



**Land and Environment  
Court**  
of New South Wales

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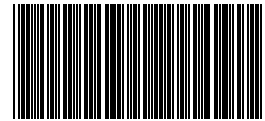
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Your Ref:



D0001VOHJK

3 January 2024

### NOTICE OF ORDERS MADE

Case number	2023/00020898
Case title	TORONTO INVESTMENTS NO 1. PTY LIMITED v LAKE MACQUARIE CITY COUNCIL

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On 3 January 2024 the following orders (and/or directions) were made:

The Court orders that:

- (1) The request pursuant to clause 4.6 of the Lake Macquarie Local Environmental Plan 2014 to vary the development standard for height contained within clause 4.3 thereof, as prepared by Planning Ingenuity dated 20 May 2022, is upheld.
- (2) The appeal is upheld.
- (3) Development consent is granted to Development Application No DA/1651/2022 for tree removal, excavation and construction of a mixed-used development with associated car parking, landscaping and lot amalgamation at 114, 116, 118, 120 Cary Street, 1, 2, 5 Bath Street and 3 Arnott Avenue Toronto, subject to the conditions of consent in Annexure A.

For the Registrar

## Annexure A

### DETERMINATION OF DEVELOPMENT APPLICATION BY GRANT OF CONSENT

**Development Application No:** DA/1651/2022

**Development:** Tree removal, excavation and construction of a mixed-used development with associated car parking, landscaping and lot amalgamation.

**Site:** 114, 116, 118 and 120 Cary Street, 1, 2 and 5 Bath Street and 3 Arnott Avenue, Toronto NSW 2283, being Lots 4, 5, 6, 7, 8, 9 and 10, Section 6 in Deposited Plan 2505, Lot 100 in Deposited Plan 847314 and Lot 101 in Deposited Plan 1110774.

The above development application has been determined by the granting of consent subject to the conditions specified in this consent.

**Date of determination:** 03 January 2024

**Date from which consent takes effect:** Date of determination.

#### TERMINOLOGY

In this consent:

- (a) Any reference to a Construction, Compliance, Occupation or Subdivision Certificate is a reference to such a certificate as defined in the *Environmental Planning and Assessment Act 1979*.
- (b) Any reference to the “applicant” means a reference to the applicant for development consent or any person who may be carrying out development from time to time pursuant to this consent.
- (c) Any reference to the “site”, means the land known as 114, 116, 118 and 120 Cary Street, 1, 2 and 5 Bath Street and 3 Arnott Avenue, Toronto NSW 2283.

The conditions of consent are as follows:

## 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 shall ensure, to Council's satisfaction, the objects of the *Environmental Planning and Assessment Act 1979* (as amended) are achieved:

To encourage:

- (a) 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;
  - i. The promotion and co-ordination of the orderly and economic use of development of land;
  - ii. The protection, provision, and co-ordination of communication and utility services;
  - iii. The provision of land for public purposes;
  - iv. The provision and co-ordination of community services and facilities;
  - v. 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;
  - vi. Ecologically Sustainable Development; and
  - vii. 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.

## Administrative Conditions

### 1. Prescribed Conditions

- (a) The work shall 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 shall 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 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 shall be maintained while the building work, subdivision work or demolition work is being carried out, but shall be removed when the work has been completed.

- (d) Residential building work within the meaning of the *Home Building Act 1989* shall not be carried out unless the 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 the information notified under (d) becomes out of date, further work must not be carried out unless the 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. Development in Accordance with Documentation**

The development must only be carried out:

- (a) in accordance with schedule of conditions and the plans and documents referenced and stamped as follows; and
- (b) in compliance with the conditions in this Notice of Determination:

<b>Architectural Plans prepared by: Mark Lawler Architects</b>			
<b>Name of Plan</b>	<b>Drawing Number</b>	<b>Issue</b>	<b>Date</b>
Site Plan – Level 01 (Ground)	1588A – 1 – 01	AC	29.11.2023
Basement 2 plan   -02	1588A – 1 – 02	AA	8.4.2022
Basement 1 plan   -01	1588A – 1 – 03	AB	19.6.2023
Ground plan – Level 01	1588A – 1 – 04	AE	22.11.2023
Level 02 plan	1588A – 1 – 05	AC	20.6.2023
Level 03 plan	1588A – 1 – 06	AA	8.4.2022
Level 04 plan	1588A – 1 – 07	AB	14.6.2023
Level 05 plan	1588A – 1 – 08	AA	8.4.2022
Roof gardens	1588A – 1 – 09	AB	5.4.2023
Elevations	1588A – 2 – 01	AC	17.11.2023
Elevations	1588A – 2 – 02	AC	14.6.2023
Sections	1588A – 3 – 01	AB	5.04.2023
Section	1588A – 3 – 02	L	8.04.2022
Colour and material board	1588A – 7 – 23	AB	17.11.2023
<b>Landscaping Plans prepared by: Site Image Landscape Architects</b>			
Coversheet	SS20-4631 - 000	A	17.5.2022
Landscape plan – Groundfloor	SS20-4631 - 101	A	17.5.2022
Landscape plan Level 2	SS20-4631 - 102	A	17.5.2022
Landscape plan roof	SS20-4631 - 103	A	17.5.2022

Landscape Details	SS20-4631 501	- A	17.5.2022
<b>Engineering Plans prepared by: Northrop</b>			
Erosion and sediment control plan	C00DA	4	20.11.2023
Erosion and sediment control notes	C01DA	4	20.11.2023
Erosion and sediment control details	C02DA	4	20.11.2023
Stormwater management and levels plan – basement 2	C10DA	4	20.11.2023
Stormwater management and levels plan – basement 1	C11DA	5	20.11.2023
Stormwater management and levels plan ground floor	C12DA	5	20.11.2023
Civil Details	C20DA	5	20.11.2023
Catchment plan post music development	CSK2.0	5	20.11.2023
Catchment plan drains	CSK2.1	5	20.11.2023
Predevelopment catchments	CSK2.02	2	20.11.2023
OSD emergency overland flow path	CSK22.1	3	20.11.2023
Downpipe reticulation to OSD tank	CSK22.2	1	15.11.2023
Upstream flow channel bypass	CSK22.3	3	20.11.2023
Northrop Sketch	CSK22.5	A	27.11.2023
Concept External Works Plan	C30DA	6	12.12.2023

(c) Document Reference:

Document	Reference	Author	Date
Bushfire Assessment Report	-	Newcastle Bushfire Consulting	20 October 2021
Noise Impact Assessment	171461-7364-R3	Spectrum Acoustics	15 March 2021
Disability Access Report	118 Cary Street Toronto	Access Solutions	12 March 2021
Geotechnical Report	GS8030-1A Rev 3	Chameleon Geosciences P/L	25 February 2022
Shoring Design for Toronto	-	Chameleon Geoscience P/L	21 June 2023
Groundwater drawdown Model and Detailed Settlement	MEL2023-0106AA Rev0	CMW Geoscience	26 May 2023
Groundwater modelling addendum	MEL2023-0106AC Rev1	CMW Geoscience	23 June 2023
Concept Stormwater Management Plan	NL171556 Rev G	Northrop	20 November 2023
Heritage Impact Assessment;	-	John Carr Heritage Design	8 November 2021
Traffic Impact Assessment	2100898.01FA	McLaren Traffic	4 March 2022
Prescribed Ecological Action Report	AE21-REP-2387-ISS-2	Abel Ecology	5 July 2022
Operational waste management plan	3963	Elephants foot	7 July 2022
Social Impact Assessment	M2000034	Planning Ingenuity	14 November 2023
Crime Prevention Through Environmental Design	M2000034	Planning Ingenuity	14 November 2023
BASIX Certificate	1261377M_03	Building Sustainability Assessments	19 December 2023

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.

## **2A. Amendments to Landscaping Plan**

The landscaping plans approved by this Development Consent are to be amended to:

- (a) remove all non-local native and exotic garden plants from the schedule of planting save for cultural planting such as *Araucaria heterophylla* (Norfolk Pine);
- (b) no planting of *Rahphiolepis indica* (Indian Hawktorn) which is regarded as an environmental weed in New South Wales and Queensland.

**Reason:** To improve the species proposed to be planted on the Site.

### **General Conditions**

The person having the benefit of the consent shall comply with each of the following conditions.

## **3. Voluntary Planning Agreement**

The person having the benefit of this consent shall enter into a Voluntary Planning Agreement with Lake Macquarie City Council in accordance with:

- (a) Subdivision 2 of Division 7.1 of Part 7 of the *Environmental Planning & Assessment Act 1979*, and
- (b) the term of the offer made by the applicant for the development application dated 19 December 2023.

The Voluntary Planning Agreement is required to be signed by all relevant parties and registered on title to the satisfaction of Council prior to the issue of the Construction Certificate.

## **4. Transport for NSW – Requirements**

Prior to the issue of a Construction Certificate, the applicant shall obtain an approval from Transport for NSW (**TfNSW**) under Section 138 of Roads Act for all works proposed on classified roads including:



- (a) All works on Cary Street, including extension of the central concrete median, and basement anchoring (if any)

All works so approved shall be undertaken at full cost to the developer and completed prior to issuing the final Occupation Certificate for the development.

**NB:** The applicant is responsible for providing noise attenuation measures in accordance with the *NSW Road Noise Policy 2011*, prepared by the department previously known as the Department of Environment, Climate Change and Water.

## **5. Discharge of Stormwater into Cary Street**

- (a) Prior to the issue of a Construction Certificate, certification shall be submitted by an engineer based on the detailed engineering design to confirming peak flow storm water from the development shall not increase the flows from the site to Cary Street.

## **6. Disability Access Requirements**

Access for people with disabilities shall be provided from the buildings to kerb ramps and footpaths along the street frontage, by means of a continuous path of travel in accordance with *Australian Standard AS 1428.1*.

The recommendations contained in the approved Access report shall be incorporated into the design and construction of the development including:

- (a) The provision of 11 adaptable dwellings must comply with the essential features of Class C AS 4299;
- (b) Designated accessible parking bays for the commercial and visitor area must comply with AS 2890.6;
- (c) Stairs, ramps, pathways, unisex accessible and ambulant toilet facilities, doorways widths and widths of corridors in common and commercial areas must comply with AS 1428.1;
- (d) Signage shall be installed identifying adaptable parking bays;
- (e) If access to the car park is restricted by a security gate, the access control type and location will need to be accessible for people with limited reach range;

Upon completion of the works and prior to the issue of an Interim or Final Occupation Certificate, whichever occurs first, documentation shall be provided to the Principal Certifying Authority from a suitably qualified consultant certifying that the works have been completed in accordance with the recommendations of the report.

**Note:** Additional legislation exists to promote the provision of services, which enable people with a disability to maximise their potential, further their integration in the community and achieve positive outcomes.

The following legislation may be relevant:

- (a) *The NSW Disability Services Act 1993,*
- (b) *The Commonwealth Disability Discrimination Act 1992,*
- (c) *NSW Anti Discrimination Act 1977.*

For further information please consult:

- (a) Human Rights and Equal Opportunity Commission,
- (b) NSW Anti Discrimination Board.

## **General Terms of Approval and Concurrence Requirements**

### **7. General Terms of Approval**

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

- Subsidence Advisory NSW
- NSW Rural Fire Service
- Water NSW

### **8. Subsidence Advisory NSW – General Terms of Approval**

#### **Conditions of Approval**

##### **General**

##### **Plans, standards and guidelines**

1. These General Terms of Approval (GTAs) only apply to the development described in the plans and associated documentation relating to **DA/1651/2022** and provided to Subsidence Advisory NSW.

Any amendments or subsequent modifications to the development may render these GTAs invalid.

If the proposed development is amended or the development consent modified, Subsidence Advisory NSW must be notified to determine if any variations to these GTAs are required.

2. This approval expires 5 years after the date the Subsidence Advisory NSW approval was granted if construction work has not physically commenced.

##### **Prior to Commencement of Construction**

3. Prescribed Design Parameters

Provide certification from a qualified structural engineer that the proposed structure is capable of remaining “*safe, serviceable and any damage from mine subsidence shall be limited to ‘slight’ damage in*

*accordance with AS2870 (Damage Classification), and readily repairable”* if subjected to the subsidence parameters outlined below:

- (a) Maximum vertical subsidence: 150 mm
  - (b) Maximum horizontal strains: (+/-): 1 mm/m
  - (c) Maximum Tilt: 1 mm/m
  - (d) Maximum radius of curvature: 10km
4. Submit an “Engineering Impact Statement” for acceptance by SANSW, which shall identify the:
- (a) Mine Subsidence Parameters used for the design.
  - (b) Main building elements and materials.
  - (c) Risk of damage due to mine subsidence
  - (d) Design measures proposed to control the risks.
5. The design submitted for approval under Section 22 of the *Coal Mine Subsidence Compensation Act 2017* shall incorporate the design methodology contained in the “*Engineering Impact Statement*”, for acceptance by SA NSW prior to commencement of construction. It shall include certification by a qualified structural engineer to the effect that the improvements will remain “*safe, serviceable and any damage from mine subsidence shall be limited to ‘slight’ damage in accordance with AS2870 (Damage Classification), and readily repairable*” taking into consideration the mine subsidence parameters outlined above.

### **Post Construction**

6. Upon completion of construction, works-as-executed certification by a qualified engineer is to be forwarded to the *Subsidence Advisory NSW* confirming that construction was in accordance with the plans accepted by *Subsidence Advisory NSW*.

## **9. NSW Rural Fire Service**

### **General Conditions**

The proposed Asset Protection Zones (APZs) and Bushfire Construction Levels have been nominated by Newcastle Bushfire Consulting and demonstrated in accordance with the modelling under Method 2 as stipulated in the Australian Standard AS3959-2018 *Construction of buildings in bushfire prone areas*. The following conditions are based on the acceptance of the methodology of the performance based solutions and management of the proposed APZs found in the supporting documents:

- BUSHFIRE ASSESSMENT REPORT ALTERNATE SOLUTION PROPOSED MIXED USE DEVELOPMENT AND RESIDENTIAL SUBDIVISION Lot 4-10 SEC 6 DP 2505, Lot 101 DP 1110774 and Lot 100 DP 847314 118 Cary Street, Toronto, prepared by Newcastle Bushfire Consulting, dated 20 October 2021.

## **Asset Protection Zones**

***The intent of measure is to provide sufficient space and maintain reduced fuel loads to ensure radiant heat levels at the buildings are below critical limits and prevent direct flame contact.***

1. At the issue of a subdivision certificate and in perpetuity, the entire site must be managed as an inner protection area in accordance with the requirements of Appendix 4 of *Planning for Bush Fire Protection 2019*. When establishing and maintaining an inner protection area, the following requirements apply:
  - tree canopy cover should be less than 15% at maturity;
  - trees at maturity should not touch or overhang the building;
  - lower limbs should be removed up to a height of 2 m above the ground;
  - tree canopies should be separated by 2 to 5 m;
  - preference should be given to smooth-barked and evergreen trees;
  - large discontinuities or gaps in the shrubs layer should be provided to slow down or break the progress of fire towards buildings;
  - shrubs should not be located under trees;
  - shrubs should not form more than 10% ground cover;
  - clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation;
  - grass should be kept mown (as a guide, grass should be kept to no more than 100mm in height); and
  - leaves and vegetation debris should be removed regularly.

## **Construction Standards**

***The intent of measure is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.***

2. The proposed building works for the residential component of the building excepting the eastern elevation must comply with section 3 and section 6 (BAL 19) Australian Standard AS3959-2018 *Construction of buildings in bushfire-prone areas* or the relevant requirements of the *NASH Standard - Steel Framed Construction in Bushfire Areas* (incorporating amendment A - 2015). New construction must also comply with the construction requirements in Section 7.5 of *Planning for Bush Fire Protection 2019*.

3. The eastern elevation of the residential units must comply with section 3 and section 5 (BAL 12.5) Australian Standard AS3959-2018 *Construction of buildings in bushfire-prone areas* or the relevant requirements of the *NASH Standard - Steel Framed Construction in Bushfire Areas* (incorporating amendment A - 2015). New construction must also comply with the construction requirements in Section 7.5 of *Planning for Bush Fire Protection 2019*.
4. The proposed building works for the commercial component of the building must comply with Building Code Australia 2019 Structural Fire Safety requirements.

### **Water and Utility Services**

***The intent of measure 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.***

5. The provision of water, electricity and gas must comply with the following in accordance with Table 5.3c of *Planning for Bush Fire Protection 2019*:
  - reticulated water is to be provided to the development where available;
  - fire hydrant, spacing, design and sizing complies with the relevant clauses of Australian Standard AS 2419.1:2005;
  - hydrants are not located within any road carriageway;
  - reticulated water supply to urban subdivisions uses a ring main system for areas with perimeter roads;
  - fire hydrant flows and pressures comply with the relevant clauses of AS 2419.1:2005;
  - all above-ground water service pipes are metal, including and up to any taps;
  - where practicable, electrical transmission lines are underground;
  - where overhead, electrical transmission lines are proposed as follows:
    - lines are installed with short pole spacing (30m), unless crossing gullies, gorges or riparian areas; and
    - no part of a tree is closer to a power line than the distance set out in accordance with the specifications in ISSC3 Guideline for Managing Vegetation Near Power Lines.

- reticulated or bottled gas is installed and maintained in accordance with AS/NZS 1596:2014 and the requirements of relevant authorities, and metal piping is used;
- reticulated or bottled gas is installed and maintained in accordance with AS/NZS 1596:2014 - The storage and handling of LP Gas, the requirements of relevant authorities, and metal piping is used;
- all fixed gas cylinders are kept clear of all flammable materials to a distance of 10m and shielded on the hazard side;
- connections to and from gas cylinders are metal; polymer sheathed flexible - gas supply lines are not used; and
- above-ground gas service pipes are metal, including and up to any outlets.

### **Landscaping Assessment**

***The intent of measure is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.***

6. Landscaping within the required asset protection zone must comply with Appendix 4 of *Planning for Bush Fire Protection 2019*. In this regard, the following principles are to be incorporated:
  - A minimum 1 metre wide area (or to the property boundary where the setbacks are less than 1 metre),
  - suitable for pedestrian traffic, must be provided around the immediate curtilage of the building;
  - Planting is limited in the immediate vicinity of the building;
  - Planting does not provide a continuous canopy to the building (i.e. trees or shrubs are isolated or located in small clusters);
  - Landscape species are chosen to ensure tree canopy cover is less than 15% (IPA), and less than 30% (OPA) at maturity and trees do not touch or overhang buildings;
  - Avoid species with rough fibrous bark, or which retain/shed bark in long strips or retain dead material in their canopies;
  - Use smooth bark species of trees species which generally do not carry a fire up the bark into the crown;
  - Avoid planting of deciduous species that may increase fuel at surface/ ground level (i.e. leaf litter);
  - Avoid climbing species to walls and pergolas;
  - Locate combustible materials such as woodchips/mulch, flammable fuel stores away from the building;

- Locate combustible structures such as garden sheds, pergolas and materials such as timber garden furniture away from the building; and
- Low flammability vegetation species are used.

**10. Water NSW – General Terms of Approval**

1. Groundwater must only be pumped or extracted for the purpose of temporary construction dewatering at the site identified in the development application. For clarity, the purpose for which this approval is granted is only for dewatering that is required for the construction phase of the development and not for any dewatering that is required once construction is completed.
2. Before any construction certificate is issued for any excavation under the development consent, the applicant must:
  - i. apply to WaterNSW for, and obtain, an approval under the Water Management Act 2000 or Water Act 1912, for any water supply works required by the development; and
  - ii. notify WaterNSW of the programme for the dewatering activity to include the commencement and proposed completion date of the dewatering activity Advisory Note:
  - iii. An approval under the Water Management Act 2000 is required to construct and/or install the water supply works. For the avoidance of doubt, these General Terms of Approval do not represent any authorisation for the take of groundwater, nor do they constitute the grant or the indication of an intention to grant, any required Water Access Licence (WAL). A WAL is required to lawfully take more than 3ML of water per water year as part of the dewatering activity.
  - iv. A water use approval may also be required, unless the use of the water is for a purpose for which a development consent is in force.
3. A water access licence, for the relevant water source, must be obtained prior to extracting more than 3ML per water year of water as part of the construction dewatering activity. Advisory Notes:
  - i. This approval is not a water access licence.
  - ii. A water year commences on 1 July each year.
  - iii. This approval may contain an extraction limit which may also restrict the ability to take more than 3ML per water year without further information being provided to WaterNSW.
  - iv. Note that certain water sources may be exempted from this requirement – see paragraph 17A, Schedule 4 of the Water Management (General) Regulation 2018.

4. If no water access licence is obtained for the first 3ML / year (or less) of water extracted, then, in accordance with clause 21(6), Water Management (General) Regulation 2018, the applicant must:
  - i. record water taken for which the exemption is claimed, and
  - ii. record the take of water not later than 24 hours after water is taken, and
  - iii. make the record on WAL exemption form located on WaterNSW website "Record of groundwater take under exemption", and
  - iv. keep the record for a period of 5 years, and
  - v. give the record to WaterNSW either via email to Customer.Helpdesk@waterNSW.com.au or post completed forms to - PO Box 398 Parramatta NSW 2124
    - not later than 28 days after the end of the water year (being 30 June) in which the water was taken, or
    - if WaterNSW directs the person in writing to give the record to WaterNSW on an earlier date, by that date.
5. All extracted groundwater must be discharged from the site in accordance with Council requirements for stormwater drainage or in accordance with any applicable trade waste agreement.
6. The design and construction of the building must prevent:
  - i. any take of groundwater, following the grant of an occupation certificate (and completion of construction of development), by making any below-ground levels that may be impacted by any water table fully watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation;
  - ii. obstruction to groundwater flow, by using sufficient permanent drainage beneath and around the outside of the watertight structure to ensure that any groundwater mounding shall not be greater than 10 % above the pre-development level; and
  - iii. any elevated water table from rising to within 1.0m below the natural ground surface.
7. Construction phase monitoring bore requirements GTA:
  - i. A minimum of three monitoring bore locations are required at or around the subject property, unless otherwise agreed by WaterNSW.



- ii. The location and number of proposed monitoring bores must be submitted for approval, to WaterNSW with the water supply work application.
  - iii. The monitoring bores must be installed and maintained as required by the water supply work approval.
  - iv. The monitoring bores must be protected from construction damage.
8. Construction Phase Monitoring programme and content:
  - i. A monitoring programme must be submitted, for approval, to WaterNSW with the water supply work application. The monitoring programme must, unless agreed otherwise in writing by WaterNSW, include matters set out in any Guide published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no Guide is current or published, the monitoring programme must include the following (unless otherwise agreed in writing by WaterNSW):
    - Pre-application measurement requirements: The results of groundwater measurements on or around the site, with a minimum of 3 bore locations, over a minimum period of 3 months in the six months prior to the submission of the approval to WaterNSW.
    - Field measurements: Include provision for testing electrical conductivity; temperature; pH; redox potential and standing water level of the groundwater;
    - Water quality: Include a programme for water quality testing which includes testing for those analytes as required by WaterNSW;
    - QA: Include details of quality assurance and control
    - Lab assurance: Include a requirement for the testing by National Association of Testing Authorities accredited laboratories.
  - ii. The applicant must comply with the monitoring programme as approved by WaterNSW for the duration of the water supply work approval (Approved Monitoring Programme) of the dewatering activity, and any monitoring required under the Approved Monitoring Programme, the applicant must submit a completion report to WaterNSW.
  - iii. The completion report must, unless agreed otherwise in writing by WaterNSW, include matters set out in any guideline published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no guideline is current or published, the

completion report must include the following (unless otherwise agreed in writing by WaterNSW):

- All results from the Approved Monitoring Programme; and
- Any other information required on the WaterNSW completion report form as updated from time to time on the WaterNSW website.
- The completion report must be submitted using "Completion Report for Dewatering work form" located on WaterNSW website [www.waternsw.com.au/customer-service/waterlicensing/](http://www.waternsw.com.au/customer-service/waterlicensing/) dewatering

9. The extraction limit shall be set at a total of 3ML per water year (being from 1 July to 30 June). The applicant may apply to WaterNSW to increase the extraction limit under this condition. Any application to increase the extraction limit must be in writing and provide all information required for a hydrogeological assessment. Advisory note: Any application to increase the extraction limit should include the following: - Groundwater investigation report describing the groundwater conditions beneath and around the site and subsurface conceptualisation - Survey plan showing ground surface elevation across the site – Architectural drawings showing basement dimensions - Environmental site assessment report for any sites containing contaminated soil or groundwater (apart from acid sulphate soils (ASS)) - Laboratory test results for soil sampling testing for ASS - If ASS, details of proposed management and treatment of soil and groundwater. Testing and management should align with the NSW Acid Sulphate Soil Manual
10. Any dewatering activity approved under this approval shall cease after a period of two (2) years from the date of the WaterNSW approval, unless otherwise agreed in writing by WaterNSW (Term of the dewatering approval). Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.
11. This approval must be surrendered after compliance with all conditions of this approval, and prior to the expiry of the Term of the dewatering approval, in condition GT0151-00001. Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.
12. The following construction phase monitoring requirements apply (Works Approval):
  - i. The monitoring bores must be installed in accordance with the number and location shown, as modified by this approval, unless otherwise agreed in writing with WaterNSW.

- ii. The applicant must comply with the monitoring programme as amended by this approval (Approved Monitoring Programme).
- iii. The applicant must submit all results from the Approved Monitoring Programme, to WaterNSW, as part of the Completion Report

## **Fees, Charges and Contributions**

### **11. Contribution Toward Provision or Improvement of Amenities or Services**

In accordance with the provisions of the *Environmental Planning and Assessment Act 1979* – Sect 7.11 and the Lake Macquarie City Council *Development Contributions Plan Toronto Contributions Catchment - 2016*, the monetary contributions in the attached Contributions Schedule shall be paid to Council for the purposes identified in that Schedule.

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

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

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

The contributions payable shall be the amounts last indexed and adjusted in accordance with the above. However, if no amount has been indexed and adjusted because the first date for indexation and adjustment has not arrived, the contributions payable shall be those set out in the table below.

The contributions shall be paid to Council as follows:

- (a) Development Applications involving subdivision – prior to the release of the Subdivision Certificate;
- (b) Development Applications involving building work – prior to the release of the first Construction Certificate;
- (c) Development Applications involving both subdivision and building work – prior to the release of the Subdivision Certificate or first Construction Certificate, whichever occurs first;

- (d) Development Applications where no Construction Certificate or Subdivision Certificate is required – prior to the commencement of any construction work or prior to any occupation, whichever occurs first;
- (e) Complying Development Certificates - prior to any work authorised by the application or certificate commencing.

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

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

Indexation details are available from Council's Development Contribution Section.

A copy of the Lake Macquarie City Council *Development Contributions Plan Toronto Contributions Catchment - 2016* is available on Council's website, or a copy is available at Council's Administrative Building during Council's opening hours.

## CONTRIBUTION FEE SCHEDULE

DESCRIPTION	FEE AMOUNT
TC-Open Space & Recreation Facilities-Capital-CPI	\$1,138,227.21
TC-Open Space & Recreation Facilities-Land-LVI	\$563,674.27
TC-Roads-Capital-R001-CPI	\$4,194.46
TC-Public Transport Facilities-CPI	\$3,371.22
TC-Community Facilities-Capital-CPI	\$103,096.72
TC-Plan Preparation & Administration-CPI	\$130,862.73
	<b>\$1,943,426.61</b>

### Conditions to be satisfied prior to the issue of the Construction Certificate

The person having the benefit of the consent shall comply with each of the following conditions prior to the issue of a Construction Certificate.

Any documentation required to be submitted for the Construction Certificate shall be submitted to the Certifying Authority unless otherwise specified.

## 12. 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 Certifying Authority that is not Council it shall be necessary to lodge the Construction

Certificate and other approved documents with Council within two days of such approval. (Clause 142(2) *Environmental Protection Authority Regulation 2000*).

**13. Infrastructure on 2A Bath Street**

If any infrastructure works are to be carried out on 2A Bath Street, revised Plans shall be submitted to the satisfaction of Council for approval for:

- (a) The placement of any proposed stormwater, sewer and water infrastructure on 2A Bath Street, which will need to be formalised by an easement subject to agreement being reached as to the location/positioning of the infrastructure on Council land.

All costs associated with relocation of proposed infrastructure procuring easements shall be at the applicant's expense.

**14. Stormwater Disposal - Stormwater Detention and Harvesting**

A Detailed Stormwater Detention and Harvesting Plan shall be submitted. The plan shall be generally in accordance with the Stormwater management plan approved by the Development Consent prepared by Northrop Consulting Engineers NL171556 Rev G dated 20/11/2023. The stormwater plans approved by this development consent are not approved for construction. The stormwater plans shall comply with the following:

- (a) Hydraulic grade lines shall be updated to ensure they conform to the water quality device supplier designs requirements.
- (b) MUSIC and DRAINS models shall be confirmed to ensure all catchments are correct and any bypass is accurately reflected.
- (c) Stormwater shall be disposed of through a piped system designed in accordance with *Australian Standard AS 3500* by a suitably qualified professional. The design shall be undertaken by a practising Civil Engineer deemed to be suitably experienced by Council and qualified so as to be accepted as a Member of the Institution of Engineers Australia or a Registered Surveyor deemed to be suitably experienced by Council shall be accepted as qualified to prepare plans for drainage works (excluding flood control structures and bridges). Qualifications demonstrating the above may be requested by Council. Stormwater detention measures shall be designed to ensure the development does not increase upstream or downstream flood levels for all recurrence intervals up to and including the 1% Annual Exceedance Probability.
- (d) Deleted
- (e) Detention storage shall be calculated and designed in accordance with *Australian Rainfall and Runoff 2019* and the Lake Macquarie City Council guideline – *Handbook for Drainage Design Criteria* and shall conform to the specifications and standards contained in *Development Control Plan 2014 Engineering Guidelines*.

- (f) Stormwater harvesting measures shall be designed in accordance with the *Development Control Plan 2014 Water Cycle Management Guideline*. Stormwater drainage plans shall include details of the harvesting system, including rainwater tank details, pump details and reticulation diagrams.
- (g) The location of a permanent metal sign (minimum dimensions 150mm x 220mm) shall be detailed on the plans in a visible location near the detention orifice plate or onsite detention entry with the following wording:

THIS IS AN ONSITE STORMWATER DETENTION SYSTEM REQUIRED BY LAKE MACQUARIE CITY COUNCIL.

It is an offence to reduce the volume of the tank or basin or to interfere with the orifice plate that controls the outflow.

The base of the outlet control pit and the debris screen shall be cleaned of debris and sediment on a regular basis.

This plate shall not be removed

## 15. Erosion and Sediment Control

A final Erosion and Sediment Control Plan or Soil and Water Management Plan shall be submitted. The plan shall contain information required for the area of disturbance of the development or its distinct and separate stages in accordance with *Development Control Plan 2014*.

The final plan shall include a signed and dated Statement of Compliance stating (in full):

- (a) This plan has been developed, certified and signed off by an appropriately qualified and experienced professional in erosion and sediment control;
- (b) The plan complies with the requirements for the area of disturbance in accordance with *Development Control Plan 2014*;
- (c) The plan and associated documents, calculations and drawings, have been prepared to a standard which, if properly implemented, shall achieve the water release criteria of 50mg/L of total suspended solids (TSS); and
- (d) All erosion and sediment control measures are in accordance with *Development Control Plan 2014*.

## 16. Kerb and Guttering

A design plan for kerb and guttering, road pavement and associated drainage works (the associated drainage works being the overland swale depicted in the south-eastern and southern part of the subject site in Northrop Stormwater Management and Levels Plan – ground Floor C12DA v 5 20/11/23) along the Arnott Avenue street frontage north of the proposed driveway access to the subject Site as depicted in the Northrop Concept External Works Plan C30DA rev 6 dated 12/12/23 shall be submitted. No works shall commence prior to the issue of a Public Works Certificate in accordance with s138 of the *Roads Act 1993*. Any works on a public road shall be approved by Council.

**16A. Provision of Council Easement (Public)**

An easement to drain water, minimum three metres wide or the width of the 100 year flow path, whichever is greater shall be created at no cost to Council in favour of Council over the drainage line conveying the public water from Bath Street and Arnott Avenue.

The easement shall be registered on the title of the lot under Section 88B of the *Conveyancing Act 1919* as amended. A copy of the registered Section 88B Instrument shall be provided to Council prior to the issue of any occupation certificate.

Council shall be the authority with the power to release, vary or modify the terms of the easement.

**17. Concrete Footpath**

A design plan for concrete footpaths 1.2 metres wide along the full length of the Cary Street frontage and 2.9 metres wide (north of the access driveway) to Bay Street shall be submitted. Concrete foot paving shall be constructed in accordance with Lake Macquarie City Council standard drawing *EGSD-301* which is available from Councils website. No works shall commence prior to the issue of a Public Works Certificate in accordance with s138 of the *Roads Act 1993*. Any works on a public road shall be approved by Council.

**18. Vehicles Access Crossing and Kerb Layback**

An approval for the vehicle access crossing and kerb layback under s138 of the *Roads Act 1993* is required and “Application for Access to Property” shall be obtained from Council.

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

Existing laybacks fronting the proposed development that are not required will require removal with kerb and guttering replacement to Council’s standards.

**19. Geotechnical Report Compliance**

The recommendations of the Geotechnical Report Reference GS8030-1A Rev03 prepared by Chameleon Geosciences P/L dated 25 February 2022 shall be complied with. Any works undertaken in relation to the development shall embody all relevant recommendations of the Geotechnical Reports.

The engineering plans shall be certified as being designed in accordance with the approved Geotechnical Reports.

**20. Car Parking and Allocation of Spaces**

Plans demonstrating a total of 208 car parking spaces in accordance with *Australian Standard AS/NZS 2890* shall be submitted.

**21. Parking Areas and Access Ways**

A design plan for parking areas and access ways shall be submitted. The design shall include pavement design, stormwater drainage, line marking and signage. The design shall meet the standards nominated in *Development Control Plan 2014*, *Engineering Guidelines* and *Australian Standard AS2890*.

**22. Driveway Design – Commercial**

A design plan for the driveway to the garage or car parking area of the development shall be submitted. The design shall be in accordance with the following requirements and Council Standard Drawing: *EGSD-104* (available from Councils 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 design plan shall include a driveway longitudinal section, incorporating the design level provided by Council and other construction details (i.e. concrete thickness and reinforcement).
- (c) In accordance with *AS 2890.2:2018* the maximum gradient of any driveway or ramp shall not exceed 1V:6.5H (15.4%).
- (d) Where changes of grade occur, suitable transitions shall be designed to meet the *Design Vehicle Ground Clearance Diagrams* in Figure A1 of *AS2890.2:2018*.

**23. State Environmental Planning Policy 65**

A design verification statement from a qualified designer shall be submitted.

The statement shall confirm the Construction Certificate plans and specifications achieve or improve the design quality of the development for which consent was granted, having regard to the Design Quality Principles set out in Schedule 1 of *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development*.

Note: Qualified designer means a person registered as an architect in accordance with the *Architects Act 2003*.



**24. Ausgrid Requirements**

The written requirements of Ausgrid for the development shall be obtained and complied with.

**25. Hunter Water Corporation**

The written requirements of Hunter Water Corporation for the development shall be obtained and complied with.

**26. Car Washing Bay**

The designated car washing bays shall be constructed clear of the designated car parking spaces and driveways and shall be accessible at all times.

The designated car washing bays shall be roofed, bunded and graded to a floor sump which drains to the Hunter Water Corporations (HWC) reticulated sewer in accordance with HWC requirements.

Plans and specifications for the proposed wash bay, including bunding, drainage and the installation of any proposed oil/waste separator, shall be submitted to the accredited certifier.

**27. Building Sustainability Index (BASIX) Certificate**

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

**28. Acoustic Certification – Internal Comfort Noise Levels**

The proposed development shall be designed and constructed to comply with AS2107.2000 Acoustics – Recommended design sounds levels and reverberation times for building interiors.

A suitably qualified acoustic consultant shall be engaged to assist with the preparation of the final building plans and specifications to ensure the proposed development will comply with AS2107.2000.

**29. Acoustic Certification**

Plans shall be certified as being designed in accordance with the approved Acoustic Report and AS2107.2000 Acoustics.

**30. Heritage Interpretation Strategy**

The Principal Certifying Authority shall not issue a Construction Certificate for this consent prior to Lake Macquarie City Council's Development Planner – Heritage Focus having approved the final Heritage Interpretation Strategy.

**31. Screening of plant and equipment**

All roof mounted equipment (including but not limited to air conditioning units) required to be installed must be concealed within the external walls of the development or adequately screened so as not to be visible from a public

place at ground level so as not to increase the overall height of the development.

Screening shall be provided to any services (such as air conditioning, hot water system, etc) required to be installed on balconies. Screening shall be provided to ensure the services are not visible from the street.

Details demonstrating compliance with this condition shall be submitted to the satisfaction of the Principal Certifying Authority.

**32. Waste Management Plan**

A construction waste management plan shall be prepared in accordance with the Lake Macquarie City Council Waste Management Guideline and provided to the Principal Certifying Authority.

**33. Crime Prevention Through Environmental Design**

Prior to issues of any Construction Certificate details demonstrating all design requirements provided as recommendations of the approved Crime Prevention Through Environmental Design report have been incorporated into detailed construction plans.

**34. Landscape Plans**

Prior to the issue of any Construction Certificate an amended landscape plan shall be prepared which demonstrates planting density and set out consistent with approved architectural plans.

Amended plans shall include planting schedules and details, to be approved by Council.

**35. Servicing and Loading Management Plan**

A Servicing and Loading Management Plan shall be prepared to co-ordinate the arrival and departure time of service vehicles.

The Servicing and Loading Management Plan shall include the following restrictions:

- (a) No loading and servicing operations shall occur during school zone times being 8.00am to 9.30am and 2.30pm to 4.00pm;
- (b) The Plan will detail how the access will be restricted to service vehicles only;
- (c) Heavy Rigid Vehicles (HRV) shall be restricted from using this site;
- (d) All vehicles to the site shall be a maximum size of Medium Rigid (MR) – 8.8 MRV or less limitation;
- (e) No waste collection or servicing including deliveries, loading or unloading to occur between the hours of 8pm and 7am, Monday to Saturday and 8pm and 8am on Sunday and Public Holidays.

**Conditions to be satisfied prior to the issue of the Public Works Certificate**

The person having the benefit of the consent shall comply with each of the following conditions prior to the issue of the Public Works Certificate for works within the public domain.

A Public Works Certificate is issued under s138 of the Roads Act 1993.

**36. Roadways and Drainage Works Standards**

All works within the public domain shall be designed and constructed in accordance with the following publications (as amended or updated), as applicable:-

- (a) *Australian Rainfall and Runoff, 1987.*
- (b) *Development Control Plan 2014* and supporting guidelines.
- (c) *AUSTROADS Guide to Road Design Guide.*
- (d) *Roads and Maritime Services Delineation Guidelines.*
- (e) *Managing Urban Stormwater documents (2004)* by Landcom.
- (f) *The Constructed Wetlands Manual* - Department of Land and Water Conservation, 1998.
- (g) *WSUD Technical Design Guidelines for South East Queensland.*
- (h) *Healthy Waterways – Water by Design Guidelines.*
- (i) Australian Standards including, but not limited to:-
  - i. *AS1428 - Design for Access and Mobility, Part 1 General Requirements for Access and Part 4 Tactile Indicators,*
  - ii. *AS2890 - Off Street Parking*

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

**37. Public Works Certificate for Works**

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

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

**38. Stormwater Standards**

A design shall be submitted for stormwater works in accordance with the requirements contained in *Development Control Plan 2014 and Guidelines*. The stormwater design shall meet the requirements of the publications and standards identified in this consent.

**39. Pavement Standards**

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

Designs for road pavements shall be prepared by a geotechnical consultant and shall be submitted to Council with the Public Works Certificate application.

Where work shall be undertaken within a classified Main Road the pavement design shall also be submitted to the Roads and Maritime Services for its approval prior.

**40. Compliance Certificate for Works**

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

**41. Application Fees for Required Certificates**

Applications for the following Certificates shall be submitted. For Council to process applications for these certificates the following fees shall be payable:

<b>Public Certificate</b>	<b>Works</b>	<b>Please contact Council for fees</b>
<b>Compliance Certificate</b>		<b>Please contact Council for fees</b>

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

Where the development includes public domain construction works valued at \$25,000.00 or more, the person having the benefit of the consent shall pay the Long Service Levy, as detailed in the *Building and Construction Industry Long Service Payments Scheme*. The Levy shall be paid prior to the issue of the Public Works Certificate. The Levy shall be paid directly to the Long Service Payments Corporation or to Council as agent for the Corporation. The Levy rate is 0.35% of the cost of building and construction works.

The above fees are current for the 2023/2024 financial year and are subject to change each financial year without notice. Confirmation of the relevant fee shall be obtained from Council prior to the lodgement of any application.

**42. Signage and Linemarking**

The engineering design plans submitted with the Public Works Certificate application shall include details of any alteration to regulatory signposting and line marking.

Plans showing signposting and line marking on the public street system or road related area are to be submitted for Council approval as part of an application.

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

**Conditions to be satisfied prior to the commencement of works**

The person having the benefit of the consent shall comply with each of the following conditions prior to the commencement of works.

**43. Erosion and Sediment Control**

All approved erosion and sediment controls shall be installed in accordance with *Development Control Plan 2014*.

**44. Dilapidation Survey Report**

A Dilapidation Report shall be submitted to Council and the Principal Certifying Authority prior to any works, including excavation works commencing.

The report shall be prepared by an engineer or other suitably qualified person.

The report shall cover all properties and public land that adjoin the development or that could be potentially damaged by the works including streets and road assets surrounding the development.

The report shall include a description of the location and nature of any existing observable defects to the properties and existing public infrastructure, including a photographic record.

For continuous assets such as footpaths or kerb and channel, records shall be taken at least every five metres.

**45. Hoarding and Construction Site Safety Fencing**

Construction site safety fencing and/or hoarding shall be provided in accordance with WorkCover requirements. Such fencing and/or hoarding shall be erected wholly within the property boundary unless prior approval from Council is obtained.

Council approval is required to install hoarding, site fencing or overhead protective structures over or adjoining a public place i.e. a footpath or a Public Reserve. No work shall commence until written approval is obtained.

**46. Public Domain Works – Landscaping**

A public works certificate application shall be lodged with and approved by Council prior to any works in the public domain. The Landscape Construction Drawings and Specifications shall be completed by a qualified landscape architect (category three landscape consultant) with demonstrated experience in producing landscape construction documentation for public domain works and include the extent of detail required to construct such works. The documentation shall reference and comply with the conditions of consent and approved landscape plans.

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

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

#### Street Trees

Street trees along Arnott Avenue shall comprise *Auracaria columnaris* and Cary Street *Fraxinus pensylvanica* planted at centres along the streetscape. Planting in the public reserve to be *Quercus robur* 100lt and *Phoenix canariensis* with a trunk of a minimum 4000mm height. All trees are to be provided with standard LMCC tree guards (with exception of *Phoenix*), as per *Lake Macquarie City Council Landscape Standard Drawings March 2019*. The Landscape contractor shall remove all pot stakes, labels and wire/rubber/plastic tags from every street tree with only tree guard/staking as detailed. All street trees shall be grown to *AS2303:2015* with the landscape consultant sighting documentation from the nursery supplier confirming this and all street trees shall be maintained once planted for 104 weeks.

The detail of these requirements shall be included in the Subdivision Construction Certificate Landscape Construction Drawings and Specifications.

#### The Hold/Witness Points – Checks Required

- (a) Set out of tree pits within existing concrete footpath (hold point).
- (b) Excavation of tree pits with root barrier and sub-surface drainage installed in accordance with *Lake Macquarie City Council Landscape Standard Drawings March 2019* – relevant street tree details (hold point).
- (c) Evidence of certification of all associated imported topsoil for street tree planting in accordance with *AS4419 – 2003* shall be provided to Councils Senior Project Officer (Civil) (hold point).
- (d) Tree delivery prior to installation and certification to comply with *AS2303-2015 Tree Stock for Landscape Use* (hold point).

- (e) Commencement of tree planting (witness point).
- (f) Installation of growing medium (witness point).
- (g) Completion of tree planting, including the installation of tree guards, in accordance with *Lake Macquarie City Council Landscape Technical Drawings February 2016* (witness point).

#### Hardscape Works

##### The Hold/Witness Points – Checks Required

- (a) Formwork inspection (hold point)
- (b) Pre pour inspections for pavement and pathways (hold point)
- (c) Installation of tactile ground surface indicators as per manufacturers recommendations
- (d) Review of works as executed with LMCC Senior Project Officer (Civil) prior to landscape compliance report sign off (hold point).

#### **47. Filling Importation and Compaction**

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

- (a) Virgin excavated natural material (VENM) as defined under the provisions of the *NSW Protection of the Environment Operations Act 1997*; or
- (b) The material is from a known origin and composition, free of contamination from manufactured chemicals, process residues, building debris, sulfidic ores, or other foreign matter; or
- (c) Fill which has been characterised and validated by a suitably qualified and experienced site contamination consultant, in accordance with the NSW Office of Environment and Heritage publication *Contaminated Sites - Sampling Design Guidelines* dated September 1995.

Prior to works commencing, written certification from a suitably qualified geotechnical engineer that the material is suitable for the proposed use on the site, shall be provided to Council. Only that material certified by the geotechnical engineer shall be imported to the site.

Written details shall be kept of address of the origin of the fill; quantities, dates, and times of delivery from each location; registration numbers and driver's identification details; and laboratory test results/consultants reports and available for inspection by the Principal Certifying Authority or Council upon receipt of a written request.

#### **48. Building Waste**

An area for the 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.

**49. Works Within a Public Road Reserve**

Approval is granted 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 no hazards shall remain that may impact on the public.

For any other works within the road reserve, an approval under s138 of the *Roads Act 1993* shall be obtained from Council. The road shall not be opened until the approval has been issued.

**50. Dial Before You Dig (Advice)**

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



**51. Details Required Prior to Commencement of Works within the Public Domain**

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

- (a) a Public Works Certificate has been issued by Council
- (b) the person having the benefit of the development consent has given at least two days notice to Council of the intention to commence works.

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

A fee for applications for Public Works Certificates shall be required to be paid in accordance with Council's fees and charges for Public Works Certificates.

**52. Construction Management Plan for Works**

The contractor engaged to undertake the construction works shall provide a Construction Management Plan (CMP) to Council, a minimum of seven days prior to commencing any works.



The contractor engaged to undertake the construction works within the public domain shall provide a Construction Management Plan (CMP) to Council, a minimum of seven days prior to commencing any works.

The CMP shall be submitted to the City Projects Department at the following email address [projectmanagementpat@lakemac.nsw.gov.au](mailto:projectmanagementpat@lakemac.nsw.gov.au). The CMP shall be approved by Council prior to works commencing on site. The CMP shall set out the construction approach for the works and should seek to minimise disruption to the local community.

As a minimum, the CMP must address the following areas:

#### Health and Safety

- (a) Public safety, amenity and site security;
- (b) Traffic Control and Management;
- (c) Pedestrian management;
- (d) Construction hours;
- (e) Noise control;
- (f) Contractor vehicle parking;
- (g) Locating existing utilities and services;
- (h) Health and Safety requirements.

#### Environment

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

#### Quality

- (a) Submission of current insurance certificates;
- (b) Work method description;
- (c) Construction equipment to be used;
- (d) Inspection and testing requirements;
- (e) CCTV survey of pipework;
- (f) Earthworks methodologies;
- (g) Haulage routes;
- (h) Retaining structure construction methodologies;
- (i) Concrete jointing methodologies;
- (j) Subsoil drainage installation methodologies;

- (k) Stormwater drainage infrastructure installation methodologies;
- (l) Stormwater Quality Improvement Device installation methodologies;
- (m) Road construction methodologies;
- (n) Accessways and footway construction methodologies;
- (o) Landscaping installation methodologies;
- (p) Utility and services installation methodologies
- (q) Construction and installation methodologies of other structures not otherwise covered above.

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

**53. Notice of Commencement of Works within the Public Domain**

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

In accordance with Section 6.12 of the *Environmental Planning and Assessment Act* the Council or Principal Certifying Authority shall be given at least two days notice in writing prior to such meeting taking place.

The notice shall also include the names of the contractor undertaking construction and the developer's supervising officer.

**Conditions to be satisfied during demolition and construction works**

The person having the benefit of the consent shall comply with each of the following conditions during demolition and construction works.

**54. Erosion and Sediment Control**

All erosion and sediment controls shall be appropriately managed throughout the development to prevent pollution until the land is considered erosion resistant.

Any pollution from site shall be cleaned up immediately and appropriate repairs made to onsite controls.

The final plan shall include a signed and dated Statement of Compliance stating (in full):

- (a) This plan has been developed, certified and signed off by an appropriately qualified and experienced professional in erosion and sediment control;
- (b) The plan complies with the requirements for the area of disturbance in accordance with *Development Control Plan 2014*;
- (c) The plan and associated documents, calculations and drawings, have been prepared to a standard which, if properly implemented, shall achieve the water release criteria of 50mg/L of total suspended solids; and
- (d) All erosion and sediment control measures are in accordance with *Development Control Plan 2014*.

**55. Management of Site - Erosion Prevention and Sediment Control**

All disturbed areas shall be revegetated or rendered erosion resistant in accordance with *Development Control Plan 2014 Guidelines – Erosion Prevention and Sediment Control Guidelines* as soon as practical, and no later than the timeframes specified in *Managing Urban Stormwater: Soils and Construction The Blue Book 4th Edition*, Landcom, 2004.

**56. Topsoil and Stockpiles of Materials**

Topsoil shall only be stripped from approved areas. It may be stockpile onsite for re-use during site rehabilitation and landscaping. Stockpiles of any material including but not limited to, soil, sand, aggregate, and spoil, stored on the site that is capable of being moved by water shall be stored clear of any drainage line or easement, natural watercourse, footpath, kerb, and/or road surface. Suitable erosion and sediment controls shall be installed. The stockpile shall be treated so its surface is resistant to water and wind erosion. No stockpiles shall be located on the public footpath or road reserve without prior written approval from Council.

**57. Fix Damage Caused by Construction Works**

Any damage 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 to the satisfaction of Council.

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.

**58. Geotechnical Report Compliance**

Where the geotechnical report prepared for this development requires inspections, a suitably qualified engineer shall inspect the works at the stages specified in that report.

**59. Deleted.**

**60. Management of Groundwater during construction**

The applicant shall not materially alter groundwater levels within the wetland on the western side of Cary Street, (26 Sara Street, Toronto, Lots 3 -5 DP 247293), during the construction dewatering process and the final basement formation.

**61. Landscape Works**

Landscape works shall be constructed in accordance with the approved architectural plans and amended landscape plans provided prior to issue of construction certificate.

Street trees shall have tree guards and tree pits as per the *Toronto Streetscape Master Plan* and *Lake Macquarie City Council Landscape Standard Drawings March 2019*. Street trees shall have standard timber edging installed and all pot stakes, labels and wire/rubber/plastic tags removed. Street trees shall be *Auracaria columnaris* to Arnott Street and *Fraxinus pensylvanica* to Cary Street.

All street trees are to be grown to meet AS2303:2015.

A single *Quercus robur* and *Phoenix canariensis* tree planting and accompanying landscape ground works as designed shall occur in the adjoining public land adjoining the Fassifern Rail Trail. Undergrounding of e-wires is to occur to facilitate planting of *Phoenix canariensis*.

Furniture design for the streetscape is to be as per the Toronto Streetscape Master Plan specifications for furniture and pavement detailing.

All landscape planting works shall be implemented under the full supervision of a contractor with a current NSW Department of Fair Trading endorsed license in Structural Landscaping.

All paving works shall be implemented under the full supervision of a contractor with a current NSW Department of Fair Trading endorsed license in Structural Landscaping, Building or Minor Trade – Paving.

Landscape works shall conform to planting densities as scheduled with all plants at nominated pot sizes and spacing's and be maintained for a minimum of 52 weeks to achieve continuous healthy growth. A hard garden retaining edge (timber or concrete) shall be installed to all planting areas adjoining turf surfaces. All planted areas shall be covered with minimum 100mm mulch to aid plant establishment.

**62. Public Domain Works**

All landscape and public domain works approved by the subdivision construction certificate application shall be coordinated during the construction period with Council's Senior Project Officer (Civil) at [projectmanagementpat@lakemac.nsw.gov.au](mailto:projectmanagementpat@lakemac.nsw.gov.au). The witness and hold points set out in the Subdivision Construction Certificate Landscape Construction Drawings shall be observed.

**63. Excavation – Aboriginal Relics**

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

All necessary approvals from the Department of Planning, Industry and Environment shall be obtained and a copy provided to Council prior to works recommencing.

**64. Aboriginal Heritage**

The person having the benefit of the consent shall notify any contractors and persons involved in undertaking subsurface disturbance works, that it is an offence under Section 86 of the *National Parks and Wildlife Act 1974* to harm or desecrate an Aboriginal object unless that harm or desecration is subject of an approved Aboriginal Heritage Impact Permit (AHIP).

Should any objects be discovered, all excavations or disturbance to the area shall cease immediately and the Department of Planning, Industry and Environment shall be notified.

All necessary approvals shall be obtained from the Department of Planning, Industry and Environment and copies provided to Council prior to works recommencing.

**65. Excavation – Non-Indigenous Relics**

Should any relics be discovered, all excavations or disturbance to the area shall cease immediately and the Heritage Council of NSW shall be notified in accordance with Section 146 of the *Heritage Act 1977*.

All necessary approvals shall be obtained from the Heritage Council of NSW and copies provided to Council prior to works recommencing.

**66. Excavation and Retaining**

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

No additional excavation/fill shall 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*. Prior to erection of any retaining wall not approved under this consent, reference to the *State Environmental Planning Policy Exempt and Complying Development Codes 2008* shall be undertaken to ascertain whether approval is required.

**67. Supporting of Adjoining Sites and Infrastructure**

All excavations and backfilling shall be executed in a safe and workmanlike manner and in accordance with appropriate professional standards.

All excavations shall be properly guarded and protected to prevent them from being dangerous.

Any soil anchors shall gain the necessary easements and land owner's consent.

If an excavation extends below the footings of a building or infrastructure on an adjoining allotment of land, the person causing the excavation to be made shall, at their own expense, comply with the requirements of the Building Code of Australia; and

- (a) preserve and protect such building or infrastructure from damage; and
- (b) if necessary underpin and support such building or infrastructure in an approved manner.

The person causing the excavation to be made shall, at least seven days before excavating below the level of the base of the footings of a building or infrastructure on an adjoining allotment of land, give notice of their intention to do so to the owner of the adjoining allotment of land and shall at the same time furnish to such owner particulars of the work proposed to be done.

**68. Filling Importation and Compaction**

All fill shall be placed in accordance with the standards specified in Table 5.1 of *AS 3798-2007 Guidelines on Earthworks for Commercial and Residential Developments*.

**69. Building Waste**

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.

**70. No works on adjoining Public Reserve**

The public reserve adjoining the site shall not be affected by site works, construction materials stockpiles, waste, building products and debris, site sheds, spoil placement or the like. No access for vehicles, machinery or goods to the site shall be gained across the public reserve without written approval

from Council. All costs associated shall be payable by the person having the benefit of the consent.

**71. Works Within a Public Road Reserve**

When works are being undertaken within a public road reserve, all necessary precautions shall be taken to protect the public while work is in progress, this shall include traffic control in accordance with *Australian Standard AS1742 – Manual Uniform Traffic Control Services – Parts 1, 2 and 3*.

**72. 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.

**73. Site Amenities**

Toilet facilities shall be available or provided at the work site before works begin and shall be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

Each toilet shall:

- (a) be a standard flushing toilet connected to a public sewer, or
- (b) have an approved on-site effluent disposal system under the *Local Government Act 1993*, or
- (c) be a temporary chemical closet.

**74. Removal, Management and Transportation of Fill**

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

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

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

**75. Dust Suppression**

During the extraction, removal, and transportation of material associated with the works, the person having the benefit of the consent shall ensure that airborne dust is contained within the work site or transport vehicles, and does not impact on the amenity of the surrounding environment.

Effective environmental controls and practices shall be implemented and maintained to the satisfaction of Council or the Principal Certifying Authority.

**76. 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

(a) The approved hours for construction of this development are –

Monday to Friday - 7.00am to 6.00pm.

Saturday – 8am to 1pm.

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

Construction Periods in Excess of 26 Weeks

(a) If the construction period is in excess of 26 weeks, a Noise Management Plan 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 Noise Management Plan shall be complied with at all times during the construction period and shall identify any mitigation measures to control noise, noise monitoring techniques and reporting methods, likely potential impacts from noise and a complaints handling system.

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

**77. Construction Site Vibration**

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



**Conditions to be satisfied prior to issue of an Occupation Certificate**

The person having the benefit of the consent shall comply with each of the following conditions prior to the issue of the Occupation Certificate, Interim or Final, as stated in each condition.

**78. 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.

**79. Stormwater Disposal - Stormwater Detention and Harvesting**

All drainage works shall be carried out in accordance with the approved Construction Certificate plans.

Prior to the issue of any Occupation Certificate a Works As Executed Plan shall be prepared by a surveyor and submitted to the Principal Certifying Authority that demonstrates compliance with the approved Construction Certificate. If there are any changes from the Construction Certificate these shall be highlighted in a different colour on the plan and certification shall be provided from the design engineer the changes do not affect the stormwater design outcomes.

**80. Dilapidation Survey Report**

A final Dilapidation Report shall be prepared by an engineer or suitably qualified person at the completion of the works. The report shall identify if any structural or cosmetic damage has occurred to the properties specified in the earlier report. A copy of the report shall be submitted to Council, the Principal Certifying Authority and owners of potentially affected properties and public infrastructure. Any identified damage shall be repaired prior to the issue of the Final Occupation Certificate.

**81. Fix Damage Caused by Construction Works**

Any damage to a public road or associated structures caused as a consequence of the construction works shall be made good to the satisfaction of Council.

Any disused kerb and gutter and footpath crossing shall be removed and replaced with full kerb and gutter in accordance with Council's standards.

These works shall be undertaken prior to the issue of the Final Occupation Certificate.

**82. Kerb and Guttering**

A Compliance Certificate shall be issued by Council stating the kerb and guttering, road pavement and associated drainage works (the associated drainage works being the overland swale depicted in the south-eastern and southern part of the subject site in Northrop Stormwater Management and Levels Plan – ground Floor C12Da v 5 20/11/23) along the Arnott Avenue street frontage north of the proposed driveway access to the subject Site as depicted in the Northrop Concept External Works Plan C30DA rev 6 dated 12/12/23 have been constructed in accordance with the Construction Certificate and/or s138 *Roads Act* Approval, prior to the issue of the Final Occupation Certificate.

**83. Concrete Footpath**

A Compliance Certificate shall be issued by Council stating the concrete footpath work has been undertaken in accordance *with Development Control Plan 2014 and Engineering Guidelines*, prior to the issue of the Final Occupation Certificate.

**84. Vehicles Access Crossing and Kerb Layback**

Prior to the issue of the Final Occupation Certificate, the paved crossing shall be completed for the building, at the owner's cost. Any disused kerb and gutter and footpath crossing shall be removed and replaced with full kerb and gutter to match adjoining kerb and gutter to the satisfaction of Council.

**85. Geotechnical Report Compliance**

Prior to the issuing of any Occupation Certificate, the suitably qualified engineer who inspected the works shall provide written confirmation the constructed works are in accordance with the recommendations of the Slope Stability Geotechnical report prepared for the development.

**86. Tactile Indicators**

Prior to the issue of any occupation certificate, the development shall have tactile indicators installed in accordance with *AS 1428.4*.

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

**87. Consolidation of Lots**

Prior to the issue of any Occupation Certificate, Lot 4 Sec 6 DP 2505, Lot 5 Sec 6 DP 2505, Lot 6 Sec 6 DP 2505, Lot 7 Sec 6 DP 2505, Lot 8 Sec 6 DP 2505, Lot 9 Sec 6 DP 2505, Lot 10 Sec 6 DP 2505, Lot 100 DP 847314, Lot 101 DP 1110774 shall be consolidated and registered at the NSW Land

Registry Services and a copy of the registered plan shall be provided to Council.

**88. Deleted**

**89. Car Parking**

All car parking spaces, line marking and signage shall be completed prior to the issue of any Occupation Certificate. All car parking spaces shall be provided in accordance with AS2890.1 and AS2890.2.

**90. Bicycle Parking Racks**

Secure bicycle parking/storage shall be provided to accommodate 17 bicycles on the site in accordance with the approved plans. The installation and dimensions of the bicycle parking/storage shall be in accordance with the Austroads *Cycling Aspects of Austroads Guides* and *Australian Standard AS2890.3:1993*. These works shall be completed prior to the issue of the Final Occupation Certificate.

**91. Landscape Works**

At the completion of landscape works, the consulting landscape architect who prepared the documentation shall submit to the Principal Certifying Authority a Landscape Compliance Report. This report shall certify shrub and tree species, pot size, and planting densities and landscape area setout comply with approved documentation and practical completion of the landscaping works has occurred. The Principal Certifying Authority shall not issue the Final Occupation Certificate without receipt of the Landscape Compliance Report.

**92. Public Domain Works**

At the practical completion of works and prior to the issue of the Final Occupation Certificate, the landscape consultant that prepared the Public Works Certificate Landscape Construction Drawings shall submit a Landscape Compliance Report to the LMCC Senior Project Officer (Civil) certifying all public domain landscape works have received the relevant witness and hold point inspections, implemented and maintained in accordance with this Subdivision Construction Certificate. This compliance report is required prior to LMCC issuing a compliance certificate for the works.

**93. State Environmental Planning Policy 65**

Prior to the issue of the Final Occupation Certificate, a design verification statement from a qualified designer shall be submitted.

The statement shall confirm the development has been constructed in accordance with the Design Quality Principles set out in Schedule 1 of *State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development*.

**94. Driveway Construction – Commercial**

Prior to the issue of any Occupation Certificate, the driveway to the car parking area of the development shall be constructed in accordance with the approved Construction Certificate plan.

**95. Works Within a Public Road Reserve**

Where a road surface has been disturbed or damaged the calculated road restoration fee shall be paid to Council. Evidence shall be provided the relevant fee has been paid prior to the issue of the Final Occupation Certificate.

**96. Removal, Management and Transportation of Fill**

For all excavated fill material that has been removed from the site during construction:

- (a) A copy of the receipts from the waste disposal facility shall be kept and provided to the Principal Certifying Authority prior to the issue of the Final Occupation Certificate, or authorised officer of Council upon request; or
- (b) A copy of the current development consent for the site to which the material has been distributed shall be provided to the Principal Certifying Authority prior to the issue of the Final Occupation Certificate, or authorised officer upon request.

**97. Noise – Ongoing Operation of Machinery, Plant and Equipment**

Certification from a suitably qualified acoustic consultant shall be submitted prior to the issue of any Occupation Certificate, demonstrating the Laeq (15 minute) operating noise level of machinery, plant, equipment, or any other operational noise source, when measured at the boundary of another premises, complies with either the amenity or intrusiveness criteria calculated in accordance with the NSW Environment Protection Authority *Noise Policy for Industry 2017*.

**98. Acoustic Certification**

Prior to the issue of any Occupation Certificate, written confirmation shall be provided from a suitably qualified acoustic consultant certifying works have been completed in accordance with the recommendations of the Acoustic Report prepared for the development and the development is capable of operating in accordance with the design criteria.

**99. Works as Executed Plan – Public Domain Works**

An electronic copy of the Works as Executed Plans, certified by the Consulting Civil Engineer or Registered Surveyor supervising the works shall be supplied to Council.

The Works as Executed Plan shall, in addition to construction details, show limits and depths of filling, locations of service conduits and street names.

**100. Compliance Certificate for Works**

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

**101. Heritage Interpretation – Installation**

The approved site heritage interpretation shall be implemented prior to the issue of any Occupation Certificate.

**102. Waste Collection**

Documentation confirming arrangements/agreements have been made with either a private contractor or Lake Macquarie City Council for the collection of general waste, green waste and recycling materials shall be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate. This documentation shall demonstrate the waste contractor can service the development for all waste streams, and within designated loading dock and waste storage areas.

Written confirmation from Lake Macquarie City Council that the Operation Waste Information Guide, as per Sub-section 3.1 of the 2019 Lake Macquarie Waste Management Guidelines, shall be obtained and provided to the onboarding strata management and made available for owners and occupants.

**103. Hunter Water Requirements**

The person with the benefit of this consent shall comply with Hunter Water's requirements to provide the development with water supply and sewerage services. A copy of Hunter Water's compliance certificate (Hunter Water Act 1991- Sect 50) shall be submitted with your Occupation Certificate application.

**Operational Conditions**

The person having the benefit of the consent shall comply with each of the following conditions during the operation of the development.

**104. Use and Allocation of Car Parking**

The car parking provided shall only be used in conjunction with the uses contained within the development and except as provided for in these conditions, shall not be used other than by an occupant or tenant of the development.

The spaces shall be allocated in the following proportions:

Residential (Minimum)	140 (including 12 accessible)
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Residential – Visitors (Minimum)	28
Commercial (Minimum)	38 (including 3 accessible)

No spaces shall be marked, signposted or otherwise identified as being for the sole use of staff only. Non-residential spaces shall not be fitted with any equipment serving to render the car park inaccessible at any time, such as bollards, roller doors, or the like.

Any future strata subdivision plan relating to the development shall be consistent with the car parking allocation in this consent.

**105. Landscape Works**

All landscape works required under this consent shall undergo an establishment maintenance period of a minimum of 52 weeks to achieve continuous healthy growth improving amenity and aesthetics over the site and meeting the aims for development in the zone.

All landscaping shall then be permanently maintained in good condition in accordance with the approved landscape plan and the adopted *Development Control Plan 2014 Guidelines – Landscape Design Guidelines*.

**106. Public Domain Works**

The landscape consultant that prepared the Subdivision Construction Certificate Landscape Construction Drawings (or a consultant with equivalent qualifications) shall submit Landscape Maintenance Reports to LMCC Senior Project Officer (Civil) at 52 weeks and 104 weeks after practical completion certifying the public domain works are being satisfactorily maintained.

**107. External Storage of Products**

The external storage or display of any products on the development site is not permitted.

**108. Advertising Structures and Signs**

Development consent shall be obtained from Council prior to the erection of any advertising structures or signs on the site. This requirement does not apply to any exempt, complying, or previously approved signage.

**109. Lighting**

Lighting shall comply with *Australian Standard AS4282-1997*.

**110. Onsite Loading Facility**

The on-site loading facility shall be kept clear of goods and is not permitted to be used for any storage purposes, including garbage storage.

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

No waste collection, deliveries, loading or unloading to occur between the hours of 7pm and 7am on any day.

**111. External Material Reflection**

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

The use of reflective bright white colours is not permitted.

**112. Noise – Ongoing Operation of Machinery, Plant and Equipment**

The Laeq (15 minute) operating noise level of machinery, plant, equipment, or any other operational noise source, when measured at the boundary of another premises, shall comply with either the amenity or intrusiveness criteria calculated in accordance with the NSW Environment Protection Authority *Noise Policy for Industry 2017*.

For assessing amenity criteria, the area shall be categorised in accordance with the guidelines outlined in Chapter 2 of that Policy.

**113. Noise - Sleep Arousal**

The L1 (one minute) operating noise level during night time hours of the premises, when measured at the window of any affected residential dwelling, shall comply with the NSW Environment Protection Authority (EPA) sleep disturbance criteria, calculated in accordance with the NSW EPA Noise Policy for Industry 2017.

**114. Acoustic Certification**

At 90 days of operation a suitably qualified acoustic consultant shall test, measure and certify the development is operating, at that time, in accordance with the approved Acoustic Report.

**115. 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.

**116. Separate Approval Required for Use of Commercial Tenancies**

This development consent does not authorise the occupation or first use of the approved commercial tenancies. Occupation or first use of these tenancies shall be subject to a separate development consent.

**117. Crime Prevention Through Environmental Design**

The development shall maintained in accordance with the recommendations of the approved Crime Prevention Through Environmental Design Report.