

3 December 2014

Tullipan Homes Pty Ltd  
PO Box 5148  
CHITTAWAY BAY NSW 2261

## Development Application Notice Of Determination

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

Development Consent No: DA/1682/2014  
Property Address: Lot 6 DP 1196932  
24 Paddock Close, ELERMORE VALE NSW 2287  
Description of Development: Dwelling House, Retaining Walls And Earthworks  
Determination: Approved  
Determination Date: 1 December 2014  
Consent to operate from: 1 December 2014  
Consent to lapse on: 1 December 2019

### Conditions of Consent

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

### Reason for the Imposition of Conditions

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

- (a) To encourage:
  - (i) The proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forest, minerals, water, cities, towns, and villages for the purpose of promoting the social and economic welfare of the community and a better environment;
  - (ii) The promotion and co-ordination of the orderly and economic use of development of land;
  - (iii) The protection, provision, and co-ordination of communication and utility services;
  - (iv) The provision of land for public purposes;
  - (v) The provision and co-ordination of community services and facilities;

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- (vi) The protection of the environment, including the protection and conservation of native animals and plants including threatened species, populations, and ecological communities and their habitats;
  - (vii) Ecologically Sustainable Development; and
  - (viii) The provision and maintenance of affordable housing.
- (b) To promote the sharing of the responsibility for environmental planning between the different levels of government in the State.
  - (c) To provide increased opportunity for public involvement and participation in environmental planning and assessment.

#### **1. Prescribed Conditions**

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

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

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

- a. the name of the owner-builder, and
- b. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

## 2. Approved Documentation

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

(a) Plans Reference:

Plans prepared by: Buildtech Design and Development; Project Number: 6269-WD3			
Name of Plan	Drawing Number	Issue	Date
Front Page	AA	A1	26/08/2014
Site Plan	1	-	26/08/2014
Site Plan Trees	1	-	26/08/2014
Ground Floor Plan	2	-	26/08/2014
Upper Floor Plan	3	-	26/08/2014
Elevations	4	-	26/08/2014
Elevations	5	-	26/08/2014
Section	6	-	26/08/2014
Water Management Plan	7	-	29/07/2014
Shadow Diagram	8	-	26/08/2014
Driveway Details	9	-	04/11/2014
Detail Survey	1	-	06/08/2014

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

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

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### **3. Construction Certificate**

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

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

### **4. Occupation Certificate**

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

### **5. Commencement of the Use of the Land**

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

### **6. Geotechnical Report Compliance**

The recommendations of the Geotechnical Report No. N7550/-AC prepared by Coffey Geotechnics dated 10/10/2014 shall be complied with. Any works undertaken in relation to the development shall embody all the relevant recommendations of the Geotechnical Report.

Where the geotechnical report requires inspections, a geotechnical engineer shall inspect the works at the stages as specified in that report.

Prior to the issue of the first Construction Certificate, all construction and engineering plans shall be certified as being designed in accordance with the approved Geotechnical Report by a suitably qualified structural / civil engineer.

### **7. Fix Damage Caused by Construction Works**

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

Any disused kerb and gutter and footpath crossing shall be removed and replaced with full kerb and gutter in accordance with Council's standards to match finished adjoining kerb and gutter. All replacement works are to be completed to the satisfaction of

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Council prior to the issue of an Occupation Certificate at the cost of the person with the benefit of the consent.

#### **8. Building Sustainability Index (BASIX) Certificate**

The development shall be constructed in accordance with a current Building Sustainability Index (BASIX) certificate.

Should there be any changes to the specifications of the development (e.g. colour, insulation, etc), except where restricted or excluded by any condition of consent, an amended/new BASIX Certificate shall be obtained and may be relied upon as having complied with this condition.

A copy of any amended/new BASIX Certificate shall be submitted by the Principal Certifying Authority to Council within fourteen days of the receipt of the BASIX Certificate. Prior to the issue of an Interim or Final Occupation Certificate, whichever occurs first, certification of compliance with the BASIX Certificate shall be provided to the Principal Certifying Authority.

#### **9. Native Tree Removal**

Native trees may be removed only in accordance with the following:

- (a) within five metres of an approved building or structure, as measured from the outermost projection of the building to the trunk of the tree, and
- (b) within one metre of a sealed driveway to a building or structure for which approval has been granted and on the same allotment.

An approved building or structure does not include drainage, excavation, or garden shed but does include underground water storage structures, inground pools and septic tanks.

A sealed driveway is a driveway or car park with an impervious surface such as concrete, pavers, bitumen but does not include gravel.

This condition does not apply if another condition of this development consent or the approved landscaping plan requires the trees or native vegetation to be retained.

A separate application shall be made to Council for the removal or lopping of any other native tree or trees on the property.

#### **10. Stormwater Disposal**

Stormwater shall be disposed of through a system designed to the satisfaction of the Principal Certifying Authority in accordance with Australian Standard 3500 and be conveyed to the street gutter or kerb inlet pit.

Immediately after completion of any roof, a disposal system shall be installed which disposes of the stormwater without causing any adverse environmental impacts.

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## 11. Excavation and Retaining

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

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

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

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

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

## 12. Building Waste

Prior to any construction work commencing, containment of building waste materials shall be provided within the boundaries of the building site, above natural or excavated ground level, by a screened area of silt stop fabric or shade cloth, having minimum dimensions of 2.4 x 2.4 x 1.2 metres high OR equivalent size waste disposal bin.

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

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

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

## 13. Driveway Design and Construction - Residential

The driveway to the garage or car parking area of the development shall be designed and constructed in accordance with the following requirements and Council's Standard Drawings: EGSD-201 and EGSD-202 (available from Council's website).

- (a) The Driveway design levels at the front boundary shall be obtained from Council's Asset Management Department prior to design of the driveway.
- (b) The Driveway Longitudinal Section, incorporating the design level provided by Council and other construction details (i.e. concrete thickness and reinforcement), shall be submitted to the Principal Certifying Authority for approval with the Construction Certificate.
- (c) The maximum gradient of the driveway shall not be steeper than 1V:5H (20%).

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- (d) Suitable transition areas a minimum of 2 metres long shall be provided at the front boundary and at the entry to the garage or car parking area in accordance with AS 2890.1:2004.

#### **14. Works on a Road**

Prior to the carrying out of any works on a road, the person having the benefit of the consent shall apply to Council for an approval under s138 of the Roads Act 1993. The road shall not be opened until the approval has been issued. The person having the benefit of the consent shall pay to Council the calculated road restoration fee prior to the issue of any occupation certificate.

The person having the benefit of the consent is given permission to open a grassed or natural surface footpath for the installation of all water services, cables, or mains. Upon completion of the work, the footpath shall be restored to its original state and ensure that there are no hazards that may impact on the public.

All precautions must be taken to protect the public while work is in progress. Traffic control shall be undertaken in accordance with Australian Standard AS1742 – Manual Uniform Traffic Control Services – Parts 1, 2 and 3.

#### **15. Unobstructed Footpath Access**

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

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

#### **16. Site Amenities**

Throughout the course of building or demolition works on the site, toilet facilities shall be provided at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

Each toilet shall be installed as follows:

- (a) in a sewerred area, connect the temporary builder's toilet facility to the Hunter Water Corporation's sewerage system in accordance with such authority's requirements prior to commencing any building work.
- (b) where the connection of the toilet facility to the Hunter Water Corporation's sewer is impractical, an application to approve the use of a chemical closet is to be made to Council accompanied with the appropriate fee for approval. Such approval shall be obtained prior to the issue of a Construction Certificate.

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## **17. Bushfire Protection**

The proposed building has been identified as being within a bushfire prone area. The building shall be constructed in accordance with Bushfire Attack Level (BAL 29) type construction in accordance with AS3959 – 2009 “Construction of buildings in bushfire prone areas” and Addendum Appendix 3 of “Planning for Bushfire Protection”.

### **Asset Protection Zones**

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building. To achieve this, the following conditions shall apply:

1. At the commencement of building works and in perpetuity the entire property shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of ‘Planning for Bush Fire Protection 2006’ and the NSW Rural Fire Service’s document ‘Standards for Asset Protection Zones’.
2. To allow for emergency service personnel and residents to undertake property protection activities, a defensible space that permits unobstructed pedestrian access is to be provided around the building.

### **Water and Utilities**

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building. To achieve this, the following conditions shall apply:

3. Water, electricity and gas are to comply with section 4.1.3 of ‘Planning for Bush Fire Protection 2006’.

### **Design and Construction**

The intent of measures is that buildings are designed and constructed to withstand the potential impacts of bush fire attack. To achieve this, the following conditions shall apply:

4. New construction shall comply with Sections 3 and 7 (BAL 29) Australian Standards AS3959-2009 ‘Construction of buildings in bush fire-prone areas’ and section A3.7 Addendum Appendix 3 of ‘Planning for Bush Fire Protection’.
5. New construction on the northern and western elevations shall comply with Sections 3 and 6 (BAL 19) Australian Standard AS3959 2009 ‘Construction of buildings in bush fire-prone areas’ and section A3.7 Addendum Appendix 3 of ‘Planning for Bush Fire Protection’.



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## Landscaping

6. Landscaping to the site is to comply with the principles of Appendix 5 of 'Planning for Bush Fire Protection 2006'.

**Note:** It is recommended you become familiar with the construction requirements of AS3959 in order to ensure that those elements of the fabric of the building are provided and comply with the relevant level of construction required.

## 18. Use of Building

The garage / workshop / shed shall not be used as a dwelling or for habitable, commercial or industrial purposes without prior development consent.

## 19. Erosion and Sediment Controls

Prior to the commencement of work, erosion and sediment control barriers shall be installed in accordance with Lake Macquarie City Council's Development Control Plan No. 1 Section 2.1.11 Erosion Prevention and Sediment Control and Managing Urban Stormwater - Soils and Construction "The Blue Book" 4th Edition, Landcom, 2004, as follows:

- (a) A sediment fence shall be erected consisting of stakes at 2.5m maximum intervals with Geotextile filter fabric securely attached to the stakes. The base of the fabric shall be entrenched a minimum 150mm below undisturbed ground surface. Ensure any stakes are fitted with safety caps. Only geotextile specifically produced for sediment fencing may be used. The use of shade cloth as a sediment fence is not acceptable.
- (b) The sediment fence shall be located such that all sediment-laden water from the site flows through sediment fence before flowing offsite.
- (c) The vehicle site access shall be constructed where identified on the site plan submitted with the Development Application. It shall have a minimum width of 3 metres with a surface of compacted aggregate (minimum 30mm to maximum 75mm) or a sealed surface. The use of broken tiles is not acceptable. Where the sediment fence joins onto the site access, a hump shall be constructed in the access to divert water to behind the sediment fence.
- (d) Where appropriate, an aggregate bag shall be placed in the gutter below the site access. The bag shall be made from green sediment fence material, or similar. The bag shall be at least 450mm long, 200mm diameter, filled with less than 20mm blue metal or crushed rock. If the bag breaks or deteriorates, the bag shall be replaced immediately and the material cleaned from any gutter, kerb, road surface or stormwater system it has entered. The use of hessian bags, and sand filled bags is not acceptable.

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- (e) A material stock pile area (eg sand or soil) shall be contained with a sediment fence installed as per point (a) above.

Should any soil or sediment escape from the building site (for example from vehicle tyres) it shall be cleaned off the roadway or gutter immediately to ensure it can not enter the drainage system.

These controls shall be effectively maintained throughout the construction and post construction phase until the site's groundcover is measured at 90%. Failure to comply with these requirements may lead to Council instituting legal proceedings under the *Protection of the Environment Operations Act 1997*.

## 20. Dial Before You Dig

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



## 21. Noise - Construction Sites

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

### Approved Construction Times

The approved hours for construction of this development are –

Monday to Friday - 7.00am to 6.00pm.

Saturday – 8am to 1pm.

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

### Construction Periods in Excess of 26 Weeks

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

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mitigation measures to control noise, noise monitoring techniques and reporting methods, likely potential impacts from noise and a complaints handling system.

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

## **22. Emissions**

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

## **23. Retaining Walls**

The approved retaining walls must not exceed 1 metre in height and the face of the retaining wall must be a minimum of 1 metre from any common boundary.

## **24. Build Over Sewer - Hunter Water Corporation Requirements**

The development must be constructed in accordance with the Hunter Water Corporation requirements.

## **Right of Appeal**

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

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

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

## **Right of Review**

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

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

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

### **Planning Assessment Commission**

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

### **Advisory Note:**

#### **Hunter Water Requirements**

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

Should you require further information, please contact the undersigned on 4921 0305 or by e-mail on [wwhyte@lakemac.nsw.gov.au](mailto:wwhyte@lakemac.nsw.gov.au).

Yours faithfully



Will Whyte – BPB2225

**Building Surveyor  
Development Assessment and Compliance**