



NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

Application number	DA/1127/2023 PAN-347973
Applicant	James Walters 126-138 Main Road, Speers Point, NSW 2284
Description of development	The proposed development constitutes a centre-based child care facility, named Warners Bay Early Learning Centre (ELC) and will cater for 71 children and up to 13 staff. The proposal also seeks consent for building signage and ancillary works to prepare the site for construction and operation, including removal of 35 trees, civil works and stormwater management.
Property	38 YORSTON STREET WARNERS BAY 2282 380/-/DP1133165
	40 YORSTON STREET WARNERS BAY 2282 2/-/DP730502
Determination	Approved Consent Authority - Sydney / Regional Planning Panel
Date of determination	19/06/24
Date from which the consent operates	18/06/24
Date on which the	20/06/24

consent lapses

Under section 4.18(1) of the EP&A Act, notice is given that the above development application has been determined by the granting of consent using the power in section 4.16(1)(a) of the EP&A Act, subject to the conditions specified in this notice.

Right of appeal / review of determination

If you are dissatisfied with this determination:

Request a review

You may request a review of the consent authority's decision under section 8.3(1) of the EP&A Act. The application must be made to the consent authority within 6 months from the date that you received the original determination notice provided that an appeal under section 8.7 of the EP&A Act has not been disposed of by the Court.

Rights to appeal

You have a right under section 8.7 of the EP&A Act to appeal to the Court within 6 months after the date on which the determination appealed against is notified or registered on the NSW planning portal.

The Dictionary at the end of this consent defines words and expressions for the purposes of this determination.

I love the Portal
RPP
Person on behalf of the consent authority

Terms and Reasons for Conditions

Under section 88(1)(c) of the EP&A Regulation, the consent authority must provide the terms of all conditions and reasons for imposing the conditions other than the conditions prescribed under section 4.17(11) of the EP&A Act. The terms of the conditions and reasons are set out below.

General Conditions

1	<p>Compliance with Building Code of Australia and insurance requirements under Home Building Act 1989</p> <ol style="list-style-type: none">1. It is a condition of a development consent for development that involves building work that the work must be carried out in accordance with the requirements of the Building Code of Australia.2. It is a condition of a development consent for development that involves residential building work for which a contract of insurance is required under the Home Building Act 1989, Part 6 that a contract of insurance is in force before building work authorised to be carried out by the consent commences.3. It is a condition of a development consent for a temporary structure used as an entertainment venue that the temporary structure must comply with Part B1 and NSW Part H102 in Volume 1 of the Building Code of Australia.4. In subsection (1), a reference to the Building Code of Australia is a reference to the Building Code of Australia as in force on the day on which the application for the construction certificate was made.5. In subsection (3), a reference to the Building Code of Australia is a reference to the Building Code of Australia as in force on the day on which the application for development consent was made.6. This section does not apply—<ol style="list-style-type: none">a. to the extent to which an exemption from a provision of the Building Code of Australia or a fire safety standard is in force under the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021, orb. to the erection of a temporary building, other than a temporary structure to which subsection (3) applies. <p>Condition reason: Prescribed condition under section 69 of the Environmental Planning and Assessment Regulation 2021.</p>
2	<p>Erection of signs</p> <ol style="list-style-type: none">1. This section applies to a development consent for development involving building work, subdivision work or demolition work.2. It is a condition of the development consent that a sign must be erected in a prominent position on a site on which building work, subdivision work or demolition work is being carried out—<ol style="list-style-type: none">a. showing the name, address and telephone number of the principal certifier

	<div><div>for the work, and</div><div>b. showing the name of the principal contractor, if any, for the building work and a telephone number on which the principal contractor may be contacted outside working hours, and</div><div>c. stating that unauthorised entry to the work site is prohibited.</div><div>3. The sign must be—</div><div>a. maintained while the building work, subdivision work or demolition work is being carried out, and</div><div>b. removed when the work has been completed.</div><div>4. This section does not apply in relation to—</div><div>a. building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or</div><div>b. Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.</div></div>															
	<div>Condition reason: Prescribed condition under section 70 of the Environmental Planning and Assessment Regulation 2021.</div>															
3	<div><div>Approved plans and supporting documentation</div><div>Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.</div><div><table><tr><th colspan="5">Approved plans - prepared by City Projects</th></tr><tr><th>Plan number</th><th>Revision number</th><th>Plan title</th><th>Drawn by</th><th>Date of plan</th></tr><tr><td></td><td></td><td></td><td></td><td></td></tr></table><div><div>A00</div><div>Drawing List and Site Location</div><div>Rev C</div><div>30.01.2024</div></div><div><div>A03</div><div>Proposed Site Plan</div><div>Rev C</div><div>30.01.2024</div></div><div><div>A10</div><div>Ground Floor & L1 Plan</div><div>Rev C</div><div>30.01.2024</div></div><div><div>A11</div><div>Roof Plan</div><div>Rev C</div><div>30.01.2024</div></div><div><div>A12</div><div>Car Park and Waste Plan</div><div>Rev C</div><div>30.01.2024</div></div><div><div>A30</div><div>Building Elevations</div><div>Rev C</div><div>30.01.2024</div></div><div><div>A11</div><div>Roof Plan</div><div>Rev C</div><div>30.01.2024</div></div><div><div>A31</div><div>Street Elevations and Signage</div><div>Rev C</div><div>30.01.2024</div></div><div><div>A40</div><div>Building Sections</div><div>Rev C</div><div>30.01.2024</div></div></div></div>	Approved plans - prepared by City Projects					Plan number	Revision number	Plan title	Drawn by	Date of plan					
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A70 Material Selection Rev C 30.01.2024
A71 Storage and Fencing Rev C 30.01.2024
A73 External Perspectives Rev B 30.01.2024

Landscape Plans - prepared by City Projects - City Design

L001 Cover Sheet Rev E
L003 Overall Site Plan Rev E
L004 Details Plan - Outdoor Courtyard / Play area Rev E
L005 Design Themes

Approved documents			
Document title	Version number	Prepared by	Date of document

Access Report - Lindsay Perry Access - LP_23131 dated 26 June 2023

Acoustic Report - Muller Acoustic Consulting - MAC231829-01RP1V1 dated June 2023

Geotechnical Assessment Report - Kleinfelder - 24000483.001A dated 22 June 2023

Detailed Site Investigation - Kleinfelder - 24000483.001A dated 31 October 2023

Remediation Action Plan - Green Room - GR00146-GR1 dated 20 June 2024

Waste Management Plan -

Traffic Report - Traffic & Parking Assessment - Intersect Traffic June 2023 and 1 December 2023

In the event of any inconsistency with the approved plans and a condition of this consent, the condition prevails.

	Condition reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.
4	Construction Certificate Prior to the commencement of building work a Construction Certificate shall be obtained. Condition reason: To require a construction certificate prior to building work commencing.
5	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 <i>Australian Standard AS 1428.1</i> . 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: <ul style="list-style-type: none"> a) <i>The NSW Disability Services Act 1993,</i> b) <i>The Commonwealth Disability Discrimination Act 1992,</i> c) <i>NSW Anti Discrimination Act 1977.</i> For further information please consult: <ul style="list-style-type: none"> a) Human Rights and Equal Opportunity Commission, b) NSW Anti Discrimination Board. Condition reason: To ensure that disability access requirements are met
6	Erosion and sediment controls in place Before any site work commences, the Certifier, must be satisfied the erosion and sediment controls in the erosion and sediment control plan are in place. These controls must remain in place until any bare earth has been restabilised in accordance with 'Managing Urban Stormwater: Soils and construction' prepared by Landcom (the Blue Book) (as amended from time to time). Condition reason: To ensure sediment laden runoff and site debris do not impact local stormwater systems and waterways.
7	Occupation Certificate The development shall not be occupied or used prior to the issue of a Whole Occupation

	Certificate or a Part Occupation Certificate by the Principal Certifier.
	Condition reason: To ensure an Occupation Certificate is obtained at the completion of work and prior to occupancy or use.
8	Public Domain Works
	The landscape consultant that prepared the Public Works Certificate landscape construction plans (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.
	Condition reason: To ensure all assets have received the required maintenance over the extent of the establishment period.
9	Crime Prevention
	Closed-Circuit Television System (CCTV) to comply with Australian Standard – Closed Circuit Television System (CCTV) AS 4806.1/2/3/4 shall be instatted. The system shall receive, hold or process data for the identification of people involved in anti-social or criminal behaviour. The system is obliged to conform with Federal and State Privacy and Surveillance Legislation. Digital or analogue technology should be used to receive, store and process data.
	Lighting shall be designed in accordance with AS 1158.3.1 to provide appropriate lamps and lighting levels to mitigate pedestrian crime risk and fear facilitating a safe, comfortable visual environment for pedestrian and wheeled transport movement at night. Where damaged or broken, lighting shall be repaired within 48 hours.
	Robust and vandal-proof finishes and fixtures including fencing, seating and signage including graffiti resistant building materials and fixtures shall be used in the construction of the development. Graffiti shall be removed within 24 hours of its appearance
	Condition reason: To strengthen mitigation of crime that may impact on the proposed development:

Building Work

Before issue of a construction certificate

10	Construction Site Management Plan
	Before the issue of a Construction Certificate, a construction site management plan must be

	<p>prepared, and provided to the certifier. The plan must include the following matters:</p> <ol style="list-style-type: none"> The location and materials for protective fencing and hoardings on the perimeter of the site; Provisions for public safety; Pedestrian and vehicular site access points and construction activity zones; Details of construction traffic management including: <ol style="list-style-type: none"> Proposed truck movements to and from the site; Estimated frequency of truck movements; and Measures to ensure pedestrian safety near the site; Details of bulk earthworks to be carried out; The location of site storage areas and sheds; The equipment used to carry out works; The location of a garbage container with a tight-fitting lid; Dust, noise and vibration control measures; The location of temporary toilets; The protective measures for the preservation of trees on-site and in adjoining public areas including measures in accordance with: <ol style="list-style-type: none"> AS 4970 – Protection of trees on development sites; An applicable Development Control Plan; An arborist's report approved as part of this consent <p>A copy of the construction site management plan must be kept on-site at all times while work is being carried out.</p> <p>Condition reason: To require details of measures that will protect the public, and the surrounding environment, during site works and construction.</p>
11	<p>Equal access to the premises</p> <p>Before the issue of a construction certificate, plans which demonstrate that adequate access to the premises will be provided for persons with disabilities in accordance with the Commonwealth Disability (Access to Premises – Buildings) Standards 2010. These plans must be submitted to the certifier.</p> <p>Condition reason: To ensure safe and easy access to the premises for people with a disability</p>
12	<p>Erosion and sediment control plan</p> <p>Before the issue of a Construction Certificate, an erosion and sediment control plan must be prepared by a suitably qualified person in accordance with the following documents and provided to <Insert the certifier or Council (where a certifier is not required)>:</p> <ol style="list-style-type: none"> Council's relevant development control plan, the guidelines set out in 'Managing Urban Stormwater: Soils and Construction' prepared by Landcom (the Blue Book) (as amended from time to time), and the 'Do it Right On-Site, Soil and Water Management for the Construction Industry' (Southern Sydney Regional Organisation of Councils and the Natural Heritage Trust) (as amended from time to time). <p>Condition reason: To ensure no substance other than rainwater enters the stormwater</p>

	system and waterways.
13	<p>Preparation of construction and fit out plans for food and drink premises</p> <p>Before the issue of a construction certificate, detailed plans of all food and beverage preparation, serving and storage areas (including for perishable stock, waste, chemicals and personal belongings) must be prepared by a suitably qualified person.</p> <p>The detailed plans must be prepared in accordance with the following editions in force on the date of determination and provided to the certifier:</p> <ol style="list-style-type: none"> 1. Food Standards Code (Australia and Food Safety Standard 3.2.3 – Food Premises and Equipment 2. Food Act 2003 and Food Regulation 2015 3. Australian Standard 4674:2004 :Design, Construction and Fit-out of Food Premises 4. Plumbing Code of Australia and Australian Standard/New Zealand Standard AS/NZS 3500 series on Plumbing and Drainage 5. Hunter Water commercial trade wastewater requirements for food premises, and 6. any relevant Water Services Association of Australia codes of practice, guidelines, policies and requirements. <p>Condition reason: To ensure detailed construction and fit out plans are submitted which comply with the relevant standards</p>
14	<p>Car parking details</p> <p>Before the issue of a Construction Certificate, written evidence prepared by a suitably qualified engineer must be obtained that demonstrates, to the certifier's satisfaction, the plans for parking facilities comply with the relevant parts of AS 2890 Parking Facilities set and the relevant section of Council's development control plan (in force as at the date of determination of this consent).</p> <p>The proposed motor bike space shall be removed.</p> <p>Condition reason: To ensure parking facilities are designed in accordance with the Australian Standard and Council's DCP.</p>
15	<p>Contaminated Land Remediation Action Plan</p> <p>Prior to the issue of a construction certificate, a Remediation Action Plan (RAP) shall be prepared and a copy of the RAP provided to Council.</p> <p>The RAP shall be prepared by a suitably qualified and experienced contaminated land consultant, to the satisfaction of Council and in accordance with:</p> <ol style="list-style-type: none"> 1. <i>Guidelines for Consultants Reporting on Contaminated Sites (NSW Environment Protection Authority 2020, or as amended).</i> 2. Managing Land Contamination Planning Guidelines SEPP 55–Remediation of Land

	(Department of Urban Affairs and Planning and NSW EPA 1998, or as amended).
	Condition reason: To ensure suitable site remediation measures for the development
16	<p>Contaminated Land Remediation and Validation</p> <p>A suitably qualified and experienced Contaminated Land Consultant shall validate the site has been remediated. Validation shall be provided in accordance with the <i>Guidelines for Consultants Reporting on Contaminated Sites (NSW Environment Protection Authority 2020, or as amended)</i>. The validation report shall include a clear statement the consultant considers the site to be suitable for the approved use.</p> <p>Note: Certification from the person who carried out remediation works shall be provided to Council in accordance with the requirements of <i>Clause 4.15 of Environmental Planning Policy (Resilience and Hazards 2021) - Chapter 4 Remediation of land</i>.</p> <p>Condition reason: To ensure site is remediated and rendered suitable for the proposed use</p>
17	<p>Contributions Plan – Glendale Contributions Catchment – 2015</p> <p>In accordance with the provisions of the <i>Environmental Planning and Assessment Act 1979 - Sect 7.11</i> and the <i>Lake Macquarie City Council Development Contributions Plan Glendale Contributions Catchment - 2015</i>, the monetary contributions in the attached Contributions Schedule shall be paid to Council for the purposes identified in that Schedule.</p> <p>From the date this determination is made until payment, the amounts of the contributions payable under the preceding clause shall be indexed and adjusted on:</p> <ul style="list-style-type: none"> a. 14 August, b. 14 November, c. 14 February, and, d. 14 May; <p>in each year in accordance with indexation provisions within the Contributions Plan and Directions issued under the <i>Environmental Planning and Assessment Act 1979 - Sect 7.17</i>. The first date for indexation shall occur on the first abovementioned date after the notice of determination becomes effective.</p> <p>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 as set out in the table below.</p>

	<p>The contributions shall be paid to Council as follows:</p> <ol style="list-style-type: none"> 1. Development applications involving subdivision – prior to the release of the Subdivision Certificate. 2. Development applications involving building work – prior to the release of the first Construction Certificate. 3. Development applications involving both subdivision and building work – prior to the release of the Subdivision Certificate or first Construction Certificate, whichever occurs first. 4. Development applications where no Construction Certificate or Subdivision Certificate is required – prior to the release of the development consent or prior to issue of the first Certificate of Occupancy, whichever occurs first. 5. Complying Development Certificates - prior to any work authorised by the application or certificate commencing. <p>Please note that should payment be made by cheque or electronic transfer the release of any documentation shall be subject to the clearing of those funds.</p> <p>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.</p> <p>Please note that should payment be made by cheque or electronic transfer the release of any documentation shall be subject to the clearing of those funds.</p> <p>Indexation details are available from Council's Development Contribution Section.</p> <p>A copy of the <i>Lake Macquarie City Council Development Contributions Plan Glendale Contributions Catchment - 2015</i> is available on Council's website, or a copy is available at the Council's Administrative Building during Council's opening hours.</p> <p>Condition reason: To enable application of relevant contribution levies and ensure adequate community infrastructure is provided to meet demands generated by new development.</p>
18	<p>Development Street Addressing</p> <p>Application shall be made to Council to obtain addressing for the development in accordance with the guidelines in the NSW Address Policy and User Manual. Application is made by emailing an approved site plan, floor plan(s) and contact details to Data and Knowledge Management at enar@lakemac.nsw.gov.au.</p> <p>Condition reason: To ensure street addresses are allocated to new developments</p>
19	<p>Acoustic Certification – Internal Comfort Noise Levels</p> <p>The proposed development is to be designed and constructed to comply with AS2107.2000 Acoustics – Recommended design sounds levels and reverberation times for building interiors.</p>

	<p>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.</p>
	<p>Condition reason: To protect amenity.</p>
20	<p>Concrete Footpath</p>
	<p>A design plan for concrete footpaths 1.2 metres wide along the full length of the street frontage shall be submitted. Concrete foot paving shall be constructed in accordance with Lake Macquarie City Council standard drawing <i>EGSD-301</i> 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 <i>Roads Act 1993</i>. Any works on a public road shall be approved by Council.</p>
	<p>Condition reason: To provide required infrastructure.</p>
21	<p>Show Lots Clear of 100 Year Flood Level</p>
	<p>Stormwater designs and calculations shall be submitted to show that all lots are clear of the 1:100 year flood level. This condition shall also apply to lots which would be affected by substantial overland flow, which may necessitate the carrying out of works to ensure properly drained and flood free conditions.</p> <p>Note: Lots that are not 500mm clear of the 1:100 year flood level shall be subject to floor height control and shall be identified as Flood Control Lots.</p>
	<p>Condition reason: To prevent flooding of the building.</p>

Before building work commences

22	<p>Dilapidation report</p>
	<p>Before any site work commences, a dilapidation report must be prepared by a suitably qualified engineer detailing the structural condition of adjoining buildings, structures or works and public land, to the satisfaction of the Certifier.</p> <p>Where access has not been granted to any adjoining properties to prepare the dilapidation report, the report must be based on a survey of what can be observed externally and demonstrate, in writing, to the satisfaction of the Certifier, that all reasonable steps were taken to obtain access to the adjoining properties.</p> <p>No less than seven (7) days before any site work commences, adjoining building owner(s) must be provided with a copy of the dilapidation report for their property(ies) and a copy of the report(s) must be provided to Council (where Council is not the principal certifier) at the same time.</p>

	Condition reason: To establish and document the structural condition of adjoining properties and public land for comparison as site work progresses and is completed and ensure neighbours and Council are provided with the dilapidation report.
23	Erosion and sediment controls in place <p>Before any site work commences, the certifier, must be satisfied the erosion and sediment controls in the erosion and sediment control plan are in place. These controls must remain in place until any bare earth has been restabilised in accordance with 'Managing Urban Stormwater: Soils and Construction' prepared by Landcom (the Blue Book) (as amended from time to time).</p> <p>Condition reason: To ensure sediment laden runoff and site debris do not impact local stormwater systems and waterways.</p>
24	Works Within a Public Road Reserve <p>Approval is granted to open a grassed or natural surface within the road reserve for the installation of all water services, cables, or mains. Upon completion of the work, the road reserve shall be restored to its original state and no hazards shall remain that may impact on the public.</p> <p>For any other works within the road reserve, an approval under Section 138 of the <i>Roads Act 1993</i> shall be obtained from Council. The road shall not be opened until the approval has been issued.</p> <p>Condition reason: To ensure impacts to the road reserve are minimised</p>

During building work

25	Hours of work <p>Site work must only be carried out between the following times –</p> <p>7:00am to 6:00pm Monday to Friday</p> <p>7:00am to 5:00pm Saturday</p> <p>Site work is not to be carried out outside of these times except where there is an emergency, or for urgent work directed by a police officer or a public authority.</p> <p>Condition reason: To protect the amenity of the surrounding area.</p>
26	Noise and Vibration requirements <p>While site work is being carried out, noise generated from the site must not exceed an LAeq</p>

	<p>(15 min) of <5dB above background noise, when measured at a lot boundary of the site.</p> <p>Condition reason: To protect the amenity of the neighbourhood during construction.</p>
27	<p>Soil management</p> <p>While site work is being carried out, the certifier must be satisfied all soil removed from or imported to the site is managed in accordance with the following requirements:</p> <ol style="list-style-type: none"> All excavated material removed from the site must be classified in accordance with the EPA's Waste Classification Guidelines before it is disposed of at an approved waste management facility and the classification and the volume of material removed must be reported to the principal certifier. All fill material imported to the site must be: <ol style="list-style-type: none"> Virgin Excavated Natural Material as defined in Schedule 1 of the <i>Protection of the Environment Operations Act 1997</i>; or a material identified as being subject to a resource recovery exemption by the NSW EPA; or a combination of Virgin Excavated Natural Material as defined in Schedule 1 of the <i>Protection of the Environment Operations Act 1997</i> and a material identified as being subject to a resource recovery exemption by the NSW EPA. <p>Condition reason: To ensure soil removed from the site is appropriately disposed of and soil imported to the site is not contaminated and is safe for future occupants.</p>
28	<p>Waste management</p> <p>While site work is being carried out:</p> <ol style="list-style-type: none"> all waste management must be undertaken in accordance with the waste management plan; and upon disposal of waste, records of the disposal must be compiled and provided to <Insert the principal certifier or Council (where a principal certifier is not required)>, detailing the following: <ol style="list-style-type: none"> The contact details of the person(s) who removed the waste; The waste carrier vehicle registration; The date and time of waste collection; A description of the waste (type of waste and estimated quantity) and whether the waste is to be reused, recycled or go to landfill; The address of the disposal location(s) where the waste was taken; The corresponding tip docket/receipt from the site(s) to which the waste is transferred, noting date and time of delivery, description (type and quantity) of waste. <p>If waste has been removed from the site under an EPA Resource Recovery Order or Exemption, records in relation to that Order or Exemption must be maintained and provided to the principal certifier and Council.</p> <p>Condition reason: To require records to be provided, during site work, documenting the lawful disposal of waste.</p>

29	Noise and Vibration requirements
	While site work is being carried out, noise generated from the site must not exceed an LAeq (15 min) of 5dB(A) above background noise, when measured at a lot boundary of the site.
	Condition reason: To protect the amenity of the neighbourhood during construction.
30	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.
	<ol style="list-style-type: none"> 1. Each toilet shall: be a standard flushing toilet connected to a public sewer, or 2. have an approved on-site effluent disposal system under the <i>Local Government Act 1993</i>, or 3. be a temporary chemical closet.
	Condition reason: To ensure that adequate site amenities are provided.
31	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 approval from Council shall be obtained prior to any closing of the road reserve or footpath area. An application for temporary structure or occupation of road reserve should be submitted via Council's website.
	Condition reason: To ensure safe access through a public space is maintained until the completion of works.

Before issue of an occupation certificate

32	Certification of acoustic measures
	Before the issue of an occupation certificate, a suitably qualified person must provide details demonstrating compliance to the principal certifier that the acoustic measures have been installed in accordance with the acoustic report approved under this consent
	Condition reason: To protect the amenity of the local area
33	Completion of landscape and tree works

	<p>Before the issue of an Occupation Certificate, the principal certifier must be satisfied all landscape and tree-works have been completed in accordance with approved plans and documents and any relevant conditions of this consent.</p> <p>Condition reason: To ensure the approved landscaping works have been completed in accordance with the approved landscaping plan(s).</p>
34	<p>Completion of public utility services</p> <p>Before the issue of the relevant occupation certificate, confirmation must be obtained from the relevant authority that any adjustment or augmentation of any public utility services including gas, water, sewer, electricity, street lighting and telecommunications, required as a result of the development, have been completed and this confirmation must be provided to the principal certifier.</p> <p>Condition reason: To ensure required changes to public utility services are completed, in accordance with the relevant agency requirements, before occupation.</p>
35	<p>Food Premises Final Inspection</p> <p>Before the issue of an occupation certificate, the food premises shall be inspected by an Authorised Officer of LMCC under the Food Act 2003, to determine compliance with the Food Act 2003, Food Safety Standards and Australian Standard 4674:2004: Design, Construction and Fit-out of Food Premises.</p> <p>Condition reason: To enable council to ensure compliance with the Food Act 2003 before the business commences</p>
36	<p>Post-construction dilapidation report</p> <p>Before the issue of an Occupation Certificate a post-construction dilapidation report must be prepared by a suitably qualified engineer, to the satisfaction of the certifier, detailing whether:</p> <ul style="list-style-type: none"> a. after comparing the pre-construction dilapidation report to the post-construction dilapidation report required under this condition, there has been any structural damage to any adjoining buildings; and b. where there has been structural damage to any adjoining buildings, that it is a result of the work approved under this development consent; and c. a copy of the post-construction dilapidation report must be provided to Council (where Council is not the principal certifier or a principal certifier is not required) and to the relevant adjoining property owner(s). <p>Condition reason: To identify any damage to adjoining properties resulting from site work on the development site.</p>
37	<p>Removal of waste upon completion</p> <p>Before the issue of an Occupation Certificate:</p> <ul style="list-style-type: none"> a. all refuse, spoil and material unsuitable for use on-site must be removed from the site and disposed of in accordance with the approved waste management plan; and

	<p>b. written evidence of the waste removal must be provided to the satisfaction of the principal certifier.</p> <p>Condition reason: To ensure waste material is appropriately disposed or satisfactorily stored.</p>
38	<p>Repair of infrastructure</p> <p>Before the issue of an Occupation Certificate:</p> <ol style="list-style-type: none"> 1. any public infrastructure damaged as a result of the carrying out of work approved under this consent (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concreting vehicles) must be fully repaired to the written satisfaction of Council, and at no cost to Council; or 2. if the works in (a) are not carried out to Council's satisfaction, Council may carry out the works required and the costs of any such works must be paid as directed by Council and in the first instance will be paid using the security deposit required to be paid under this consent. <p>Condition reason: To ensure any damage to public infrastructure is rectified.</p>
39	<p>Consolidation of Lots</p> <p>Prior to the issue of any Occupation Certificate, whichever occurs first, Lots Lot 1 DP157444, Lot 380 DP1133165 and Lot 2 DP730502 shall be consolidated and registered at the NSW Land Registry Services and a copy of the registered plan shall be provided to Council.</p> <p>Condition reason: To ensure the orderly development of land</p>
40	<p>Driveway Construction</p> <p>Prior to the issue of the whole occupation certificate, the driveway to the garage or car parking area of the development shall be constructed in accordance with the approved construction certificate plan.</p> <p>Condition reason: To ensure the driveway is constructed priory to occupation of the building</p>
41	<p>Positive covenant for water quality device maintenance</p> <p>A maintenance schedule for the water quality device(s) detention and harvesting tank as shown on the stormwater plans by Northrop shall be completed by a suitably qualified engineer.</p> <p>The maintenance schedule shall outline the required maintenance and timing intervals (e.g. monthly, quarterly etc).</p> <p>A positive covenant shall be placed on title requiring the owner of the land to undertake periodic maintenance for the water quality device(s) in accordance with the above maintenance plan.</p>

	<p>Note: If during detailed design stage the water quality devices are substituted for a similar product the maintenance plan shall reference the adopted devices.</p> <p>Condition reason: To ensure water quality treatment devices are maintained in good working order</p>
42	<p>Public Domain Works</p> <p>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 plans 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 Public Works Certificate. This compliance report is required prior to LMCC issuing a compliance certificate for the works.</p> <p>Condition reason: To ensure all streetscape works have been completed as per landscape plans and to ensure both softscape and hardscape are ready to be transferred to Council Assets</p>
43	<p>Stormwater Disposal and Harvesting</p> <p>All drainage works shall be carried out in accordance with the approved Construction Certificate plans.</p> <p>Prior to the issue of an Interim or Final Occupation Certificate, whichever comes first, a Works As Executed Plan shall be prepared by the plumber undertaking the works and shall be submitted to the 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.</p> <p>Condition reason: To ensure any changes to the stormwater design are certified by the design engineer.</p>
44	<p>Stormwater Disposal - Stormwater Detention and Harvesting</p> <p>All drainage works shall be carried out in accordance with the approved Construction Certificate plans.</p> <p>Prior to the issue of any Occupation Certificate, a Works As Executed Plan shall be prepared by a surveyor and submitted to the 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.</p> <p>Condition reason: To ensure any changes to the stormwater design are certified by the</p>

	design engineer.
45	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 in accordance with the approved Stormwater Drainage Plan by Northrop Newcastle , Civil Engineering Package , Ref: Job No. NL230571 – Revisions and Sheets as noted, last Issue E dated 25/01/2024. The easement shall be registered on the title of the lot under Section 88B of the <i>Conveyancing Act 1919</i> 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. Condition reason: To protect local amenity.
46	Acoustic Certification Plans shall be certified as being designed in accordance with the approved Acoustic Report reference Ref MAC231829-01RP1V1 prepared by Mueller Acoustic Consulting dated June 2023. Including construction and operational compliance with “Section 6.2 Noise Attenuation Controls and Section 8 Construction Recommendations of the MAC Acoustic Report Ref MAC231829-01RP1V1 dated June 2023 Condition reason: To protect local amenity.

Occupation and ongoing use

47	External lighting during ongoing use During ongoing use of the premises, all lighting must be operated and maintained in accordance with the approved plans and the requirements of this consent. Condition reason: To ensure the safe operation of the premises and protect the amenity of the local area
48	Graffiti removal During ongoing use of the premises, ensure graffiti is removed from the exterior of the building or associated structures, including any fences, site services and retaining/planter

	bed walls.
	Condition reason: To protect and preserve the visual amenity of the surrounding public domain
49	<p>Managing noise with ongoing acoustic treatment</p> <p>During ongoing use of the premises, the premises must be operated in accordance with any approved acoustic report.</p> <p>Where the approved acoustic report recommends ongoing acoustic treatments, an acoustic implementation report from a suitably qualified person must be submitted to council within <Insert period> of the date of the issue of the occupation certificate.</p> <p>The report must confirm the implementation of acoustic treatment and demonstrate the external and internal noise levels satisfy the criteria nominated in accordance with the approved acoustic report.</p> <p>Condition reason: To ensure operational noise levels comply with the approved acoustic report and do not unreasonably impact on the amenity of adjoining and nearby premises</p>
50	<p>Storage and disposal of waste materials during ongoing use</p> <p>During ongoing use of the premises:</p> <ol style="list-style-type: none"> 1. bins must be put on the premises for the storage of any waste that is generated (including for recycling), 2. all garbage and recyclable materials generated from the premises must be stored wholly within any approved storage area and must not be stored outside the premises (including any public place) at any time 3. arrangements must be implemented for the separation of recyclable materials from garbage 4. any approved waste storage area must be appropriately maintained to prevent litter and the entry of pests 5. where council does not provide commercial garbage and recyclable materials collection services: <ol style="list-style-type: none"> a. a contract must be entered into with a licensed contractor to provide these services for the premises; and b. a copy of the contract must be kept on premises and provided to relevant authorities including council officers on request. 6. where the collection of garbage and recyclable materials from the premises is undertaken by a licensed contractor, it must only occur between daylight hours Monday to Saturday 7. all liquid trade waste discharged to sewerage system must comply with the trade waste approval issued by the relevant water authority 8. all liquid trade waste pre-treatment devices must be regularly maintained to remain effective in accordance with the conditions of the liquid trade waste approval issued by the relevant water authority.

	Condition reason: To ensure proper handling of waste, garbage and recyclable materials generated during operation of the premises
51	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 <i>Protection of the Environment Operations Act 1997</i> , vibration, smell, fumes, smoke, vapour, steam, soot, ash or dust, or otherwise as a result of the development. Condition reason: To restrict offensive emissions from the development
52	External Storage of Products The external storage or display of any products on the development site is not permitted. Condition reason: To prevent products from becoming a safety hazard or crime risk
53	Hours of Operation Following commencement of occupation, the premises shall operate or trade only between the times stated as follows: Mondays to Fridays - 6:30am to 6:30pm Saturdays, Sundays and Public Holidays - Nil Other internal operations such as cleaning, preparation, and office administration may be undertaken outside of the above hours provided no disturbance to the amenity of the neighbourhood occurs. Condition reason: To minimise disturbance and to maintain the amenity of the surrounding uses
54	Landscape Works All landscape works required under this consent shall undergo an establishment maintenance period of a minimum of 52 weeks. All landscaping shall then be permanently maintained in good condition in accordance with the approved landscape plan and the adopted <i>Development Control Plan 2014 Guidelines – Landscape Design Guidelines</i> . Condition reason: Compliance of landscape maintenance protocols on private lands
55	Lighting Any lighting shall be installed to comply with Australian Standard AS/NZS4282-2019. Condition reason: To control the obtrusive effects of outdoor lighting

56	Noise – Ongoing Operation of Machinery, Plant and Equipment
	<p>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 <i>NSW Environment Protection Authority Noise Policy for Industry 2017</i>.</p> <p>For assessing amenity criteria, the area shall be categorised in accordance with the guidelines outlined in Chapter 2 of that Policy.</p>
	Condition reason: To ensure the development meets relevant noise criteria and maintain the amenity of the area
57	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.
	Condition reason: To protect local amenity.
58	Plan of Management
	<p>An Operational Plan of Management shall be prepared and kept on premises. The Operational Plan of Management must include, but is not limited to, the following details:</p> <ul style="list-style-type: none"> • Capacity and Hours of Operation • Staff and Administration Management • Arrivals and Departures for Staff and Children • Car Parking • Education and Activities • A Procedure for Noise and Complaint Management • Evacuation Plan and Management, including procedures for people with a disability.
	Condition reason: To protect local amenity.
59	Waste Management Plan
	<p>An ongoing Operational waste management plan for the development, as per Section 4 (commercial use) of the 2019 Lake Macquarie Waste Management Guidelines, shall be provided to and approved by Council Waste Services. The plan must include the following additional matters:</p> <ul style="list-style-type: none"> a. Waste types and estimated volumes, use and destination, in accordance with the 2019 Lake Macquarie Waste Management Guidelines sub-section 4.1 to include the following information;

	<ul style="list-style-type: none"> i. the details of the businesses likely to be removing waste, ii. an estimate of the type and quantity of waste, iii. whether waste is expected to be reused, recycled or sent to landfill, and iv. the address and EPA NSW licence numbers of the disposal locations for compostables, recyclables and waste. <ul style="list-style-type: none"> a. That Council could provide a waste collection service from kerbside (optional); and b. Show storage space for a bin cart and installation of a recharge powerpoint within the waste storage room, if necessary. c. a service agreement must be in place with either Lake Macquarie City Council or a privately-owned licensed waste collection services provider that will allow for waste services to commence upon occupation of the development – this needs to be arranged at least six (6) weeks prior to completion of the build or occupation to allow time for delivery of bins.
	<p>Condition reason: To protect local amenity.</p>
60	<p>Children and Staff Numbers</p> <p>1. Children and Staff Numbers</p> <p>The facility shall comply with the indoor and outdoor space requirements in the <i>Education and Care Services National Regulations</i> (the Regulations).</p> <p>The maximum number of child care places shall be the lesser of:</p> <ul style="list-style-type: none"> a. 16 children aged 0-2, and 15 children aged 2-3, and 40 children aged 3-5. <p>or,</p> <ul style="list-style-type: none"> a. the numbers specified in the service licence. <p>Should there be any reduction in the outdoor or indoor spaces, then the number of children must be reduced accordingly to comply with the Regulations.</p> <p>The staff to children ratios at the facility shall be in accordance with relevant legislation/regulations.</p>

	Condition reason:
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Remediation Work

Before remediation work commences

No additional conditions have been applied to this stage of development.

During remediation work

61	Contaminated Land Remediation and Validation
	The site shall be remediated in accordance with the approved Remedial Action Plan (RAP).
	Condition reason: To ensure the site remediation

On completion of remediation work

No additional conditions have been applied to this stage of development.

General advisory notes

This consent contains the conditions imposed by the consent authority which are to be complied with when carrying out the approved development. However, this consent is not an exhaustive list of all obligations which may relate to the carrying out of the development under the EP&A Act, EP&A Regulation and other legislation. Some of these additional obligations are set out in the [Conditions of development consent: advisory notes](#). The consent should be read together with the *Conditions of development consent: advisory notes* to ensure the development is carried out lawfully.

The approved development must be carried out in accordance with the conditions of this consent. It is an offence under the EP&A Act to carry out development that is not in accordance with this consent.

Building work or subdivision work must not be carried out until a construction certificate or subdivision works certificate, respectively, has been issued and a principal certifier has been appointed.

A document referred to in this consent is taken to be a reference to the version of that document which applies at the date the consent is issued, unless otherwise stated in the

conditions of this consent.

DRAFT

Dictionary

The following terms have the following meanings for the purpose of this determination (except where the context clearly indicates otherwise):

Approved plans and documents means the plans and documents endorsed by the consent authority, a copy of which is included in this notice of determination.

AS means Australian Standard published by Standards Australia International Limited and means the current standard which applies at the time the consent is issued.

Building work means any physical activity involved in the erection of a building.

Certifier means a council or a person that is registered to carry out certification work under the *Building and Development Certifiers Act 2018*.

Construction certificate means a certificate to the effect that building work completed in accordance with specified plans and specifications or standards will comply with the requirements of the EP&A Regulation and *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

Council means LAKE MACQUARIE CITY COUNCIL.

Court means the Land and Environment Court of NSW.

EPA means the NSW Environment Protection Authority.

EP&A Act means the *Environmental Planning and Assessment Act 1979*.

EP&A Regulation means the *Environmental Planning and Assessment Regulation 2021*.

Independent Planning Commission means Independent Planning Commission of New South Wales constituted by section 2.7 of the EP&A Act.

Occupation certificate means a certificate that authorises the occupation and use of a new building or a change of building use for an existing building in accordance with this consent.

Principal certifier means the certifier appointed as the principal certifier for building work or subdivision work under section 6.6(1) or 6.12(1) of the EP&A Act respectively.

Site work means any work that is physically carried out on the land to which the development the subject of this development consent is to be carried out, including but not limited to building work, subdivision work, demolition work, clearing of vegetation or remediation work.

Stormwater drainage system means all works and facilities relating to:

- the collection of stormwater,
- the reuse of stormwater,
- the detention of stormwater,
- the controlled release of stormwater, and
- connections to easements and public stormwater systems.

Strata certificate means a certificate in the approved form issued under Part 4 of the *Strata Schemes Development Act 2015* that authorises the registration of a strata plan, strata plan of subdivision or notice of conversion.

Sydney district or regional planning panel means Hunter and Central Coast Regional Planning Panel.