

# **[CONSOLIDATED CONDITIONS]**

## **ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979**

### **DETERMINATION OF MAJOR PROJECT NO. 10-0204**

**(FILE NO. 10/0204)**

The Planning Assessment Commission, having considered the matters in section 75J(2) of the *Environmental Planning & Assessment Act 1979* (the Act), determine pursuant to section 75J(1) of the Act to **grant approval** to the major project referred to in the attached Schedule 1 subject to the conditions of approval in Schedule 2 and Statement of Commitments in Schedule 3.

This approval applies to the plans, drawings and documents cited by the Proponent in their Environmental Assessment, Preferred Project Report and Statement of Commitments, subject to the conditions of approval in Schedule 2.

The reasons for the imposition of conditions are:

- (1) To adequately mitigate the environmental and construction impacts of the development;
- (2) To reasonably protect the amenity of the local area; and
- (3) To protect the public interest.

**Member of the Commission**

**Member of the Commission**

**Member of the Commission**

Sydney, 13 May 2011

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## SCHEDULE 1

### PART A — TABLE

<b>Application made by:</b>	Coastal Hamlets Pty Ltd
<b>Application made to:</b>	Minister for Planning
<b>Major Project Number:</b>	10- 0204
<b>On land comprising:</b>	Lot 100, 101,102, 103 and 106 DP 112872, Lot 1 DP 1141989, Lot 1, DP 1129299 and Lot 1, DP 1151628.
<b>Local Government Area</b>	Lake Macquarie
<b>For the carrying out of:</b>	Subdivision of land to create up to <b>548</b> residential lots, 1 retail lot, <b>1 infrastructure parcel-comprising 3 lots</b> , 2 heritage lots, <b>9</b> reserves, bulk earthworks and infrastructure
<b>Capital Investment Value</b>	\$54.8M.
<b>Type of development:</b>	Project approval under Part 3A of the EP&A Act
<b>Determination made on:</b>	13 May 2011
<b>Determination:</b>	Project approval is granted subject to the conditions in the attached Schedule 2.
<b>Date of commencement of approval:</b>	This approval commences on the date of the Planning Assessment Commission's approval.
<b>Date approval is liable to lapse</b>	<b>On or before 1 October 2016 unless the works associated with the subdivision (including remediation) are physically commenced.</b>

### PART B — DEFINITIONS

In this approval the following definitions apply:

**Act** means the *Environmental Planning and Assessment Act, 1979* (as amended).

**Environmental Assessment** means the document titled *Environmental Assessment Report – Catherine Hill Bay - Bulk Earthworks, Infrastructure and Staged Subdivision for Residential Development*, including all appendices, prepared by ADW Johnson Pty Ltd

**BCA** means the Building Code of Australia.

**Council** means Lake Macquarie City Council.

**Certifying Authority** has the same meaning as in Part 4A of the Act.

**Department** means the Department of Planning and Infrastructure or its successors.

**Director** means the Director of the Strategic Assessment Branch (or its successors) of the Department of Planning and Infrastructure.

**Director General** means the Director General of the Department of Planning and Infrastructure.

**Executive Director** means the Executive Director of the Urban Renewal and Major Sites Division (or equivalent) within the Department of Planning and Infrastructure.

**Major Project No. 10\_0204** means the project described in Condition A1, Part A, Schedule 2 and the accompanying plans and documentation described in Condition A2, Part A, Schedule 2.

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**Minister** means the Minister for Planning and Infrastructure.

**PCA** means a Principal Certifying Authority and has the same meaning as in Part 4A of the Act

**Project** means development that is declared under Section 75B of the Act to be a project to which Part 3A of the Act applies.

**PPR and Preferred Project Report** means the document titled *Preferred Project Report MP 10/0204 prepared by ADW Johnson Pty Limited*

**Proponent** means the person proposing the carry out of development comprising all or any part of the project, and includes persons certified by the Minister to be the proponent.

**Regulation** means the *Environmental Planning and Assessment Regulations, 2000* (as amended).

**Statement of Commitments** means the final Statement of Commitments submitted to the Department of Planning as part of the Preferred Project Report for this project.

**Subject Site** has the same meaning as the land identified in Part A of this schedule.

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## SCHEDULE 2

### CONDITIONS OF APPROVAL

#### MAJOR PROJECT APPLICATION NO. MP 10\_0204

#### PART A – ADMINISTRATIVE CONDITIONS

##### **A1 Development Description**

Project Approval is granted for the following works:

- Subdivision of the site into up to 548 residential lots, 1 retail lot, 1 infrastructure parcel comprising 3 lots, 9 lots for reserves, and including 2 heritage lots;
- Associated bulk earthworks;
- Infrastructure works including roads, drainage works and utility services provision;
- Landscaping works;
- **Subdivision of the Wallarah House precinct into two lots – Wallarah House (proposed Lot 101) and Jetty Master's Cottage (proposed Lot 102).**

##### **A2 Development in Accordance with Plans and Documentation**

The development shall be in accordance with the following plans, documentation and recommendations made therein:

*Environmental Assessment Report – Catherine Hill Bay - Bulk Earthworks, Infrastructure and Staged Subdivision for Residential Development, including Appendices A-O, prepared by ADW Johnson Pty Ltd and as amended by:*

- *Preferred Project Report MP 10/0204 prepared by ADJ Johnson Pty Ltd, including Appendices A-M;*
- *The Statement of Commitments;*
- *The conditions of this approval, and in particular condition A7 and the amended subdivision plan;*
- ***The amended boundaries in the two plans titled “Plans of Stage 1 and 1b and Plan of Stage 2 Comparison of Revised Road Layout” in the report prepared by ADW Johnson Pty Ltd dated October 2012, accompanying the Mod 1 Application; and***
- ***The revised subdivision plan titled ‘Plan of Subdivision, Plans 1 to 13, prepared by ADW Johnson dated 16 June 2014, accompanying MOD 2 Application.***
- *The amended boundaries as shown in Comparison plans no. 11688-SUB-002-AW-C3D and the Staging and subdivision plan no. 1688-SUB-002-AW-C3D in the report prepared by ADW Johnson dated October 2014 accompanying the Mod 4 application.*
- ***The revised subdivision, staging and comparison plans all numbered 11688-SUB-002- BC-C3D dated 14/11/2017 in the Response to Submissions report prepared by ADW Johnson dated December 2017 accompanying the Mod 6 application.***
- ***The revised subdivision, staging and comparison plans, including Sheets 1 to 17 numbered 11688 version BF 28 August 2019 in Appendix 1 of the Modification report prepared by ADW Johnson dated 20 September 2019, accompanying the Mod 7 application.***

##### **A3 Inconsistency between plans and documentation**

In the event of any inconsistency between conditions of this project approval and the plans and documentation referred to above, the conditions of this project approval prevail.

##### **A4 Lapsing of Approval**

The project approval will lapse 5 years after the approval date in Part A of Schedule 1 of this project approval unless specified action has been taken in accordance with Section 75Y of the Act.

#### **A5 Compliance with Relevant Legislation and Australian Standards**

The proponent shall comply with all relevant Australian Standards and Codes (including Building Code of Australia) and obtain all necessary approvals required by State and Commonwealth legislation in undertaking the project described in Condition A1, Part A, Schedule 2 of this approval.

#### **A6 Development Control Plan**

The development control plan at Appendix F of the PPR is not approved.

#### **A7 Amendments to Subdivision Plan**

The subdivision plan is to be amended prior to the issue of a Construction Certificate for subdivision infrastructure to the satisfaction of the Planning Assessment Commission as follows:

- (a) **The plan of subdivision of the Wallarah House Precinct is to provide for no more than two lots, generally in accordance with proposed Lot 101 and Lot 102 shown on Plan of Subdivision Ref 11688, Sheet 2 of 13, Version AB (06/08/2012) as revised on 19/09/2012 and be also subject to any re-aligned boundary of Hale Street.**
- (b) the green ridgeline and visual backdrop to the existing Catherine Hill Bay Village is to be protected by provision of Montefiore Parkway as a public road with a width of 50m (comprising a central road reservation of 22m with 15m wide landscape buffer either side) for the entire length of Montefiore Street from the western boundary of the development site through to the intersection with the realigned Hale Street in the east. The entire 50m road reserve which is to form the "Green Ridge" on Montefiore Street is to be within public areas of the site (i.e. not within private properties).
- (c) A 6m wide perimeter road is to be included within the development area surrounding the allotments in Stages 6 and 7 to provide an appropriate asset protection zone and interface with the adjacent Conservation Area, **with the exception of lots 6020, 6021 and 6022 within Stage 6.**
- (d) Road 20 (perimeter road to Stages 2, 4 and 5) is to be widened to a carriageway width of 8m comprising one trafficable lane in each direction and parking lane. The parking lane shall be located on the southern side of the road within an informal verge on the southern side. A second direct access from Montefiore Street to Road 20 shall be provided via either Road 3 or Road 4 or Road 10. Landscaped areas must be provided within the parking lane of Road 20 at regular intervals with a minimum space of 50m.
- (e) **Road 23 (previously known as Road 20) is to be extended to Lot 1096 (previously known as Lot 1039). Road 23 is to have carriageway width of a minimum of 4m with a 10.5m width road reserve to ensure appropriate bushfire protection for allotments in this area.**
- (f) Proposed Lot 1006 and Lot 1005 are to be deleted and incorporated into the adjacent Village Park with appropriate landscaping.
- (g) Proposed Lots 1001 to 1004 are to be consolidated into one allotment for the proposed retail precinct and to provide off street car parking for the retail precinct and Village Park. Any future project application for the retail development shall demonstrate appropriate frontage to Montefiore Street, Hale Street and the village park and incorporate appropriate car parking for the retail and park uses.
- (h) There must be no direct vehicular access from any residential lots onto Montefiore Street.
- (i) Allotments fronting the designated "green link" roads (north south running sections of Roads 2, 10 and 11) are to be provided with share access point.

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- (j) Stage 3 of the development is to be redesigned to provide for a coastal reserve including the coastal walk. The reserve must be 40m from the cliff line south of the Bin Building and 25m from the cliff line north of the Bin Building. The cliff line is defined as the line that represents the point where the land at the cliff edge has a slope of 20%. Private property must not encroach onto the reserve.

As part of the redesign of Stage 3 (refer (j) above) consideration is to be given to minimisation of cut and fill to retain as many existing trees as possible and to minimise the visibility of the area when viewed from the north. Evidence of this analysis is to be provided prior to referral to the Commission for consideration.

- (k) Road 20 and lots in the vicinity of the SEPP 14 wetland are to be amended to provide for a primary riparian buffer of not less than 50m at any point to the “ground truthed” SEPP 14 wetland boundary as mapped in Figure 3.5 of the Ecological Assessment Report (RPS, September 2010) to development lands.
- (l) Following inclusion of perimeter roads as required above, Asset Protection Zones and requirements for dwelling construction are to comply with AS3959-2009 and be to the satisfaction of the Rural Fire Service. Evidence of the RFS agreement to the proposal should be obtained prior to referral to the Commission for consideration.

#### **A8 Restoration or adaptive reuse of heritage items**

No approval is granted for the restoration or adaptive reuse of any heritage items on site. These works will require a separate approval under Clause 22 of Part 14 of Schedule 3 to the Major Development SEPP.

#### **A9 Bin Building**

An assessment must be made of the public risk posed by the Bin Building before the Coastal Walkway is constructed and public access must be prevented to any areas of the building that are unsafe.

#### **A10 Mediation**

Where this approval requires further consent from Council or another Authority, the parties shall not act unreasonably preventing an agreement from being reached. In the event that an agreement is unable to be reached within 2 months or a timeframe otherwise agreed to by the Director General, the matter is to be referred to the Director General for resolution. All areas of disagreement and the position of each part are to be clearly stated to facilitate a resolution.

#### **A11 Placement of Electrical Kiosks**

The placement of electrical substation kiosks and the extension of lots into any adjacent ‘green link’ corridor is not permitted.

#### **A12 Sewage Treatment Plant**

This approval does not include approval to construct or operate a sewage treatment plant. The proponent must separately obtain any relevant approvals and licenses to construct and operate a sewage treatment plant on the site.

### **PART B—PRIOR TO COMMENCEMENT OF WORKS**

#### **B1 Coastal Walkway Design**

- (1) Detailed engineering plans of the Coastal Walkway are to be approved by Council prior to the issue of the Construction Certificate for those works. These plans are to illustrate that the Coastal Walkway has been designed and will be constructed to:

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- Ensure the safety of members of the public; and
- Take account of coastal processes and coastal hazards and potential impacts, including sea level rise.

**B2 Certificates/Engineering Details - General**

- (1) A Construction Certificate is to be issued by the Principal Certifying Authority prior to commencement of any works. The application for this Certificate is to satisfy all of the requirements of the Environmental Planning and Assessment Regulation 2000.
- (2) An application for a Subdivision Construction Certificate or for approval of designs for civil engineering works is to be submitted to Council where Council is nominated as the Principal Certifying Authority or where approvals are required from Council as the Roads or Water Supply Authority.
- (3) **Prior to the issue of a Construction Certificate for the relevant subdivision infrastructure, the applicant must apply under Section 305 of the *Water Management Act 2000* to the appropriate Water Supply Authority for any works and contributions required for the obtaining of a Section 307 Certificate of Compliance. (Note for a single dwelling the payment of the required plumbing and drainage inspection fees satisfies the requirements of the *Water Management Act 2000*).**
- (4) Prior to the issue of a Construction Certificate for roads, the proponent is to enter into a deed of agreement with the Roads and Traffic Authority for the intersection upgrade works to the intersection of Montefiore Street and the Pacific Highway.

**B3 Construction Management Plan**

- (1) Prior to the issue of a Construction Certificate for any works, a Construction Management Plan shall be submitted to and approved by the Certifying Authority. The Plan shall include, but not be limited to, the following:
  - (a) hours of work;
  - (b) contact details of site manager;
  - (c) written notice to the PCA and Council prior to commencement of works on site;
  - (d) induction procedures for all site workers on measures to protect Aboriginal heritage and native flora and fauna, particularly endangered ecological communities (EEC)
  - (e) integration of the following management plans:
    - construction traffic and management ,
    - noise and vibration management;
    - construction waste management; and
    - erosion and sediment control.
- (2) The Construction Management Plan shall document the proposed method of work within the construction site boundaries with regard to the health and safety of the public and affect on the road reserve must be submitted to and approved by the Certifying Authority prior to the issue of the civil construction certificates. If any part of the road reserve or public land is proposed for long term (exceeding 24 hours) inclusion in the construction site boundaries this area must be identified in the Construction Management Plan and to the approval of Council.
- (3) The Proponent shall submit a copy of the approved plan to the Department and Council if Council is not the Certifying Authority.

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#### **B4 Construction Traffic and Management Plan**

- (1) Prior to the issue of a Construction Certificate, a Construction Traffic Management Plan (CTMP) prepared by a suitably qualified person shall be submitted to and approved by the Certifying Authority. The Plan shall address, but not be limited to, the following matters:
  - (a) proposals for reducing any impact of the construction site on the adjacent traffic network,
  - (b) construction staging plan indicating the estimated start and finishing date of each stage,
  - (c) traffic management of short term activities such as delivery of materials,
  - (d) accessing, exiting and parking in and near the work site by trucks, tradesmen work vehicles and the like,
  - (e) mitigation measures to ensure that delivery trucks and trade vehicles do not deposit any spoil on public roadways,
  - (f) loading and unloading, including construction zones,
  - (g) predicted traffic volumes, including traffic volumes generated from the neighbouring public school, during the peak traffic times before and after school hours, types and routes,
  - (h) pedestrian and traffic management methods, and
  - (i) Public consultation procedures – procedures to be put in place for notification of adjoining residents of the relevant details of the CTMP and details of complaint handling procedures.
- (2) The Proponent shall submit a copy of the approved plan to Council, if Council is not the Certifying Authority.

#### **B5 Construction Waste Management**

- (1) **Prior to the issue of any Construction Certificate which involves works that create waste, the proponent shall submit a Waste Management Plan prepared by a suitably qualified person in accordance with Council's Development Control Plan 2005 for Council's or an accredited certifier's approval. An on site storage area for reuse, recycling and disposal of materials is to be provided during construction.**
- (2) During construction, building materials must be re-used, recycled or disposed of in accordance with the Waste Management Plan.

#### **B6 Erosion and Sediment Control Plan**

- (1) Prior to the issue of a Construction Certificate for any works, the submission to the Certifying Authority of design plans for the control of soil erosion on the site and the prevention of silt discharge into drainage systems and waterways in accordance with Lake Macquarie Council's Development Control Plan No 1 Volume 2 – Engineering Guidelines, in particular Part 1 Design Specification D7 Erosion Control and Stormwater Management is required. Details are to include all major stages of construction and sequences of the works together with treatments necessary at these stages. The design plans must be approved by the Certifying Authority prior to issue of the Construction Certificate. The plans are to include nutrient and sediment control measures to mitigate runoff affecting the SEPP 14 wetlands.
- (2) Nutrient and sediment control devices should be erected pre-clearing and post-construction works in sensitive areas where degradation processes may be triggered such as areas adjacent to watercourses until suitable rehabilitation has occurred to maintain surface integrity. Furthermore, stockpiles should be subject to individual sediment and nutrient control devices.
- (3) **A Soil and Water Management Plan is to be prepared for each stage of construction that details how impacts upon the downstream environment, as a result of mobilised sediment and erosion will be managed. These documents are to be prepared in consultation with Council.**

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## **B7 Environmental Management Plan**

Prior to commencement of work, the proponent is to submit an environmental management plan to the Department for approval. The plan is to integrate the following management plans to ensure their implementation will complement each other and maximise the environmental outcomes of their performance.

- a. storm water management;
- b. water quality management
- c. flora and fauna management;
- d. habitat restoration; and
- e. riparian zone management.

## **B8 Stormwater Management**

- (1) The stormwater system for the subdivision is to be provided in accordance with *Stormwater Management & Concept Engineering Report for Proposed Residential Subdivision at Montefiore Street, Catherine Hill Bay* prepared by ADW Johnson December 2010 (Reference 11688SWV1). Design plans must be submitted to and approved by the Council prior to issue of a Construction Certificate.
- (2) If wetlands are to be constructed for stormwater management purposes, they shall be designed by an appropriately qualified person and generally in accordance with the *Constructed Wetlands Manual (DLWC 1998)*.
- (3) A Wetland Management Plan must be submitted to the Council for approval prior to issue of the Construction Certificate for wetlands. Details to include operational, access and maintenance requirements and are to be included on the approved Construction Certificate plans.
- (4) A Stormwater Maintenance and Monitoring Strategy should be developed to demonstrate the effectiveness of the proposed stormwater treatments, particularly for those treatments which drain to the SEPP 14 wetland. This should include:
  - (a) Monitoring of water quality (total phosphorus, total nitrogen, total suspended solids and gross pollutants) downstream of the stormwater treatments during and after storm events; and
  - (b) A plan scheduling maintenance of stormwater infrastructure detailing required maintenance works and responsible parties for undertaken the maintenance works.
- (5) A consolidated Stormwater Management Strategy is to be prepared for all stages of the development and include drainage and detention requirements for all stages. The plan should include the addendum as provided as part of the MP10\_0204 MOD 4 request and clearly outline how stormwater is to be contained within the site prior to discharge and that any discharges will be in accordance with OEH and Council treatment targets. **This includes discharges from Stage 7 to the adjoining land owned by National Parks and Wildlife Service.** This is to be provided to the Department following detailed design of all stages.

## **B9 Water Quality Management Strategy**

- (1) An appropriately qualified person shall prepare a Water Quality Management Strategy detailing monitoring methods for surface and groundwater quality. The strategy is to be approved by Council and shall include a plan scheduling maintenance of the detention basin, detailing the type of maintenance that is required and the body that is responsible to undertake the activity.
- (2) Water quality is to meet Council's baseline environmental target objectives.
- (3) Water quality monitoring is to be carried out throughout the length of the project and for a period of 12 months after the release of the final subdivision of this approval. Details are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate for each stage.

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- (4) Water quality testing is to be carried out under sub clause (3) immediately after each storm event and significant phase of construction, or at 3 monthly intervals.
- (5) Copies of the monitoring results are to be forwarded to Council on a quarterly basis.
- (6) If the water quality does not comply with the target levels, works are to be carried out to ensure compliance with the levels.

**B10 Flora and Fauna Management**

- (2) A management plan is to be prepared for the removal of *Cryptostylis hunteriana* within the Catherine Hill Bay Development Lands Stage 6 in accordance with the EPBC Approval.
- (3) A weed management and monitoring plan is to be developed and implemented to minimise the potential for the invasion of aquatic and terrestrial weed species into the SEPP 14 wetland and buffer zones. The weed management and monitoring plan should be consistent with management strategies undertaken for the adjacent Munmorah SCA and Offset Lands and is to be undertaken by the proponent across the site until 80% of all lots have been developed.
- (4) Prior to the issue of a Construction Certificate, a Flora and Fauna Environmental Management Plan (FFEMP) for the Site shall be prepared by a suitably qualified and experienced ecologist and submitted to and approved by the Council. The Plan shall address, but not be limited to, the recommendations in the Ecological Assessment report prepared by RPS, and include the following:
  - (a) A tree retention plan is to be prepared identifying the mature and/or hollow-bearing trees to be retained, including those identified in the Ecological Assessment Report by RPS report, where viable. The plan is also to show tree retention where possible to retain areas for shade on the site. The plan is to reference the bulk earthworks plan to demonstrate consistency,
  - (b) Pre-clearance surveys are to be conducted within the development areas before construction commences in order to identify any breeding or nesting activities by native fauna within wooded areas. No breeding attempts or active nests should be disrupted as far as is practical during the course of the project,
  - (c) During the construction/vegetation removal phase, for any tree removal within forested areas, and in particular where hollow-bearing trees may be removed, all works should be supervised by an ecologist to recover any native fauna that are potentially displaced. Furthermore, where such risks occur, site-specific ecological advice should be sought to minimise impacts during the entire process. A clearing protocol should be adopted for the removal of trees containing suitable habitat hollows as follows (this is considered as a guideline, variations on the methods employed may be required to accommodate site specific factors),
  - (d) All hollow bearing trees are to be flagged by an ecologist prior to the commencement of works on site,
  - (e) Trees and native vegetation proposed for retention are to be clearly identified on all the final approved engineering plans. The location of any threatened species or threatened communities is also to be marked on all plans,
  - (f) Underscrubbing of the entire site should be carried out by a 4x4 tractor with a slashing deck, this will minimise the establishment of degradation processes and leave a layer of mulch to aid in soil retention in the event of adverse weather. At this time felling of non habitat trees can take place, however a matrix of trees must be maintained to allow animal movement into the designated refuge area, and
  - (g) After a period of two weeks, clearing of habitat trees should commence. Clearing must be carried out moving from the fringe of the matrix towards the refuge area. Trees should be 'soft felled' and

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inspected immediately by an ecologist for displaced fauna. All trees must be left for a minimum of two nights prior to being moved to a stockpile, to allow resident fauna to vacate tree hollows.

- (5) Clearing should take place outside of the main breeding seasons of resident fauna, preferably during late autumn and winter.
- (6) Species selection for future landscaping works and seed stock for revegetation should be limited to locally occurring native species to maintain local genetic diversity. This should include *Eucalyptus robusta* and other regionally significant species.
- (7) Earthworks should be undertaken during appropriate (i.e. dry) weather conditions to ensure that any potential erosion events are intercepted and that no downstream impacts occur within any of the drainage lines.
- (8) Management of exotic weeds and pests during the construction including infection by *Phytophthora cinnomoni*, exotic perennial grasses, Bitou, Boneseed, Lantana, exotic vines and scramblers.
- (9) Appropriate methods of disposing of timber, tree waste and other vegetative matter removed through the development activity. Millable timber is to be recycled for use in construction, furniture or fencing or similar or through local saw mills or sawyers. Other tree waste must be woodchip or tub ground or used for firewood. Tree stumps that cannot be reasonably tub ground may be disposed of to a Council approved site.

Unless otherwise approved the resultant materials must be used in final landscape works for soil stabilisation, improvements and rehabilitation. It is not permitted to dispose of vegetated matter removed through development activity by burning and the NSW Rural Fire Services is unable to provide a permit to dispose of such material in this manner.

- (10) Strict management of stormwater runoff into the planning, construction and occupation phases to minimise potential impacts on EECs, known Wallum Froglet habitat and other threatened species.
- (11) Riparian vegetation, and sediment and water management strategies to mitigate the impact on the Wallum Froglet, Regent Honeyeater and Swift Parrot, which are threatened species.
- (12) Where possible, landscape sediment retention ponds with fringing wetland vegetation (eg *Typha* sp.) to provide habitat for species such as Green and Golden Bell Frog.
- (13) **Minor clearing and vegetation management may be carried out at any time subject to the following:**
  - **Minimal ground disturbance,**
  - **No removal of hollow bearing trees, EEC's or riparian vegetation,**
  - **No works within 20 metres of the adjoining conservation lands,**
  - **Disposal of waste in accordance with Condition B5,**
  - **No native trees over 3 metres in height can be removed unless the removal is in accordance with RFS requirements,**
  - **Non-weed propagating trees and shrubs which are felled shall be salvaged for re-use, either in branch form or as woodchip for erosion control and/or site rehabilitation, and**
  - **Notification of Council, including plans indicating the location and extent of the works, at least 2 weeks prior to commencement of any such works.**

#### **B11 SEPP 14 Wetlands**

- (1) The impact of the proposed development on the SEPP 14 wetland, EECs and habitat of threatened species (as identified in the Ecological Assessment Report) must be minimised during the construction and occupation phases. A suitably qualified wetland engineer and ecologist must be engaged to provide advice to ensure that this is achieved.
- (2) All scour protection required on adjoining lands will be the responsibility of the Proponent. Prior to undertaking these works, the Proponent is to consult with OEH and those landowners of land on which works are to occur.

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- (3) During construction, any impacts upon the Munmorah State Conservation Area or SEPP 14 wetlands as identified within the Ecological Assessment Report and attributable to runoff flows from the project, will be the responsibility of the Proponent to rectify.

## **B12 Habitat Restoration Plan**

- (1) A Habitat Restoration Plan (HRP) for the proposed habitat protection areas and buffers to the development. The HRP is to be prepared by a suitably qualified and experienced ecologist and submitted to and approved by Council. The HRP will integrate with the required Landscape Plan and Sediment and Erosion Control Plans. In preparing the HRP the applicant is to have due regard to the following specific and required components of the HRP:
- (a) A suitably qualified and experienced professional bush regeneration contractor is to be engaged to carry out any revegetation planting, restoration and maintenance weed control specified in the Habitat Restoration Plan, and
  - (b) The minimum qualifications and experience required for the bush regeneration contractor are a TAFE Certificate 2 in Bushland Regeneration and two years demonstrated experience (for site supervisor) and a TAFE Certificate 2 in Bushland Regeneration and one year demonstrated experience (for other personnel). In addition the site supervisor is to be eligible for full professional membership of the Australian Association of Bush Regenerators (AABR).
  - (c) The mulch/tubgrindings generated from the removal and thinning of native trees associated with the development is/are to be re-used in restoring the habitat protection areas as required.
  - (d) Any natural hollows removed by the development are to be placed wherever possible as ground hollows within retained bushland under the supervision of the consulting ecologist.
  - (e) Restoration areas are to be maintained for a minimum of three (3) years. Reports are to be submitted to Council detailing the progress of the bush regeneration works twice per year, with a final report certifying the completion of the works at the end of the three year period.
  - (f) Any plant stock used in revegetation (if required) will be supplied from provenance specific seed/material collected from within the Tuggerah Lakes catchment area. Non-provenance specific material is prohibited.
- (2) A Wildlife Management Strategy (WMS) shall be prepared by a suitably qualified and experienced ecologist and submitted to and approved by the Council. The WMS is to show how mitigation against native animal welfare issues will be achieved. The WMS is to include the following protocols:
- (a) The consultant ecologist is to identify fauna likely to occur on site and advise on management actions to mitigate any native animal welfare issues,
  - (b) The consultant ecologist is to clearly mark each potential habitat tree required to be removed,
  - (c) The consultant ecologist is to inspect all potential habitat trees prior to removal and identify evidence of fauna use. All clearing of habitat trees is to be done under the direct supervision of a consulting ecologist and/or Office of Environment and Heritage licensed wildlife carer. When fauna are present, the animals are to be removed and relocated to the adjacent bushland/nest boxes prior to felling or the tree shall be sectionally dismantled under the supervision of the ecologist or wildlife carer before relocating animals to the adjacent bushland/nest boxes,
  - (d) Clearing will commence with the most distant vegetation from secure habitat and progressively work toward the retained bushland in order to allow fauna to disperse,
  - (e) Trees should be slowly lowered or sectionally dismantled using an excavator or similar technique,
  - (f) Any natural hollows removed by the development are to be placed wherever possible as ground hollows within retained bushland under the supervision of the consulting ecologist, and
  - (g) Nest boxes are to be provided on a one for one basis for any natural hollow removed by the development and are to be constructed of appropriate durable materials. All nest boxes are to be

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erected **prior to commencement of works** and at least one month prior to vegetation clearance on the site. The monitoring of nest boxes to determine their usage and to carry out repairs or replacement (as required) every six (6) months for a minimum period of three (3) years following erection. Monitoring reports are to be forwarded to Council after each monitoring event.

#### **B13 Riparian Zone Management**

(1) A Riparian Zone Management Plan shall be prepared to the satisfaction of NSW Office of Water (or its successors) for the stream forming the drainage corridor between Stages 6 and 7, and for the "Village Park". The plan should include:

- (a) Detailed design of the stormwater treatments, demonstrating consistency with the NSW Office of Water guidelines for controlled activities,
- (b) A riparian zone assessment and rehabilitation plan for the watercourses; and
- (c) Management responsibility and requirement details.

(2) All stormwater and water quality management infrastructure must be designed in accordance with NSW Office of Water *Guidelines for Riparian Corridors on Waterfront Land and Guidelines for Outlet Structures on Waterfront Land*, and in consultation with the NSW Office of Water.

#### **B14 Landscaping Plans**

(1) Prior to the issue of a Construction Certificate for subdivision infrastructure works, a Landscape Master Plan, Landscape Design Report and Landscape Construction Plan and Specifications are to be prepared by a qualified landscape architect in accordance with the requirements of Section 2.7.2 of the Lake Macquarie Development Control Plan No 1. The **Landscape Master Plan, Landscape Design Report, shall be submitted to and approved by Council, following which the Landscape Construction Plan and Specifications may be certified by the Council or an accredited certifier as complying**. The Plan is to include, but is not limited to the following:

- (a) Details of street planting with appropriate locally endemic species;
- (b) Tree planting and embellishments in the parks including picnic tables, bbqs, play equipment and bicycle racks to encourage community interaction.
- (c) Seating should also be provided along pathways in the road reserve.
- (d) Details on weed control;
- (e) A management plan detailing on-going maintenance requirements to ensure the care and maintenance of the landscaping and revegetated areas;
- (f) Management of stormwater runoff to minimise impact on vegetated areas; and
- (g) The location of Water Sensitive Urban Design devices and integrate with other public domain treatments.

(2) A Landscape Construction Plan/Specifications should be provided for each stage of the development and provide details on all landscaping to be undertaken within roads, public domain, public reserves, pedestrian links etc.

(3) Separate landscape plans are to be provided for the Coastal Walkway and Reserve, public reserves, and treatment of the landscaped buffers to the Green Link Roads (north south running sections of Roads 2, 10 and 11) and Montefiore Parkway.

#### **B15 Filling and Haulage**

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The final earthworks plan shall be submitted to the Department for approval prior to the issue of a Construction Certificate and shall be generally in accordance with the bulk earthworks plan (Drawing 11688-5001 Revision D prepared by ADW Johnson and dated February 2011) and the detailed geotechnical methodology and remedial strategies. Any significant variations would require a Section 75W modification.

#### **B16 Geotechnical Investigations / Earthworks**

Prior to the commencement of earthworks a detailed geotechnical methodology and remedial strategies are to be prepared for the approval of Council consistent with the recommendations of the Stage 1 – 5 Supplementary Geotechnical Investigation (Geotech Solutions, December 2010) and Stages 6 and 7 preliminary geotechnical investigation undertaken by Geotech Solutions (December 2010). The proposed measures should limit the need for piling and address the nature of the existing fill material on site.

#### **B17 Contamination**

Prior to the commencement of any works:

- (a) Supplementary investigations as identified by the Geotech Solutions (2009) are to be undertaken to provide further clarification of the likely extent of contamination;
- (b) A detailed and conservative Remedial Action Plan (RAP) is to be prepared and endorsed by a NSW EPA accredited Site Auditor certifying that the land will be suitable for the proposed residential development if the site is remediated in accordance with that Plan.
- (c) If reuse of coal rejects is proposed, further chemical testing is to be undertaken to determine acid leachate generation potential.
- (d) Any remediation works required within the proposed road reserves must be completed prior to dedication to Council.

#### **B18 Roads - General**

- (1) **Separate approval from the Roads Authority must be obtained under the Roads Act 1993 prior to the issue of a Construction Certificate works within an existing Council road reserve. Design plans must be submitted to and approved by the Roads Authority prior to issue of the Construction Certificate.**
- (2) Additional civil works necessary to ensure satisfactory transitions to existing work as a result of work conditioned for the development are to be provided at no cost to Council. Design plans are to be approved by the Roads Authority **for any works within an existing road reserve** prior to the issue of a Construction Certificate.
- (3) A comprehensive road signage and pavement marking plan identifying parking restrictions, accesses and traffic management facilities is to be submitted to Council for approval by the Local Traffic/Development Committee and works completed prior to issue of the Subdivision Certificate.
- (4) Proposed names for the roads under the Roads Act within the subdivision are to be submitted to Council for approval of the prior to issue of a Subdivision Certificate.

#### **B19 Pacific Highway Intersections**

The intersection of the Pacific Highway and Montefiore Street shall be upgraded / modified in accordance with the RTA's specifications, the RTA's Road Design Guide, the relevant Austroads guidelines and Australian Standards, to the satisfaction of the RTA prior to the issue of the first Subdivision Certificate which creates the first urban lot.

#### **B20 Montefiore Street Upgrade**

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The developer is to upgrade the road pavement and drainage for the entire length of Montefiore Street from its intersection with Hale Street in the east to the intersection with the Pacific Highway to the west in accordance with Council's requirements prior to the issue of the first Subdivision Certificate which creates the first urban lot.

#### **B21 Public Transport**

- (1) The proponent is to liaise with Transport NSW and local bus operators to identify appropriate locations for bus stops.
- (2) The design of the bus stops shall address the following:
  - (a) Bus stops and bus shelters are to be provided in accordance with the requirements of the Bus Operator, TNSW and Council. All facilities need to be installed in accordance with Disability Discrimination Act (DDA) requirements,
  - (b) Footpaths and pedestrian refuges are to be provided to service the bus stops, to Council's satisfaction, to ensure pedestrian safety and encourage the use of public transport, and
  - (c) Details of proposed bus stop locations are to be submitted to Council for approval.

#### **B22 Dilapidation**

A dilapidation report must be submitted to Council as the Roads Authority prior to the commencement of any works. The report must document and provide photographs that clearly depict any existing damage to the public road, kerb, gutter, footpath, driveways, water supply, sewer works, street trees, street signs or any other Council assets in the vicinity of the development.

#### **B23 Acid Sulphate Soils**

A detailed acid sulphate soil investigation shall be undertaken and an acid sulphate soil management plan prepared where the proposed development will impact on any acid sulphate soils. The management plan shall be prepared by a suitably qualified person in accordance with the *Acid Sulphate Soil Assessment Guidelines* (Acid Sulphate Soil Management Advisory Committee, 1998) and submitted to and approved by the Certifying Authority prior to issue of a Construction Certificate.

#### **B24 Water and Sewer services/Infrastructure**

- (1) **All water and sewer works or works impacting on water and sewer assets are to be designed and constructed to the requirements of the appropriate Water Supply Authority under the *Water Management Act 2000* and or, where relevant, any entity authorised under the *Water Industry Competition Act 2006*. The requirements of Section 306 of the *Water Management Act 2000* apply to this development. The design plans must be submitted to and approved by the Water Supply Authority and or any entity authorised under the *Water Industry Competition Act 2006* prior to the issue of a Construction Certificate for those works.**
- (2) Arrangements to the satisfaction of other service/infrastructure providers are to be made for the provision of services prior to the issue of a Construction Certificate for those works.

#### **B25 Water Licensing Requirements**

- (1) An authorisation under the Water Act 1912 or the Water Management Act 2000 is to be obtained from the NSW Office of Water with the appropriate purpose identified for any activity relating to the taking of or interception of groundwater prior to that activity commencing.
- (2) Prior to the construction of the detention basin, the proponent should contact the NSW Office of Water to determine if a surface water licence is required.

#### **B26 Retaining Wall**

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Retaining walls must be designed and certified by a qualified structural engineer in accordance with AS4678 Earth Retaining Structures prior to the issue of a Construction Certificate. The retaining walls must be located fully within the boundaries of the subject property.

**Retaining walls located in the future Council road reserve in Stage 7 must be constructed of decorative masonry and in a colour approved by Council.**

### **B27 Other Authorities**

Other public authorities may have separate requirements and should be consulted prior to commencement of works in the following respects:

- Australia Post for the positioning and dimensions of mail boxes in new commercial and residential developments,
- AGL Sydney Limited for any change or alteration to gas line infrastructure,
- Energy Australia for any change or alteration to electricity infrastructure or encroachment within transmission line easements, and
- Telstra, Optus or other telecommunication carriers for access to their telecommunications infrastructure.

### **B28 Aboriginal Cultural heritage**

The developer shall implement the Aboriginal Cultural Heritage Management Plan (ACHMP) for the project area prepared by Insite Heritage Pty Ltd (December 2010) in consultation with the registered local Aboriginal stakeholders.

### **B29 Bushfire**

- (1) Having regard to the required subdivision amendments and inclusion of perimeter roads adjacent to conservation lands, documentation is to be submitted to the Director, Strategic Assessment to demonstrate that the NSW Rural Fire Service endorse the final proposed APZ depths and dwelling construction requirements for affected allotments in accordance with AS 3959-2009.
- (2) A bushfire risk management plan is to be prepared in consultation with the Rural Fire Services by a suitably qualified person. The plan is to be submitted and approved by the Certifying Authority.
- (3) Water supply for fire fighting purposes and water, electricity and gas are to comply with Planning for Bushfire Protection 2006.
- (4) Landscaping is to be in accordance with Planning for Bushfire Protection 2006.
- (5) **The perimeter road in Stage 7 shall comply with section 4.1.3 (1) of Planning for Bushfire Protection 2006, and shall have a minimum carriageway width of 8 metres kerb to kerb.**

## **PART C—DURING CONSTRUCTION**

### **C1 Approved Plans**

A copy of the stamped approved and certified plans, specifications and documents incorporating conditions of approval and certification must be kept on site for the duration of site works and be made available upon request to either the Principal Certifying Authority or an officer of the Council or the Department.

### **C2 Aboriginal Relics**

- (1) An Aboriginal Cultural Education Program must be developed for the induction of all personnel and contractors involved in the construction activities on site. Records are to be kept of which staff/contractors were inducted and when for the duration of the project. The program should be developed and implemented in collaboration with the local Aboriginal community.

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- (2) In the event that surface disturbance identifies a new Aboriginal site, all works must halt in the immediate area to prevent any further impacts to the object(s). A suitably qualified archaeologist and representatives of the local aboriginal community must be contacted to determine the significance (cultural and scientific) of the object(s). The site is to be registered in the Aboriginal Heritage Information Management system (AHIMS) (managed by OEH) and the management outcome for the site included in the information provided to the AHIMS). The proponent will consult with the Aboriginal community representatives the archaeologist and OEH to develop and implement management strategies for all objects/sites. Works may only recommence following endorsement for such from the OEH.
- (3) The proponent is to provide fair and reasonable opportunities for the registered local Aboriginal stakeholders to monitor any initial ground disturbance works associated with the area described as a band of archaeological sensitivity, identified in Figure 4 of the report titled 'Aboriginal Cultural Heritage Management Plan for Project Approval, Catherine Hill Bay' (dated December 2010), by Insite Heritage Pty Ltd, and the area immediately adjacent to Aboriginal site 'CHB 1'. In the event that additional Aboriginal objects are uncovered during the monitoring program, the objects are to be recorded and managed in accordance with the requirements of sections 85A and 89A of the *National Parks and Wildlife Act 1974*.
- (4) If human remains are located in the event that surface disturbance occurs, all works must halt in the immediate area to prevent any further impacts to the remains. The NSW Police are to be contacted immediately. No action is to be undertaken until police provide written notification to the proponent. If the skeletal remains are identified as Aboriginal, the proponent must contact OEH's Enviroline on 131555 and representatives of the local Aboriginal community. No works are to continue until OEH provide written notification to the proponent.
- (5) All reasonable efforts must be made to avoid impacts to Aboriginal cultural heritage at all stages of the development works. If impacts are unavoidable, mitigation measures are to be negotiated with the local Aboriginal community and OEH. All sites impacted must have an OEH Aboriginal Site Impact Recording (ASIR) form completed and submitted to OEH AHIMS unit within three (3) months of completion of these works.

### **C3 Dust Control**

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) The surface should be dampened to prevent dust from becoming airborne but should not be wet to the extent that run-off occurs;
- (4) 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 and wheels washed before leaving the site;
- (5) Gates shall be closed between vehicle movements and shall be fitted with shade cloth; and
- (6) Cleaning of footpaths and roadways shall be carried out regularly.

### **C4 Hours of Work**

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- (1) 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:
  - (a) Between 7.00am and 6.00pm, Monday to Fridays inclusive;
  - (b) Between 8.00am and 1.00pm, Saturday; and
  - (c) No work on Sundays and public holidays.
- (2) Works may be undertaken outside these hours where:
  - (a) The delivery of materials is required outside these hours by the Police or other authorities;
  - (b) It is required in an emergency to avoid the loss of life, damage to property and/or to prevent environmental harm;
  - (c) The work is approved through a Construction Noise and Vibration Management Plan; and
  - (d) 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.

**C5 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:
  - (a) for construction period of 4 weeks and under, not more than 20dBA;
  - (b) for construction period greater than 4 weeks but not exceeding 26 weeks, not more than 10dBA; and
  - (c) for construction period greater than 26 weeks, not more than 5dBA.
- (2) 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 an approved Construction Noise and Vibration 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), 5dBA must be added to the measured construction noise level when comparing the measured noise with the construction noise objective.

**C6 Construction Noise Management**

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 Noise and Vibration Management Plan:
  - (a) 9.00am to 12.00pm, Monday to Friday;
  - (b) 2.00pm to 5.00pm, Monday to Friday; and
  - (c) 9.00am to 12.00pm, 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 a Construction Noise and Vibration Management Plan.

**C7 Vibration Criteria and Management**

- (1) 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).
- (2) Vibratory compactors must not be used closer than 30 metres from residential buildings unless vibration monitoring confirms compliance with the vibration criteria specified in the DEC Technical Guide referred to above.

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**C8 Ecology/Trees**

- (1) The applicant is to engage a suitably qualified and experienced consulting ecologist, arborist and soil erosion consultant to supervise the construction of each stage of the development and to ensure and certify to that the trees and vegetation are adequately retained and protected during construction. The consultant ecologist and arborist are to provide reports to demonstrate the proposal is meeting tree retention and protection requirements following completion of the following stages of development:
  - (a) Following erection of required tree protection fencing (and prior to the issue of a Construction Certificate/Commencement of Works),
  - (b) Following induction of each civil contractor and subcontractor,
  - (c) Following initial clearing and excavation/filling of the site,
  - (d) Following provision of services, and
  - (e) Following completion of each construction phase (and prior to the issue of a Subdivision Certificate/Occupation Certificate/Final Certificate/Practical Completion).
  
- (2) The following tree protection measures shall be used during construction/vegetation clearance:
  - (a) Trees and vegetation to be retained are to be protected by the erection of 1.8 metre-high man-proof fencing as per the consulting arborist and ecologist's direction and maintained in good working order for the duration of the works,
  - (b) Erection of tree protection fencing is to be confirmed to Council's Development Ecologist in writing by the consultant arborist/ecologist prior to the commencement of those works,**
  - (c) All fenced tree protection areas are to be clearly marked as "No Go Area" on all final approved engineering plans,
  - (d) All fenced tree protection areas are to be clearly marked as "No Go Area" on the fencing itself. No clearing of vegetation or storage of vehicles, fill or materials or access is to occur within No Go Areas,
  - (e) The consultant arborist/ecologist may require other habitat and/or trees to be protected via fencing from time to time. This fencing is to be erected at the appropriate root zone protection limits (as determined by the consultant arborist / ecologist), prior to works being carried out around that particular habitat or tree,
  - (f) The management protocols and requirements within these conditions relating to tree and vegetation retention, protection and rehabilitation are to be included in all contract documentation, plans and specifications used by each civil contractor and sub-contractors, and
  - (g) The consultant ecologist and arborist are to induct each civil contractor and sub-contractor in relation to these ecological protocols and requirements.
  
- (3) All construction contractors and personnel are to be advised of the importance of conserving No Go Areas as part of their site and OH&S induction program. No clearing of trees or vegetation or storage or vehicles, fill or materials or access is to occur within retained areas.
  
- (4) Tree protection measures must be installed in accordance with Council's requirements prior to commencement of work. Documentary evidence from a qualified Arborist / Horticulturist that suitable tree protection measures have been installed may be submitted to the Principal Certifying Authority and Council, or alternatively Council must be notified to undertake an inspection of the works.
  
- (5) Native fauna must be appropriately managed during clearing and construction phases of the approved works. In this regard, an appropriately licensed fauna ecologist is to be employed to advise and supervise the clearing of trees. Where, in spite of precautions, wildlife is injured, the fauna ecologist is to take the necessary action to treat the animal, which may include veterinary treatment or transfer of the animal to a volunteer wildlife carer group such as W.I.R.E.S or Wildlife Arc.

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- (6) Trees containing trunk or branch hollows provide habitat and shelter to native wildlife. Removal of hollow bearing trees is to be done under the advice and supervision of an experienced wildlife carer or consultant who holds an appropriate National Parks and Wildlife Services Licence to mitigate against any animal welfare issues. The wildlife carer or consultant ecologist is to inspect all potential habitat trees prior to removal and identify evidence of fauna use. Should a threatened species be positively identified, all clearing works are to cease and the advice of the National Parks and Wildlife must be sought. When fauna are present, the animals are to be removed and suitably relocated by the ecologist prior to felling or the tree shall be sectionally dismantled under the supervision of the ecologist before relocating animals. Wildlife must be relocated locally to an area with adequate resources and provided with a nest box or relocated hollow under instruction from the licensed carer or consultant.

#### **C9 Erosion and Sedimentation Control**

The provision of soil erosion and silt controls on the site in accordance with Council's Development Control Plan No 1 Volume 2 – Engineering Guidelines in particular Part 1 Design Specification D7 Erosion Control and Stormwater Management and the approved development plans prior to any works commencing on the site.

#### **C10 Site requirements**

- (1) Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site. Each toilet must:
  - (a) be a standard flushing toilet connected to a public sewer, or
  - (b) have an on-site effluent disposal system approved under the LGA 1993, or be a temporary chemical closet approved under the LGA 1993 supplied by a licensed contractor.
- (2) The provision of a hoarding or safety fence between the work site and the public place in accordance with Work Cover Authority requirements, for the duration of the project. Details to be submitted to the Principal Certifying Authority/appropriately Accredited Certifier unless the hoarding is required within the footpath area where approval from Council under the Roads Act as the Roads Authority is required.
- (3) The Principal Contractor (or Owner/Builder) is to erect a sign in a prominent position on the site (not attached to any tree) identifying the name, address and telephone number of the Principal Certifying Authority (PCA) for the work; the name, address and telephone number (including a number for outside of business hours) of the Principal Contractor for the work (or Owner/Builder); and stating that unauthorised entry to the site is prohibited. The sign must be maintained while the work is being carried out and is to be removed when the work is completed. Appropriate signs can be collected from Council's Customer Service Centre, where Council is the nominated PCA.
- (4) The proponent shall ensure that the outside business hours contact telephone number is attended by a person with authority over the works for the duration of the development.

#### **C11 Earthworks**

All earthworks are to be contained to the site and construction access is to be limited to within the site. No earthworks are to be undertaken on adjacent conservation lands nor is access for earthworks to be provided from adjacent lands unless with the prior authorisation of the Office of Environment and Heritage.

### **PART D – PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE**

#### **D1 Certificate/remediation/engineering details**

- (1) **An application for a Subdivision Certificate must be submitted to and approved by the Council/Principal Certifying Authority prior to registration of the plan of subdivision.**
- (2) The application **for a subdivision certificate creating residential lots** must be accompanied by evidence that an accredited EPA auditor has certified that the Remediation Action Plan has been

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implemented and that the whole site which is the subject of this application is suitable for the proposed residential development.

- (3) **The application must also include documentation to demonstrate full compliance with all approval conditions in accordance with Section 157 Clause 2 (f) of the Environmental Planning and Assessment Regulations 2000.**

**The following contributions are applicable to the proposed subdivision:**

<b>Facility</b>	<b>Levy Per Lot (current at date of writing)</b>
<b>Open space land acquisition</b>	<b>\$7,729</b>
<b>Recreation Facilities</b>	<b>\$5,793</b>
<b>Community Facilities – Capital</b>	<b>\$2,298</b>
<b>Community Facilities – Land</b>	<b>\$640</b>
<b>Management</b>	<b>\$176</b>
<b>Total</b>	<b>\$16,636</b>

**The next indexation is to occur on 15 May 2011. Agreements will need to be reached with Council regarding the provision of works in kind for any of these contributions.**

- (4) **The obtaining of a Section 307 Certificate of Compliance under the Water Management Act 2000 for water and sewer requirements for the development from the appropriate Water Supply Authority prior to issue of the Subdivision Certificate. All works for the development must be approved by Council prior to the issue of a Certificate of Compliance.**

#### **D2 Dilapidation**

Any damage not shown in the Dilapidation Report submitted to Council before site works had commenced, will be assumed to have been caused as a result of the site works undertaken and must be rectified at the proponent's expense, prior to release of the Subdivision Certificate.

#### **D3 Landscaping**

- (1) The landscaping and public domain works for the ~~village park and~~ precinct park in Stage 1 and the revegetation works in the road reserve of Montefiore Street shall be completed prior to the issue of the first Subdivision Certificate for any urban lot in Stage 1.
- (2) The landscaping and public domain works for the coastal reserve and coastal walk ("the Coastal Headland Reserve") shall be completed prior to the issue of the first Subdivision Certificate for any urban lot in Stage 2 ~~3~~.
- (3) The landscaping works for each Stage (including street tree planting, drainage reserves and the "green links") shall be completed prior to the issue of a Subdivision Certificate for an urban lot within that Stage.
- (4) The landscape designer must provide certification to the Principal Certifying Authority certifying that landscaping has been implemented in accordance with the approved landscape plan, prior to issue of a Subdivision Certificate. Where Council is not the Principal Certifying Authority, a copy of the certificate must be provided for Council's records.
- (5) The landscaping works shall be completed by the proponent at their cost. The Coastal Headland Reserve shall be dedicated to Council or other public authority.

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- (6) **The proponent shall maintain all soft and hard landscaping works in areas to be dedicated to Council for a period of 12 months after completion to ensure all maintenance and repairs required are carried out during the maintenance period. Soft landscape works within the 'green areas' on the approved Staging Plan submitted with the MOD 5 application are required to be maintained for a further period of 4 years after the original maintenance period, including the road reserve adjoining the National Park to the south of the site.**

**D4 Roads**

- (1) All road signage and pavement marking works must be provided in accordance with the plans approved by the Local Traffic/Development Committee and approved by Council **or an accredited certifier** prior to issue of the Subdivision Certificate.
- (2) All additional civil works required to ensure satisfactory transitions to existing work as a result of work conditioned for the development works are to be approved by Council prior to issue of the Subdivision Certificate.
- (3) All works within a public road such as kerb and guttering, road pavement, drainage, footpaths, cycleways, vehicular access crossings and fencing must be in accordance with Lake Macquarie DCP No 1 Volume 2 - Engineering Guidelines and approved by Council as the Roads Authority under the Roads Act 1993, prior to the issue of an Subdivision Certificate.
- (4) All road works under the Works Authorisation Deed shall be completed prior to issuing a Subdivision Certificate for any lot on which development may occur.

**D5 Maintenance Deposit**

A deposit with Council (Cash or a Bank Guarantee) is required for a period of twelve months from completion of all engineering work of a sum equal to 5% of the cost of Engineering Works prior to the issue of a Subdivision Certificate for each stage. This security is to guarantee the quality of work and to ensure that the contractor carries out all maintenance and repairs required during this period.

**D6 Stormwater**

- (1) Provision of the necessary easements for access, maintenance and operation of the detention/infiltration basins in accordance with the *Stormwater Management and Concept Engineering Report for Proposed Residential Subdivision at Montefiore Street, Catherine Hill Bay* (Appendix N of EA) prior to issue of the Subdivision Certificate.
- (2) The stormwater system with water quality control facilities to treat stormwater runoff from the development discharging into Council's system or public land must be approved by Council under Section 68 of the Local Government Act prior to issue of the Subdivision Certificate.

**D7 Mine Subsidence**

Evidence is to be provided to the Principal Certifying Authority by a qualified structural engineer that the land as subdivided is able to meet the requirements of the Mine Subsidence Board and that stability, subsidence potential and load bearing capacity of the site have been appropriately addressed.

**D8 Subdivision Works**

- (1) A report is to be provided to Council by a consulting engineer classifying each lot being created in accordance with AS2870-1996 - Residential Slabs and Footings, prior to issue of a Subdivision Certificate.
- (2) The provision of Works as Executed information as identified in Council's DCP No 1 Volume 2 – Engineering Guidelines prior to issue of the Subdivision Certificate. This information is to be approved by Council **or an accredited certifier** prior to issue of the Subdivision Certificate.

**D9 Prohibition of cats and dogs**

**MP10\_0204 Modification 1**  
**MP10\_0204 Modification 2**  
**MP10\_0204 Modification 4**  
**MP10\_0204 Modification 5**  
**MP10\_0204 Modification 6**  
**MP10\_0204 Modification 7**

The plan of subdivision and Section 88B instrument shall establish a restrictive covenant on all residential lots prohibiting the keeping of cats and dogs, with the Council having the benefit of this covenant and having sole authority to release vary or modify the covenant.

**D10 Registration of Easements/Restrictions to use**

- (1) Prior to the issue of any Subdivision Certificate, the Proponent shall provide evidence to the Certifying Authority that all easements for services including sewer, water supply, stormwater system and drainage and Section 88E covenants required by this approval, and other consents have been or will be registered on the certificates of title.
- (2) Covenants pursuant to the Conveyancing Act 1919 shall be established for
  - (a) the restriction on future subdivision of allotments in Stage 3;
  - (b) the provision of and maintenance of asset protection zones in accordance with Planning for Bushfire Protection 2006, on residential lots that have an asset protection zone. The extent of the land affected by the covenant shall be defined by bearings and distances shown on the plan of subdivision; and
  - (c) the prohibition of direct vehicular access from properties to Montefiore Street.
- (3) Any Section 88B or 88E Instruments 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.
- (4) Details are to be provided of the easement through the Munmorah State Conservation Area for the sewer infrastructure from Stage 6 of the development.

**D11 Asset Protection Zones**

***The plan of subdivision and Section 88B instrument shall establish a restrictive covenant on all residential lots requiring the maintenance of the designated Asset Protection Zone (APZ) in accordance with the requirements of Planning for Bushfire Protection 2006, with the Rural Fire Service Lake Macquarie City Council having the benefit of this covenant and having sole authority to release vary or modify the covenant. The restrictive covenant shall include a 20m APZ at the rear of Lots 1092, 1093, 1094, 1095, 1096, 3001, 3002, 3003, 3004, 3005 and 3006, and no building is permitted to be constructed to occur within the APZ. The restrictive covenant shall also include a 25m APZ at the western boundary of Lots 6020, 6021 and 6022 in Stage 6, and no building is permitted to be constructed within the APZ.***

**D12 Bushfire Protection – Fire Hydrant**

**A fire hydrant is to be located in the road reserve adjacent to the rear of Lot 1096 to the satisfaction of the certifying authority.**

**PART E – ONGOING CONDITIONS**

**E1 Mine Subsidence**

Any changes to the lot numbering and registered DP than that shown in the EA shall be reported to the Mine Subsidence Board.

**E2 Aboriginal Liaison**

The applicant must continue to consult with and involve all the registered local Aboriginal representatives for the project, in the ongoing management of the Aboriginal cultural heritage values. Evidence of this consultation must be collated and provided to the Council upon request.

**MP10\_0204 Modification 1**

**MP10\_0204 Modification 2**

**MP10\_0204 Modification 4**

**MP10\_0204 Modification 5**

**MP10\_0204 Modification 6**

**MP10\_0204 Modification 7**

## 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, Wyong Shire Council, 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.

### **Roads Act, 1993**

AN2 A separate application shall be made to Council for approval under Section 138 of the *Roads Act, 1993* to undertake any of the following:

- (1) erect a structure or carry out a work in, on or over a public road, or
- (2) dig up or disturb the surface of a public road, or
- (3) remove or interfere with a structure, work or tree on a public road, or
- (4) pump water into a public road from any land adjoining the road, or
- (5) connect a road (whether public or private) to a classified road.

### **AN3 Stormwater Drainage Works or Effluent Systems**

Works that involve stormwater drainage work or management of waste as defined by Section 68 of the Local Government Act, 1993 require separate approval 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.

### **AN4 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.

### **AN5 Excavation – Historical Relics**

Should any historical relics be unexpectedly discovered then all excavations or disturbance to the area is to stop immediately and the Heritage Council of NSW shall be informed in accordance with Section 146 of the *Heritage Act, 1977*.

### **AN6 Long Service Levy**

Under Section 34 of the *Building and Construction Industry Long Service Payments Act 1986* any work costing \$25,000 or more is subject to a Long Service Levy. The levy rate is 0.35% of the total cost of the work and shall be paid to either the Long Service Payments Corporation or Council. Under section 109F(1) of the Environmental Planning & Assessment Act, 1979 this payment must be made prior to commencement of building works.

### **AN7 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.

**MP10\_0204 Modification 1**

**MP10\_0204 Modification 2**

**MP10\_0204 Modification 4**

**MP10\_0204 Modification 5**

**MP10\_0204 Modification 6**

**MP10\_0204 Modification 7**

This application has been assessed in accordance with the New South Wales *Environmental Planning and Assessment Act, 1979*. 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.

**MP10\_0204 Modification 1**  
**MP10\_0204 Modification 2**  
**MP10\_0204 Modification 4**  
**MP10\_0204 Modification 5**  
**MP10\_0204 Modification 6**  
**MP10\_0204 Modification 7**

**SCHEDULE 3**  
**STATEMENT OF COMMITMENTS**

**MP10\_0204 Modification 1**  
**MP10\_0204 Modification 2**  
**MP10\_0204 Modification 4**  
**MP10\_0204 Modification 5**  
**MP10\_0204 Modification 6**  
**MP10\_0204 Modification 7**