comply with the approved hours of construction and shall not be delivered to the site prior to 7.30am without the prior approval of Council.

AN7 Stormwater drainage works or effluent systems

A Construction Certificate for works that involve any of the following:

- (1) water supply, sewerage and stormwater drainage work (including connection of a private stormwater drain to a public stormwater drain, installation of stormwater quality control devices or erosion and sediment control works); and,
- (2) management of waste.

as defined by Section 68 of the Local Government Act, 1993 will not be issued until prior separate approval to do so has been granted by Council under Section 68 of that Act. Applications for these works must be submitted on Council's standard Section 68 application form accompanied by the required attachments and the prescribed fees.

AN8 Temporary Structures

An approval under Section 68 of the *Local Government Act 1993* must be obtained from the Council for the erection of the temporary structures. The application must be supported by a report detailing compliance with the provisions of the Building Code of Australia.

Structural certification from an appropriately qualified practicing structural engineer must be submitted to the Council with the application under Section 68 of the *Local Government Act 1993* to certify the structural adequacy of the design of the temporary structures.

AN9 Disability Discrimination Act

This application has been assessed in accordance with the *Environmental Planning and Assessment Act 1979*. No guarantee is given that the proposal complies with the *Disability Discrimination Act 1992*. The Proponent/owner is responsible to ensure compliance with this and other anti-discrimination legislation. The *Disability Discrimination Act 1992* covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references AS 1428.1 - Design for Access and Mobility. AS1428 Parts 2, 3 & 4 provides the most comprehensive technical guidance under the *Disability Discrimination Act 1992* currently available in Australia.

AN10 Commonwealth Environment Protection and Biodiversity Conservation Act 1999

The Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* provides that a person must not take an action which has, will have, or is likely to have a significant impact on a matter of national environmental significance (NES) matter; or Commonwealth land, without an approval from the Commonwealth Environment Minister.

This application has been assessed in accordance with the New South Wales *Environmental Planning & Assessment Act, 1979*. The determination of this assessment has not involved

any assessment of the application of the Commonwealth legislation. It is the Proponent's responsibility to consult Environment Australia to determine the need or otherwise for Commonwealth approval and you should not construe this grant of approval as notification to you that the Commonwealth Act does not have application. The Commonwealth Act may have application and you should obtain advice about this matter. There are severe penalties for non-compliance with the Commonwealth legislation.

SCHEDULE 3

08_0014

62 LOT RESIDENTIAL SUBDIVISION

LOT 9 DP 244002 AND LOT 358 DP 755242

MORISSET PARK ROAD AND CHIFLEY ROAD, MORISSET PARK

STATEMENT OF COMMITMENTS

(SOURCE: PREFERRED PROJECT REPORT)