

<b>DATE OF DETERMINATION</b>	10 April 2025
<b>DATE OF PANEL DECISION</b>	10 April 2025
<b>DATE OF PANEL BRIEFING</b>	1 April 2025
<b>PANEL MEMBERS</b>	Alison McCabe (Chair), Roberta Ryan, Giacomo Arnott
<b>APOLOGIES</b>	Tony McNamara, Leah Anderson
<b>DECLARATIONS OF INTEREST</b>	None

Papers circulated electronically on 25 March 2025.

#### **MATTER DETERMINED**

PPSHCC-274 – Port Stephens – DA 16-2023-707-1 at 4A Vardon Road, Fern Bay 2295 – Seniors Housing Development (as described in Schedule 1).

#### **PANEL CONSIDERATION AND DECISION**

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

This application has been the subject of several briefings from Council and the applicant. The application is for a seniors housing development and associated facilities on the edge of the Newcastle Golf Course fronting Nelson Bay Road.

The application has been amended since lodgement, specifically to address, built form, flooding, ecology, and traffic concerns. The original proposal sought access from Nelson Bay Road that was not supported by Council or Transport for New South Wales (TfNSW). A separate Development Application (DA 16-2022-413-1) has been approved to modify the golf course layout to accommodate the development.

The site is located within the Fern Bay and North Stockton Strategy area, which has identified the land holding as having opportunities to support future residential development, with seniors housing specifically identified. The broader area has been identified for future growth.

The Panel heard from a representative of the Fern Bay Public School Parents and Citizens' Association (P&C), in addition to Council and the applicant.

This development requires the upgrade of the intersection at Vardon Road and Nelson Bay Road to manage traffic impacts arising from the development. A temporary construction access is proposed off Nelson Bay Road.

The Panel requested further details of the upgrade and works required at the Nelson Bay Road and Vardon Road intersection. While these works will be subject of a separate Works Authorisation Deed (WAD) agreement with TfNSW, the Panel understands that:

- These works do not require any acquisition and can occur within existing road reserves;
- Will involve traffic signals and pedestrian access across both Vardon Road and Nelson Bay Road (which the Panel considers important in an area undergoing growth);
- Line marking that will require a right turn lane from Vardon Road; and
- Loss of on-street parking along the western side of Vardon Road (in the order of 4 spaces)

The Panel has included the plan as a condition and required sign off from Council's Local Traffic Committee.

Access to the seniors housing development is now proposed from the existing access point to the Newcastle Golf Club. The access from Vardon Road will require amendment and formalisation of the golf club car park as part of this application.

The intensification of the existing access point to the Newcastle Golf Club requires specific Traffic Management measures to be implemented to ensure safety of pedestrians, specifically school children accessing the adjoining Fern Bay Public School.

These measures have been included as a condition of consent and include:

- Stop signs and children crossing sign
- Differentiated paving
- Speed hump

The Panel, in their deliberation, has required specific conditions to restrict construction access to Nelson Bay Road with no construction access permitted from Vardon Road.

The Panel understands the flooding constraints, and the fact that the proposal is to be built at a level above the PMF, and that even in the extreme events, structures will not flood.

Evacuation from the site is only to occur in the most extreme event, and there is an 18-hour lead time to peak. The Panel has required the Flood Emergency Response Plan (FERP) to be updated to also reference the Raymond Terrace gauge to account for more localised conditions. The FERP assumes six hours to mobilise evacuation, allowing for in excess of 12 hours warning time to evacuate.

The flood response is in accordance with the Council and NSW Government policy.

The ecological constraints have been adequately addressed, and the Panel has required the preparation of the Biodiversity Management Plan before the release of any Construction Certificate.

Subject to the additional conditions, the Panel is satisfied that potential ecological, traffic (including construction traffic), and flooding, can be managed. The protection of important Aboriginal Heritage was an integral part of the application. The built form and layout of buildings is considered acceptable having regard to the context of the site.

The application has merit and will provide much needed housing options for the region.

### **Development application**

The Panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979* subject to the conditions at Schedule 2.

The decision was unanimous.

### **REASONS FOR THE DECISION**

The Panel determined to approve the application for the following reasons:

- i. The proposed development is consistent with the strategic policy framework.
- ii. The proposed development will provide much needed housing options in the region.
- iii. The impacts arising from the proposed development can be appropriately managed.
- iv. The upgrade of the intersection at Nelson Bay Road and Vardon Road is essential to mitigate potential traffic impact

### **CONDITIONS**

The Development Application was approved subject to the conditions at Schedule 2 with the following amendments from those attached to the Council assessment report:




- Condition 1 amended to reference the Preliminary Intersection Upgrade Sketch Plan and the amended Flood Emergency Response Plan
- Condition 23 amended to require works to the driveway to Vardon Road as shown on the Preliminary Intersection Upgrade Sketch Plan and approval from Council's Local Traffic Committee
- Condition 24 amended to reference the Preliminary Intersection Upgrade Sketch Plan and require approval from Council's Local Traffic Committee
- New condition 25 amended to require the Biodiversity Management Plan to be approved prior to the release of any Construction Certificate (conditions will renumber in final version)
- Condition 31 amended to prevent construction traffic entering or leaving Vardon Road and requiring the CSMP to be approved by Council's Local Traffic Committee
- Condition 62 amended to include reference to the Biodiversity Management Plan
- Conditions 81 and 96 corrections of typographical error
- Condition 105 amended to update reference to Flood Emergency Response Plan
- Condition 107 amended to limit access to emergency vehicles only from Nelson Bay Road on completion.

### CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel consider the one (1) written submission made during public exhibition and heard from all those wishing to address the Panel. The Panel notes that issues of concern included:

- Road safety and school children pedestrian safety, particularly with the increase in student numbers at nearby Fern Bay public school.
- Inconsistency in total traffic numbers.
- Basis of traffic impact assessment.
- Impacts on Vardon Road.
- Lack of engagement in the SIA process.

The Panel included additional conditions to address these matters.

PANEL MEMBERS	
 Alison McCabe (Chair)	 Roberta Ryan
 Giacomo Arnott	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSHCC-274 – Port Stephens – DA 16-2023-707-1
2	PROPOSED DEVELOPMENT	Seniors Housing Development (independent living units) comprising 172 dwellings, community centre, recreation facilities, open space, site works and associated infrastructure
3	STREET ADDRESS	Lot: 105 DP: 614883 & Lot 4 DP: 823114 4A & 4 Vardon Road, Fern Bay 2295
4	APPLICANT/OWNER	Principle Living Pty Ltd Newcastle Golf Club Ltd
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>Environmental planning instruments: <ul style="list-style-type: none"> <li>State Environmental Planning Policy (biodiversity and Conservation) 2021</li> <li>State Environmental Planning Policy (Sustainable Buildings) 2022</li> <li>State Environmental Planning Policy (Housing) 2021</li> <li>State Environmental Planning Policy (Industry and Employment) 2021</li> <li>State Environmental Planning Policy (Planning Systems) 2021</li> <li>State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>Port Stephens Local Environmental Plan 2013</li> </ul> </li> <li>Draft environmental planning instruments:</li> <li>Development control plans: <ul style="list-style-type: none"> <li>Port Stephens Development Control Plan 2014</li> </ul> </li> <li>Planning agreements: Nil</li> <li>Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i></li> <li>Coastal zone management plan: Nil</li> <li>The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>The suitability of the site for the development</li> <li>Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>The public interest, including the principles of ecologically sustainable development</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>Council Assessment Report: 25 March 2025</li> <li>Total number of unique submissions received by way of objection: 1</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>Initial Briefing: 27 February 2024 <ul style="list-style-type: none"> <li><u>Panel members</u>: Alison McCabe (Chair), Roberta Ryan, Giacomo Arnott, Ryan Palmer</li> <li><u>Applicant Representatives</u>: Alan McKelvey, John Stevens, Chris Old, Michael Rodgers, Andrew Brown, Coral Hardwick, Natalie Black, Stephen McMahon</li> <li><u>Council assessment staff</u>: Dylan Mitchell, Jeren Myers</li> <li><u>Department</u>: Leanne Harris, Holly McCann</li> </ul> </li> <li>Site inspection: <ul style="list-style-type: none"> <li><u>Panel members</u>: <ul style="list-style-type: none"> <li>Alison McCabe: 6 May 2024</li> <li>Roberta Ryan: 8 December 2024</li> </ul> </li> </ul> </li> </ul>

		<ul style="list-style-type: none"> <li>• Briefing: 7 August 2024 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Alison McCabe (Chair), Roberta Ryan, Tony McNamara, Giacomo Arnott</li> <li>○ <u>Council assessment staff</u>: Dylan Mitchell, Emily Allen</li> <li>○ <u>Department</u>: Leanne Harris</li> </ul> </li> <li>• Briefing: 16 October 2024 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Alison McCabe (Chair), Roberta Ryan, Tony McNamara</li> <li>○ <u>Council assessment staff</u>: Emily Allen, Ryan Falkenmire, Kristy Nunan, Bryn Coterill</li> <li>○ <u>Applicant Representatives</u>: Alan McKelvey, Chris Old, Michael Rogers, Andrew Brown</li> <li>○ <u>Department</u>: Leanne Harris</li> </ul> </li> <li>• Final briefing to discuss Council's recommendation: 1 April 2025 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Alison McCabe (Chair), Roberta Ryan, Giacomo Arnott</li> <li>○ <u>Council assessment staff</u>: Courtney Sargent, Mathew Egan, Ryan Falkenmire</li> <li>○ <u>Applicant representatives</u>: Alan McKelvey, Chris Old, John Stevens, Angus Brien, Michael Rodgers, Andrew Brown, Natale Black, Andrew Mann, Mark Sargent. Phil Arnall, Christian Southwood, Bob Macansh</li> </ul> </li> </ul>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report

## SCHEDULE 2

### General Conditions

1.	<b>Approved plans and supporting documentation</b>				
	Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.				
	<b>Approved plans</b>				
	<b>Plan number</b>	<b>Revision number</b>	<b>Plan title</b>	<b>Drawn by</b>	<b>Date of plan</b>
	A03 11586	H	Site Analysis Plan 1	EJE Architecture	14/03/2025
	A04 11586	H	Site Analysis Plan 2	EJE Architecture	14/03/2025
	A06 11586	F	Site Masterplan 1:4000	EJE Architecture	14/03/2025
	A07 11586	I	Site Masterplan 1:2000	EJE Architecture	14/03/2025
	A10 11586	G	The Proposal – Pedestrian & Vehicle Circulation	EJE Architecture	14/03/2025
	A13 11586	H	Site Masterplan – Proposed Levels	EJE Architecture	14/03/2025
	A14 11586	I	Overall Plan – Basement Level	EJE Architecture	14/03/2025
	A15 11586	S	Overall Plan – Ground Level	EJE Architecture	14/03/2025
	A16 11586	K	Overall Plan – Level 1	EJE Architecture	14/03/2025
	A17 11586	J	Overall Plan – Level 2	EJE Architecture	14/03/2025
	A18 11586	J	Overall Plan – Level 3	EJE Architecture	14/03/2025
	A19 11586	K	Overall Plan – Level 4	EJE Architecture	14/03/2025
	A20 11586	K	Overall Plan – Roof Plan	EJE Architecture	14/03/2025

A21 – A23 11586	I, H, H	Site Sections – Pages 1 – 3	EJE Architecture	14/03/2025
A25 11586	J	Community Centre – Site Plan	EJE Architecture	14/03/2025
A26 – A27 11586	L	Community Centre – Ground Floor Plan and Level 1	EJE Architecture	14/03/2025
A28 11586	K	Community Centre – Roof Plan	EJE Architecture	14/03/2025
A29 – A30 11586	H	Community Centre – Elevations and Sections	EJE Architecture	14/03/2025
A33 11586	J	Apartment Buildings – Site Plan	EJE Architecture	14/03/2025
A34 11586	L	Apartment Building 01 – Basement Floor Plan	EJE Architecture	14/03/2025
A35 11586	P	Apartment Building 01 – Ground Floor Plan	EJE Architecture	14/03/2025
A36 – A37 11586	P	Apartment Building 01 – Level 1 – 3 Floor Plans	EJE Architecture	14/03/2025
A38 11586	P	Apartment Building 01 – Penthouse level	EJE Architecture	14/03/2025
A39 11586	M	Apartment Building 01 – Roof Plan	EJE Architecture	14/03/2025
A40 – A41 11586	I	Apartment Building 01 – Elevations and Sections	EJE Architecture	14/03/2025
A43 11586	L	Apartment Building 02 – Basement Floor Plan	EJE Architecture	14/03/2025
A44 11586	M	Apartment Building 02 – Ground Floor Plan	EJE Architecture	14/03/2025
A45 11586	M	Apartment Building 02 – Level 1 – 3 Floor Plan	EJE Architecture	14/03/2025

A46 11586	M	Apartment Building 02 – Penthouse Level	EJE Architecture	14/03/2025
A47 11586	J	Apartment Building 02 – Roof Level	EJE Architecture	14/03/2025
A48 – A49 11586	H	Apartment Building 02 – Elevations and Sections	EJE Architecture	14/03/2025
A51 11586	L	Apartment Building 03 – Basement Floor Plan	EJE Architecture	14/03/2025
A52 11586	M	Apartment Building 03 – Ground Floor Plan	EJE Architecture	14/03/2025
A53 11586	M	Apartment Building 03 – Level 1 – 3 Floor Plan	EJE Architecture	14/03/2025
A54 11586	M	Apartment Building 03 – Penthouse Level	EJE Architecture	14/03/2025
A55 11586	J	Apartment Building 03 – Roof Level	EJE Architecture	14/03/2025
A56 11586	H	Apartment Building 03 – Elevations	EJE Architecture	14/03/2025
A57 11586	G	Apartment Building 03 – Sections	EJE Architecture	14/03/2025
A59 11586	I	Villas – Site Plan	EJE Architecture	14/03/2025
A60 11586	J	Villas – Site 1 – Ground Floor Plan	EJE Architecture	14/03/2025
A61 11586	I	Villas – Site 1 – Roof Plan	EJE Architecture	14/03/2025
A62 11586	I	Villas – Site 1 – Elevations	EJE Architecture	14/03/2025
A63 11586	J	Villas – Site 2 – Ground Floor Plan	EJE Architecture	14/03/2025
A64 11586	I	Villas – Site 2 – Roof Plan	EJE Architecture	14/03/2025
A65	I	Villas – Site 2 – Elevations	EJE Architecture	14/03/2025



11586				
A66	J	Villas – Site 3 – Ground Floor Plan	EJE Architecture	14/03/2025
11586				
A67	I	Villas – Site 3 – Roof Plan	EJE Architecture	14/03/2025
11586				
A68	I	Villas – Site 3 – Elevations	EJE Architecture	14/03/2025
11586				
A69	J	Villas – Site 4 – Ground Floor Plan	EJE Architecture	14/03/2025
11586				
A70	I	Villas – Site 4 – Roof Plan	EJE Architecture	14/03/2025
11586				
A71	I	Villas – Site 4 – Elevations	EJE Architecture	14/03/2025
11586				
A72	J	Villas – Site 5 – Ground Floor Plan	EJE Architecture	14/03/2025
11586				
A73	I	Villas – Site 5 – Roof Plan	EJE Architecture	14/03/2025
11586				
A74	I	Villas – Site 5 – Elevations	EJE Architecture	14/03/2025
11586				
A75	J	Villas – Site 6 – Ground Floor Plan	EJE Architecture	14/03/2025
11586				
A76	I	Villas – Site 6 – Roof Plan	EJE Architecture	14/03/2025
11586				
A77	I	Villas – Site 6 – Elevations	EJE Architecture	14/03/2025
11586				
A80	I	Duplexes & Town Houses – Site Plan	EJE Architecture	14/03/2025
11586				
A81	J	Townhouses – Site 7 – Ground Floor Plan	EJE Architecture	14/03/2025
11586				
A82	I	Townhouses – Site 7 – Roof Plan	EJE Architecture	14/03/2025
11586				
A83	I	Townhouses – Site 7 – Elevations	EJE Architecture	14/03/2025
11586				

A84 11586	J	Townhouses – Site 8 – Ground Floor Plan	EJE Architecture	14/03/2025
A85 11586	I	Townhouses – Site 8 – Roof Plan	EJE Architecture	14/03/2025
A86 11586	I	Townhouses – Site 8 – Elevations	EJE Architecture	14/03/2025
A87 11586	J	Townhouses – Site 9 – Ground Floor Plan	EJE Architecture	14/03/2025
A88 11586	I	Townhouses – Site 9 – Roof Plan	EJE Architecture	14/03/2025
A89 11586	I	Townhouses – Site 9 – Elevations	EJE Architecture	14/03/2025
A96 11586	H	Materials & Finishes Palette – Villas	EJE Architecture	14/03/2025
A98 11586	H	Materials & Finishes Palette – Apartments	EJE Architecture	14/03/2025
A99 11586	H	Materials & Finishes Palette – Community Centre	EJE Architecture	14/03/2025
A113 11586	K	Building 01 – Elevations with Glazing Types	EJE Architecture	14/03/2025
A114 11586	I	Building 02 – Elevations with Glazing Types	EJE Architecture	14/03/2025
A115 11586	H	Building 03 – Elevations with Glazing Types	EJE Architecture	14/03/2025
A116 – A120 11586	I	Glazing Schedule – Page 1 - 5	EJE Architecture	14/03/2025
A121-A122 11586	E	Glazing Schedule – Page 6 – 7	EJE Architecture	14/03/2025
A124 11586	E	Staging Plan	EJE Architecture	14/03/2025
A125 11586	F	Townhouse / Duplex – Type 1	EJE Architecture	14/03/2025
A126 – A127 11586	F	Villa Type 1 - 4	EJE Architecture	14/03/2025

A128 11586	C	Villa Type 5	EJE Architecture	14/03/2025
A129- A130 11586	G	Townhouse / Villa Glazing Schedule – Page 1 -2	EJE Architecture	14/03/2025
A131 11586	G	Vardon Road Access Plan	EJE Architecture	14/03/2025
DA-C01.21 NL166557	C	General Arrangement Plan	Northrop Consulting Engineers Pty Ltd	18/12/2024
DA-C02.01 NL166557	H	Erosion and Sediment Control Plan	Northrop Consulting Engineers Pty Ltd	18/12/2024
DA-C03.01 NL166557	H	Stormwater Management and Levels Plan – Sheet 1	Northrop Consulting Engineers Pty Ltd	18/12/2024
DA-C03.02 NL166557	F	Stormwater Management and Levels Plan – Sheet 2	Northrop Consulting Engineers Pty Ltd	18/12/2024
DA-C03.03 NL166557	A	Stormwater Management and Levels Plan – Sheet 3	Northrop Consulting Engineers Pty Ltd	18/12/2024
DA-C03.21 NL166557	H	Road Setout Plan	Northrop Consulting Engineers Pty Ltd	18/12/2024
DA-C03.22 NL166557	H	Road Long Sections – MC02 – Sheet 1	Northrop Consulting Engineers Pty Ltd	18/12/2024
DA-C03.23 NL166557	A	Road Long Sections – MC02 – Sheet 2	Northrop Consulting Engineers Pty Ltd	18/12/2024
DA-C03.24 NL166557	A	Road Long Sections – MC02 – Sheet 3	Northrop Consulting Engineers Pty Ltd	18/12/2024
DA-C04.01 NL166557	H	Bulk Earthworks Plan	Northrop Consulting Engineers Pty Ltd	18/12/2024
DA-C04.11 NL166557	G	Bulk Earthworks Site Sections – Sheet 1	Northrop Consulting Engineers Pty Ltd	22/07/2024
DA-C04.12 NL166557	B	Bulk Earthworks Site Sections – Sheet 2	Northrop Consulting Engineers Pty Ltd	22/07/2024
DA-C05.01 NL166557	G	Civil Details	Northrop Consulting Engineers Pty Ltd	22/07/2024

250084-01-SK-01	A	Preliminary Intersection Upgrade Sketch	Groundswell Engineers	03/04/2025
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#### Approved Documents

Document title	Version No.	Prepared by	Dated
Landscape Plan	L	Studio 26 Urban Design	March 2025
Aboriginal Cultural Heritage Assessment Report and Aboriginal Test Excavation Report	Final Draft	Extent Heritage Pty Ltd	October 2023
Access Report Reference: PAA_23473	2	Lindsay Perry Access Pty Ltd t/a purple apple access	1 July 2024
Concept Flooding and Water Management Report NL166557	E	Northrop Consulting Engineers Pty Ltd	18 December 2024
Preliminary Utility Servicing Report NL203626-00	B	Northrop Consulting Engineers Pty Ltd	29 November 2023
Bushfire Threat Assessment AEP Ref: 2313.04	02	Anderson Environment and Planning	12/03/2025
Operational Plan	DA Issue	Principle Living Pty Ltd	October 2023
Acoustic Assessment 2221324_231025	0	Rapt Consulting	October 2023
CPTED Report	G	Studio 26 Urban Design	December 2024
Preliminary Dewatering Management Plan Reference: SYDGE369539-AA	00	Tetra Tech Coffey	11/11/2024
Waste Minimisation and Management Plan	RFI Review	Principle Living Pty Ltd	July 2024
Biodiversity Development Assessment Report	Revision 5	Anderson Environmental and Planning	16 March 2025
Biodiversity Management Plan	Revision 8	Anderson Environmental and Planning	March 2025
Flood Emergency Response Plan	C	Northrop Consulting Engineers	2 April 2025

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

2.	<b>External Agency Approvals</b>
	The requirements from the following agencies must be complied with prior to, during, and at the completion of the development.
	<p>The Requirements are:</p> <ol style="list-style-type: none"> <li>1. Ausgrid, Reference: 1900126775, Dated: 15 February 2024.</li> <li>2. Department of Defence, Reference: ID-EP-DLP&amp;R/OUT/2024/BS51376313, Dated: 4 March 2024.</li> </ol> <p>A copy of the Requirements is attached to this determination notice.</p>
	<b>Condition reason:</b> To ensure that development is carried out in accordance with conditions are required by other external agencies (i.e. DOD, CASA etc.)
3.	<b>General Terms of Approval</b>
	The General Terms of Approval from state authorities must be complied with prior to, during, and at the completion of the development.
	<p>The General Terms of Approval are:</p> <ol style="list-style-type: none"> <li>1. Heritage NSW, Reference: DOC24/390491, Dated: 22 May 2024.</li> <li>2. NSW Rural Fire Service, Reference: DA20240201000419-S38-1, Dated: 7 March 2025.</li> </ol> <p>A copy of the General Terms of Approval is attached to this determination notice.</p>
	<b>Condition reason:</b> To ensure that the development is carried out in accordance with the General Terms of Approval issues by Integrated Development / Concurrence Agencies
4.	<b>Approved Report Recommendations</b>
	Construction of the development must comply with the recommendations of the Acoustic Assessment (Prepared by Rapt Consulting, Document Number, Revision 0, dated October 2023).
	<b>Condition reason:</b> To ensure that development is carried out in accordance with specific recommendations of a report are required to be complied with, but not the full report.
5.	<b>Approved Report Recommendations</b>
	Construction of the development must comply with the recommendations of the Crime Prevention through Environmental Design Report (Prepared by Studio 26 Urban Design, Revision G, dated December 2024.)
	<b>Condition reason:</b> To ensure that development is carried out in accordance with specific recommendations of a report are required to be complied with, but not the full report.
6.	<b>Building Code of Australia</b>
	All building work must be carried out in accordance with the BCA. In this clause, a reference to the BCA is a reference to that Code as in force on the date the application for the relevant Construction Certificate is made.
	<b>Condition reason:</b> To ensure that all building works are completed in accordance with the Building Code of Australia.

7.	<b>Sign on Building</b>
	Except in the case of work only carried out to the interior of a building or Crown building work, a sign must be erected in a prominent position on the site showing the name, address and telephone number of the Principal Certifying Authority for the work, the name of any principal contractor and their after-hours contact number, and must contain a statement that unauthorised entry to the site is prohibited.  The sign must be maintained while the work is being carried out and is to be removed when the work is completed.
	<b>Condition reason:</b> To require signage that details the relevant contacts of a development during construction
8.	<b>Implementation of BASIX commitments</b>
	While building work is being carried out, the applicant must undertake the development strictly in accordance with the commitments listed in the BASIX(s) approved by this consent, for the development to which the consent applies.
	<b>Condition reason:</b> To ensure that the development is constructed in accordance with the commitments listed in the BASIX certificate(s) approved by this consent.
9.	<b>Tree removal and protection of existing vegetation</b>
	No vegetation or natural landscape features other than that authorised for removal by this consent is to be disturbed, damaged or removed. No additional works or access/parking routes transecting the protected vegetation must be undertaken without Council Approval.
	<b>Condition reason:</b> To ensure that vegetation is protected during works.
10.	<b>Staging of Development</b>
	The development is to be completed in numerical stages in accordance with the approved Staging Plan (prepared by EJE Architecture, Drawing No. A124, Revision E, Dated 14/03/2025).
	<b>Condition reason:</b> To ensure that the development is completed in accordance with the approved staging and stamped plans.
11.	<b>Design Quality of Development</b>
	The approved design (including an element or detail of that design) or materials finish or colours of the building must not be changed so as to affect the internal layout or external appearance of the building without the approval of Council.
	<b>Condition reason:</b> To ensure that the development is carried out in accordance with a specific design outcome.
12.	<b>Roof mounted equipment</b>
	All roof mounted equipment such as air conditioning units, service pipes and vents etc., 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.
	<b>Condition reason:</b> To ensure roof mounted equipment is appropriately concealed.

13.	<p><b>Separate Approval for signs</b></p> <p>A separate development application for any proposed signs additional to those signs approved as part of this development consent, must be provided to, and approved by, the Consent Authority or under the provisions of the <i>State Environmental Planning Policy (Exempt and Complying Codes) 2008</i> if applicable prior to the erection or display of any such signs.</p> <p><b>Condition reason:</b> To ensure that the development is restricted to the approved signage within the development consent or that signage is permitted in accordance with State Environmental Planning Policy (Exempt and Complying Codes) 2008.</p>
14.	<p><b>Approved Report Recommendations</b></p> <p>Construction of the development must comply with the recommendations of the 'Biodiversity Development Assessment Report', Revision 5, Reference No. 2313.02 prepared by Anderson Environment and Planning, dated 16 March 2025 detailed as follows:</p> <ul style="list-style-type: none"> <li>a) Prior to construction commencing, the Project Ecologist will inspect the exclusion flagging tape alignment to ensure it adequately delineates the areas of retained trees and vegetation from the development footprint;</li> <li>b) No machinery or material is to be stored within retained vegetation or within the dripline of retained trees;</li> <li>c) Trees to be removed are to be felled in the opposite direction of the retained vegetation where possible; and</li> <li>d) Effective weed control should be used on site, ensuring that appropriate methods are used to eliminate and dispose of high threat exotic weeds and highly competitive weeds.</li> </ul> <p><b>Condition reason:</b> To ensure that development is carried out in accordance with specific recommendations of a report are required to be complied with, but not the full report.</p>
15.	<p><b>Tree Removal/Pruning</b></p> <p>The vegetation identified on within the 'Subject Site' except that identified as 'Canopy (Retained)' on 'Figure 9 – Avoid and Minimisation' of the 'Biodiversity Development Assessment Report', prepared by Anderson Environment and Planning, dated 16 March 2025 is approved for removal.</p> <p><b>Condition reason:</b> To ensure that the development retains/prunes and replaces specific tree plantings.</p>
16.	<p><b>Protect Existing Vegetation and Natural Landscape Features</b></p> <p>Approval to remove existing vegetation for removal is not to occur until the issue of the Construction Certificate.</p> <p>No vegetation or natural landscape features other than that authorised for removal, pruning by this Consent must be disturbed, damaged or removed. No additional works or access/parking routes transecting the protected vegetation must be undertaken without Council Approval.</p> <p><b>Condition reason:</b> To ensure that vegetation is protected during works</p>
17.	<p><b>Outdoor Lighting</b></p> <p>Prior to issuing a Construction Certificate, a detailed lighting design plan must be submitted to and approved by Council. All lighting must comply with AS 4282 'Control of Obtrusive Effects of Outdoor Lighting' and the Australian Government's 'National Light Pollution Guidelines for Wildlife Including marine turtles, seabirds and migratory shorebirds' January 2020)</p>

**Condition reason:** To ensure lighting complies with relevant standards and conditions.

## Building Work

### Before issue of a construction certificate

18.

Erosion and sediment controls plan

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 the certifier:

1. The guidelines set out in 'Managing Urban Stormwater: Soils and Construction' prepared by Landcom (the Blue Book) (as amended from time to time), and

2. 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).

Condition reason:

To ensure no substance other than rainwater enters the stormwater system and waterways.

19.

Section 7.11 development contributions

A monetary contribution is to be paid to Council for the provision of 172 seniors housing dwellings, pursuant to Section 7.11 of the *Environmental Planning & Assessment Act 1979* and the Port Stephens Local Infrastructure Contributions Plan 2020 towards the provision of the following public facilities:

Facility	Per Lot/Dwelling	Total \$
Civic Administration – Plan Management	\$327	\$56,244
Civic Administration – Works Depot	\$634	\$109,048
Town Centre Upgrades	\$1,707	\$293,604
Public Open Space, Parks and Reserves	\$184	\$31,648
Sports & Leisure Facilities	\$826	\$142,072
Cultural & Community Facilities	\$222	\$38,184
Road Works	\$1,982	\$340,904
Shared Paths	\$1,738	\$298,936
Bus Facilities	\$561	\$96,492
Cross Boundary Contributions	\$1,668	\$286,896
Kings Hill Urban Release Area	\$151	\$25,972
TOTAL	\$10,000	\$1,720,000

STAGE 1 – 13 dwellings

Facility	Per Lot/Dwelling	Total \$
Civic Administration – Plan Management	\$327	\$4,251
Civic Administration – Works Depot	\$634	\$8,242
Town Centre Upgrades	\$1,707	\$22,191
Public Open Space, Parks and Reserves	\$184	\$2,392
Sports & Leisure Facilities	\$826	\$10,738



Cultural & Community Facilities	\$222	\$2,886
Road Works	\$1,982	\$25,766
Shared Paths	\$1,738	\$22,594
Bus Facilities	\$561	\$7,293
Cross Boundary Contributions	\$1,668	\$21,684
Kings Hill Urban Release Area	\$151	\$1,963
<b>TOTAL</b>	<b>\$10,000</b>	<b>\$130,000</b>

#### STAGE 2 – 35 dwellings

Facility	Per Lot/Dwelling	Total \$
Civic Administration – Plan Management	\$327	\$11,445
Civic Administration – Works Depot	\$634	\$22,190
Town Centre Upgrades	\$1,707	\$59,745
Public Open Space, Parks and Reserves	\$184	\$6,440
Sports & Leisure Facilities	\$826	\$28,910
Cultural & Community Facilities	\$222	\$7,770
Road Works	\$1,982	\$69,370
Shared Paths	\$1,738	\$60,830
Bus Facilities	\$561	\$19,635
Cross Boundary Contributions	\$1,668	\$58,380
Kings Hill Urban Release Area	\$151	\$5,285
<b>TOTAL</b>	<b>\$10,000</b>	<b>\$350,000</b>

#### STAGE 3 – 14 dwellings

Facility	Per Lot/Dwelling	Total \$
Civic Administration – Plan Management	\$327	\$4,578
Civic Administration – Works Depot	\$634	\$8,876
Town Centre Upgrades	\$1,707	\$23,898
Public Open Space, Parks and Reserves	\$184	\$2,576
Sports & Leisure Facilities	\$826	\$11,564
Cultural & Community Facilities	\$222	\$3,108
Road Works	\$1,982	\$27,748
Shared Paths	\$1,738	\$24,332
Bus Facilities	\$561	\$7,854
Cross Boundary Contributions	\$1,668	\$23,352
Kings Hill Urban Release Area	\$151	\$2,114
<b>TOTAL</b>	<b>\$10,000</b>	<b>\$140,000</b>

#### STAGE 4 – 20 dwellings

Facility	Per Lot/Dwelling	Total \$
Civic Administration – Plan Management	\$327	\$6,540
Civic Administration – Works Depot	\$634	\$12,680
Town Centre Upgrades	\$1,707	\$34,140
Public Open Space, Parks and Reserves	\$184	\$3,680
Sports & Leisure Facilities	\$826	\$16,520
Cultural & Community Facilities	\$222	\$4,440
Road Works	\$1,982	\$39,640
Shared Paths	\$1,738	\$34,760
Bus Facilities	\$561	\$11,220
Cross Boundary Contributions	\$1,668	\$33,360
Kings Hill Urban Release Area	\$151	\$3,020

	<b>TOTAL</b>	<b>\$10,000</b>	<b>\$200,000</b>
	<b>STAGE 5 – 46 dwellings</b>		
	<b>Facility</b>	<b>Per Lot/Dwelling</b>	<b>Total \$</b>
	Civic Administration – Plan Management	\$327	\$15,042
	Civic Administration – Works Depot	\$634	\$29,164
	Town Centre Upgrades	\$1,707	\$78,522
	Public Open Space, Parks and Reserves	\$184	\$8,464
	Sports & Leisure Facilities	\$826	\$37,996
	Cultural & Community Facilities	\$222	\$10,212
	Road Works	\$1,982	\$91,172
	Shared Paths	\$1,738	\$79,948
	Bus Facilities	\$561	\$25,806
	Cross Boundary Contributions	\$1,668	\$76,728
	Kings Hill Urban Release Area	\$151	\$6,946
	<b>TOTAL</b>	<b>\$10,000</b>	<b>\$460,000</b>
	<b>STAGE 6 – 44 dwellings</b>		
	<b>Facility</b>	<b>Per Lot/Dwelling</b>	<b>Total \$</b>
	Civic Administration – Plan Management	\$327	\$14,388
	Civic Administration – Works Depot	\$634	\$27,896
	Town Centre Upgrades	\$1,707	\$75,108
	Public Open Space, Parks and Reserves	\$184	\$8,096
	Sports & Leisure Facilities	\$826	\$36,344
	Cultural & Community Facilities	\$222	\$9,768
	Road Works	\$1,982	\$87,208
	Shared Paths	\$1,738	\$76,472
	Bus Facilities	\$561	\$24,684
	Cross Boundary Contributions	\$1,668	\$73,392
	Kings Hill Urban Release Area	\$151	\$6,644
	<b>TOTAL</b>	<b>\$10,000</b>	<b>\$440,000</b>
	<p>Payment of the above amount must apply to Development Applications as follows:</p> <p>a) Prior to issue of the Construction Certificate for each stage.</p> <p><b>Note:</b> The amount of contribution payable under this condition has been calculated at the date of consent. In accordance with the provisions of the Contributions Plan, this amount must be indexed at the time of actual payment in accordance with the applicable Index.</p> <p><b>Condition reason:</b> To ensure that a monetary contribution as specified is paid to Council in accordance with Section 7.11 of the EP&amp;A Act 1979, and the Port Stephens Council Local Infrastructure Contributions Plan 2020.</p>		
20.	<b>Long Service Levy</b>		
	<p>Before the issue of a Construction Certificate, the long service levy must be paid to the Long Service Corporation under the <i>Building and Construction industry Long Service Payments Act 1986</i>, section 34, and evidence of the payment is to be provided to the principal certifier</p> <p><b>Condition reason:</b> To ensure the Long Service Levy is paid.</p>		
21.	<b>Civil engineering plans</b>		

Civil engineering plans prepared by a qualified Engineer, indicating drainage, roads, accessways, earthworks, pavement design, street lighting, details of line-marking, traffic management, water quality and quantity facilities including stormwater detention and disposal, must be prepared in accordance with the approved plans and Council's Infrastructure Specifications.

Details demonstrating compliance must be provided to the Certifying Authority, prior to the issue of a Construction Certificate.

Note. Under the Roads Act 1993, only the Roads Authority can approve commencement of works within an existing road reserve.

**Condition reason:** To ensure that Civil Engineering plans have been prepared by a qualified engineer prior to the issue of the Construction Certificate.

22.

## **Housing and Productivity Contribution**

A housing and productivity contribution is to be made, subject to:

- a) Any exclusion of the application of Subdivision 4 of Division 7.1 of the *Environmental Planning and Assessment Act 1979* (the Act) to the development by a planning agreement, and
- b) Any exemption or reduction provided by the *Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023* (the Order).

In this respect:

- a) The amount of the housing and productivity contribution, as at the date that this development consent is granted for each stage is:
  - **Stage 1:** \$82,864.39
  - **Stage 2:** \$223,096.44
  - **Stage 3:** \$89,238.58
  - **Stage 4:** \$127,483.68
  - **Stage 5:** \$293,212.46
  - **Stage 6:** \$280,464.10
- b) The time by which the housing and productivity contribution must be made is before the issue of the first construction certificate in relation to each stage of the development.
- c) The manner in which the amount of the housing and productivity contribution, as specified in this consent, is to be adjusted at the time of payment, is specified below.
- d) The payment of the contribution must be made using the NSW planning portal.
- e) If an agreement is entered into as referred to in clause 19 of the Order, the housing and productivity contribution may be made wholly or partly as a non-monetary contribution.
- f) If this development consent is granted to a concept development application, the housing and productivity contribution -
  - (i) May be payable for development on the site the subject of a subsequent development application, and
  - (ii) Is to be determined in accordance with the applicable Ministerial planning order under Subdivision 4 of Division 7.1 of the Act, as in force at the time the consent.

The contribution amount, as specified above, is to be adjusted at the time of payment by multiplying it by the following fraction -

***highest PPI number***

***consent PPI number***

	<p>Where -</p> <p>highest PPI number is the highest PPI number for a quarter following the June quarter 2023 up to and including the 2nd last quarter before the quarter in which the payment is made.</p> <p>consent PPI number is the PPI number last used to adjust the base component amount, SBC amount or TPC amount when development consent was granted.</p> <p>June quarter 2023 is the quarter commencing on and including 1 April 2023 and ending on and including 30 June 2023.</p> <p>PPI is the Producer Price Index (Road and Bridge Construction (NSW)) published by the Australian Bureau of Statistics.</p> <p>If the adjustment of the contribution amount results in a lesser amount, the contribution amount, as specified above, must be paid instead.</p> <p><b>Condition reason:</b> To achieve compliance with the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023, as made by the NSW Minister for Planning and Public Spaces.</p>
23.	<p><b>Roads Act Approval</b></p> <p>A Roadworks Permit must be approved under Section 138 of the Roads Act 1993 by Council for footpath, driveway crossings and works in the public road reserve.</p> <p>As part of the Roads Act Permit, details of regulatory signage for connections to both Nelson Bay Road and Vardon Road must be provided to Council. Regulatory signage and traffic safety measures must be approved by Council's Local Traffic Committee. Traffic safety measures are to be consistent with those shown on Preliminary Intersection Upgrade Sketch (250084-01-SK-01) prepared by Groundswell Engineers dated 03.04.2025</p> <p><b>Condition reason:</b> To ensure that works within the road reserve are approved by a Section 138 Approval of the <i>Roads Act 1993</i>.</p>
24.	<p><b>Nelson Bay Road / Vardon Road Intersection Upgrade</b></p> <p>Before the issue of a Construction Certificate, the Developer is to provide detailed design drawings and obtain approval under Section 138 of the <i>Roads Act 1993</i> from the relevant Roads Authority for signalised intersection upgrades at the Nelson Bay Road and Vardon Road intersection. The intersection design must be generally consistent with the Preliminary Intersection Upgrade Sketch (250084-01-SK-01, prepared by Groundswell Engineers, dated 03/04/2025).</p> <p>TfNSW will require the Developer to enter into a Works Authorisation Deed (WAD) with TfNSW for the intersection works. TfNSW will exercise its powers and functions of the road authority, to undertake road works in accordance with Sections 64, 71, 72 and 73 of the Roads Act, as applicable, for all works under the WAD.</p> <p>The detailed intersection design must be submitted to Council for approval by Council's Local Traffic Committee as part of the WAD.</p> <p><b>Condition reason:</b> To ensure road network upgrades are designed and approved by the relevant Roads Authority.</p>
25.	<p><b>Biodiversity Management Plan</b></p>

	<p>Before the issue of a Construction Certificate, the Biodiversity Management Plan must be approved by Council. The Biodiversity Management Plan shall be prepared by a suitably qualified and experienced ecological consultant with experience in the preparation of such reports.</p> <p><b>Condition reason:</b> To minimise ecological impacts associated with the development.</p>
26.	<p><b>Stormwater/Drainage Plans</b></p> <p>Detailed stormwater drainage plans must be prepared by a qualified Engineer in accordance with the approved plans, Council's Infrastructure Specifications and the current Australian Rainfall and Runoff guidelines using the Hydrologic Soil Mapping data for Port Stephens (available from Council).</p> <p>The Stormwater plans for Stage 1 must detail:</p> <ul style="list-style-type: none"> <li>Discharge from the existing carpark, the proposed carpark and the access driveway to Vardon Road to be infiltrated up to 1% AEP.</li> </ul> <p>Details demonstrating compliance must be provided to the Certifying Authority, prior to the issue of a Construction Certificate.</p> <p>Note: Under the <i>Roads Act 1993</i>, only the Roads Authority can approve commencement of works within an existing road reserve.</p> <p><b>Condition reason:</b> To ensure that the development is carried out in accordance with the Port Stephens Development Control Plan 2014.</p>
27.	<p><b>Stormwater System Operation and Maintenance Procedure Plan</b></p> <p>An Operation and Maintenance Plan for the stormwater system must be prepared by a qualified engineer detailing a regular maintenance programme for pollution control devices, covering inspection, cleaning and waste disposal.</p> <p>Details demonstrating compliance must be provided to the Certifying Authority, prior to the issue of a Construction Certificate.</p> <p><b>Condition reason:</b> To ensure that large stormwater systems have an appropriate operation and maintenance plan prepared by a qualified Engineer.</p>
28.	<p><b>Dilapidation Report</b></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 principal 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 principal certifiers, that all reasonable steps were taken to obtain access to the adjoining properties.</p> <p><b>Condition reason:</b> To establish and document the structural condition of adjoining properties and existing structures on the subject site for comparison as site work progresses and is completed.</p>
29.	<p><b>Retaining walls</b></p> <p>All retaining walls within 1m of a boundary and exceeding 600mm in height must be designed and certified by a suitably qualified Structural Engineer.</p>

	<p>Details demonstrating compliance must be provided to the Certifying Authority, prior to the issue of a Construction Certificate.</p> <p><b>Condition reason:</b> To ensure that retaining walls in proximity to the boundary and over a height are designed and certified by a suitably qualified engineer.</p>
30.	<p><b>Driveway gradients and design</b></p> <p>For all driveways that relate to development for the purposes of a dwelling house, the driveway gradient and design must comply with AS 2890.1 'Off street Car Parking' and:</p> <ol style="list-style-type: none"> <li>1. The driveway must be at least 1m from any street tree, stormwater pit or service infrastructure; and</li> <li>2. A Works on Public Infrastructure (Driveway) approval must be obtained prior to the commencement of any works.</li> </ol> <p>Details demonstrating compliance must be provided to the Certifying Authority.</p> <p><b>Condition reason:</b> To ensure driveway gradients are compliant with relevant standards.</p>
31.	<p><b>Garbage Room</b></p> <p>Rooms used for the storage of garbage, and rooms used for the washing and storage of garbage receptacles, must be constructed in accordance with the approved plans and the following:</p> <ol style="list-style-type: none"> <li>a) The room must be constructed of solid material, cement rendered and trowelled to a smooth even surface;</li> <li>b) The floor must be impervious material coved at the intersection with the walls, graded and drained to an approved floor waste within the room; and</li> <li>c) Garbage rooms must be vented to the external air by natural or mechanical ventilation.</li> </ol> <p>Details demonstrating compliance must be provided to the Certifying Authority, prior to the issue of a Construction Certificate</p> <p><b>Condition reason:</b> To allow for assessment and ensure compliance with the relevant plans and requirements.</p>
32.	<p><b>Construction Site Management Plan</b></p> <p>Before the issue of a Construction Certificate, the Developer must submit a Construction Site Management Plan to Council for approval. The plan must include the following matters:</p> <ol style="list-style-type: none"> <li>a) location and materials for protective fencing and hoardings to the perimeter on the site</li> <li>b) waste management procedures</li> <li>c) provisions for public safety</li> <li>d) pedestrian and vehicular site access points and construction activity zones</li> <li>e) details of construction traffic management, including proposed truck movements to and from the site and estimated frequency of those movements, and measures to preserve pedestrian safety in the vicinity of the site</li> <li>f) protective measures for on-site tree preservation (including in accordance with AS 4970-2009)</li> <li>g) details of any bulk earthworks to be carried out</li> <li>h) location of site storage areas and sheds</li> <li>i) equipment used to carry out all works</li> <li>j) a garbage container with a tight-fitting lid</li> <li>k) dust, noise and vibration control measures</li> <li>l) location of temporary toilets.</li> </ol>

	<p>The Construction Site Management Plan must ensure that all construction traffic enters/leaves the site via the access on Nelson Bay Road. No construction traffic is to enter/leave the site via Vardon Road.</p> <p>The Construction Site Management Plan must be approved by Council’s Local Traffic Committee.</p> <p>The applicant must ensure a copy of the approved construction site management plan is kept on-site at all times during construction.</p> <p><b>Condition reason:</b> To require details of measures to be undertaken that will protect the public, and the surrounding environment, during site works and construction.</p>								
33.	<p><b>Design Verification – Residential Flat Building</b></p> <p>Prior to the issue of a Construction Certificate, a design verification statement from a qualified designer must be submitted to the certifying authority confirming that the Construction Certificate plans and specifications are consistent with the Development Application approved.</p> <p><b>Condition reason:</b> To ensure verification by a qualified designer as required by the Environmental Planning and Assessment Act 1979 is provided.</p>								
34.	<p><b>Design Verification – Seniors Housing</b></p> <p>Prior to the issue of a Construction Certificate, a report is to be provided by a suitably qualified access consultant demonstrating the detailed design plans comply with Schedule 4 of State Environmental Planning Policy (Housing) 2021, Building Code of Australia 2019 (BCA), Disability (Access to Premises) Standards 2010 and the Disability Discrimination Act 1992 (DDA).</p> <p><b>Condition reason:</b> To the construction plans comply with the provisions of Schedule 4 of State Environmental Planning Policy (Housing) 2021.</p>								
35.	<p><b>Biodiversity Offset Scheme – Ecosystem Credit Retirement</b></p> <p>The class and number of ecosystem credits in the following table must be retired to offset the residual biodiversity impacts of the development prior to the issue of a construction certificate.</p> <p>The requirement to retire credits may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of ecosystem credits, as calculated by the Biodiversity Offsets Payment Calculator.</p> <table><tr><th>Impact plant community type</th><th>No. of ecosystem credits</th><th>IBRA sub-region</th><th>Plant community type(s) that can be used to offset impacts of development</th></tr><tr><td>3544-Coastal Sands Apple-Blackbutt Forest</td><td>5</td><td>Karuah Manning, Hunter, Macleay Hastings, Mummel Escarpment and Upper Hunter. or Any IBRA subregion that is within 100 kilometres of the outer edge of the impacted site.</td><td>Coastal Dune Dry Sclerophyll Forests This includes PCT's: 3544, 3545, 3546, 3547, 3548, 3549, 3550, 3551, 3552, 3553, 3554, 3555, 3556</td></tr></table>	Impact plant community type	No. of ecosystem credits	IBRA sub-region	Plant community type(s) that can be used to offset impacts of development	3544-Coastal Sands Apple-Blackbutt Forest	5	Karuah Manning, Hunter, Macleay Hastings, Mummel Escarpment and Upper Hunter. or Any IBRA subregion that is within 100 kilometres of the outer edge of the impacted site.	Coastal Dune Dry Sclerophyll Forests This includes PCT's: 3544, 3545, 3546, 3547, 3548, 3549, 3550, 3551, 3552, 3553, 3554, 3555, 3556
Impact plant community type	No. of ecosystem credits	IBRA sub-region	Plant community type(s) that can be used to offset impacts of development						
3544-Coastal Sands Apple-Blackbutt Forest	5	Karuah Manning, Hunter, Macleay Hastings, Mummel Escarpment and Upper Hunter. or Any IBRA subregion that is within 100 kilometres of the outer edge of the impacted site.	Coastal Dune Dry Sclerophyll Forests This includes PCT's: 3544, 3545, 3546, 3547, 3548, 3549, 3550, 3551, 3552, 3553, 3554, 3555, 3556						

3788-Coastal Fore-dune Wattle Scrub	4	Karuah Manning, Hunter, Macleay Hastings, Mummel Escarpment and Upper Hunter. or Any IBRA subregion that is within 100 kilometres of the outer edge of the impacted site.	Coastal Headland Heaths This includes PCT's: 3788, 3789, 3791
4006-Northern Paperbark-Swamp Mahogany Saw-sedge Forest	16	Karuah Manning, Hunter, Macleay Hastings, Mummel Escarpment and Upper Hunter. or Any IBRA subregion that is within 100 kilometres of the outer edge of the impacted site.	Swamp Sclerophyll Forest on Coastal Floodplains of the New South Wales North Coast, Sydney Basin and South East Corner Bioregions This includes PCT's: 3272, 3906, 3983, 3985, 3986, 3988, 3989, 3990, 3995, 3997, 3998, 4000, 4001, 4004, 4006, 4009, 4013, 4019, 4020, 4021, 4044, 4047, 4057
3963-Estuarine Reedland	16	Karuah Manning, Hunter, Macleay Hastings, Mummel Escarpment and Upper Hunter. or Any IBRA subregion that is within 100 kilometres of the outer edge of the impacted site.	Swamp Oak Floodplain Forest of the New South Wales North Coast, Sydney Basin and South East Corner Bioregions This includes PCT's: 1731, 3962, 3963, 3985, 3987, 3993, 4016, 4023, 4026, 4027, 4028, 4030, 4035, 4038, 4040, 4048, 4049, 4050, 4056

Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund detailed in the above table must be provided to the consent authority prior to the issue of a construction certificate.

**Condition reason:** To ensure the required ecosystem credits are retired prior to the issue of a construction certificate.

36.

#### **Biodiversity Offset Scheme – Species credit retirement**

The class and number of species credits in the following table must be retired to offset the residual biodiversity impacts of the development prior to the issue of a construction certificate.

The requirement to retire credits may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of species credits, as calculated by the Biodiversity Offsets Payment Calculator.

Impacted species credit species	Number of species credits	IBRA sub-region
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Corybas dowlingii / Red Helmet Orchid	44	Anywhere in NSW
Crinia tinnula / Wallum Froglet	59	Anywhere in NSW
Petaurus norfolcensis / Squirrel Glider	44	Anywhere in NSW
Uperoleia mahonyi / Mahony's Toadlet	81	Anywhere in NSW

Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund detailed in the above table must be provided to the consent authority prior to the issue of a construction certificate.

**Condition reason:** To ensure the required species credits are retired prior to the issue of a construction certificate.

37.	<b>Adaptable units</b>
	Prior to the issue of a Construction Certificate, a report prepared by a suitably qualified consultant must be obtained that demonstrates, to the certifier's satisfaction that any adaptable dwellings specific in the approved plans or documents comply with the provisions of AS 4299 Adaptable Housing Standards.
	<b>Condition reason:</b> To ensure adaptable units are designed in accordance with the Australian Standard.
38.	<b>Car parking details</b>
	Before the issue of the relevant construction certificate, a suitably qualified engineer must review the plans which relate to parking facilities and provide written evidence, to the certifier's satisfaction, that it complies with the relevant parts of AS 2890 Parking Facilities- Off- Street Carparking, the requirement of Schedule 4 of the State Environmental Planning Policy (Housing) 2021 and Council's development control plan.
	<b>Condition reason:</b> To ensure parking facilities are designed in accordance with the Australian Standard and Council's DCP.
39.	<b>Equal access to the premises</b>
	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.
	<b>Condition reason:</b> To ensure safe and easy access to the premises for people with a disability.
40.	<b>External lighting</b>
	Before the issue of a construction certificate, plans detailing external lighting must be prepared by a suitably qualified person.
	<p>The lighting plan must be consistent with the approved plans and documents, and the following requirements:</p> <ul style="list-style-type: none"> <li>i) Comply with AS 1158: Lighting for Roads and Public Spaces;</li> <li>ii) Comply with AS 4282: Control of Obtrusive Effects of Outdoor Lighting</li> </ul>

	<p>iii) Lighting must be places at all entrance to, and exits from the premises</p> <p>iv) Lighting must provide coverage of the premises and surrounding areas for visibility and to reduce hidden areas;</p> <p>v) Lighting must not interfere with traffic safety;</p> <p>vi) Lighting mist not give rise to obtrusive light or have adverse impacts on the amenity of surrounding properties; and</p> <p>vii) External lighting must not flash or intermittently illuminate unless required for safe ingress egress of vehicles crossing a pedestrian footpath or approved vehicle entrance;</p> <p>The lighting plan must be submitted to the certifier.</p> <p>Note: All above documents refer to the version in effect at the time the consent is granted</p> <p><b>Condition reason:</b> To ensure external lighting is provided for safety reasons and to protect the amenity of the local area</p>
41.	<p><b>Flood Risk Design</b></p> <p>Prior to the issue of a Construction Certificate, a Flood Risk Design Plan prepared by a qualified Flood Engineer must be provided to the Certifying Authority demonstrating compliance with the following:</p> <ul style="list-style-type: none"> <li>a) The design must show that the proposed development is capable of withstanding the effects of flood waters, including immersion, structural stability, buoyancy and impact, and loading from debris up to and including the 1% Annual Exceedance Probability (AEP) event;</li> <li>b) Certification that the proposed development/building flood refuge is capable of withstanding the force of any flood waters experienced up to the Probable Maximum Flood Event (PMF).</li> <li>c) Certification demonstrating that any damage to the proposed development sustained in a flood will not generate debris capable of causing damage to downstream buildings or property;</li> <li>d) Certification demonstrating that the rainwater tank, finishes, plant fittings and equipment and any other buoyant fixtures will be of materials and functional capacity to withstand the forces of floodwater in events up to and including the 1% AEP event including hydrostatic pressure, hydrodynamic pressure and buoyancy forces.</li> </ul> <p><b>Condition reason:</b> To ensure that the required Flood Risk Management Plan adequately addresses risk to life and property.</p>
42.	<p><b>Preparation of Mechanical Ventilation Plans</b></p> <p>Before the issue of a construction certificate, detailed plans of the mechanical exhaust ventilation system must be prepared by a suitably qualified person.</p> <p>The detailed plans must be in accordance with the following and submitted to the certifier:</p> <ul style="list-style-type: none"> <li>a) Australian Standard 1668: The use of ventilation and air-conditioning in buildings; and</li> <li>b) Ensure all generated heated air, smoke, fumes, steam or grease vapours do not: <ul style="list-style-type: none"> <li>i) Cause a nuisance to persons within or nearby to the premises, or</li> <li>ii) Cause air pollution as defined under the NSW Protection of the Environment Operations Act 1997;</li> </ul> </li> </ul> <p><b>Condition reason:</b> To ensure that detailed professional plans of the approved mechanical ventilation system are submitted before the issue of a construction certificate</p>
43.	<p><b>Solar panels</b></p>

	Before the issue of the relevant Construction Certificate, the construction plans are to include provision for solar panels on the roof of the three apartment buildings.
	<b>Condition reason:</b> To provide opportunity for renewable energy.

### Before building work commences

44.	<b>Erosion and sediment controls in place</b>
	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 re-stabilized in accordance with 'Managing Urban Stormwater: Soils and Construction' prepared by Landcom (the Blue Book) (as amended from time to time).
	<b>Condition reason:</b> To ensure sediment laden runoff and site debris do not impact local stormwater systems and waterways.
45.	<b>Tree protection measures</b>
	Protection of trees to be retained must be in accordance with AS 4970-2009 'Protection of Trees on Development Sites', and the approved report / plan recommendations specified by the conditions of this Consent.
	<b>Condition reason:</b> To protect and retain trees.
46.	<b>All Weather Access</b>
	A 3m wide all-weather vehicle access is to be provided from the kerb and gutter to the building under construction for the delivery of materials and use by trades people.
	No materials, waste or the like are to be stored on the all-weather access at any time.
	<b>Condition reason:</b> To ensure that adequate vehicular access is provided to and from the site, prior to the commencement of works.
47.	<b>Weed Management</b>
	Weed removal and suppression must be undertaken using approved bush regeneration techniques under the supervision of a suitably qualified and approved bush regenerator and in accordance with the requirements for the NSW Biosecurity Act 2015, associated Regulations and NSW Weed Control Handbook.
	<b>Condition reason:</b> To ensure that weeds are appropriately contained and removed from the site.
48.	<b>Nest Box Certification</b>
	Prior to the removal of any hollow bearing trees, nest boxes / compensatory hollows must be installed on retained trees in accordance with the approved 'Biodiversity Development Assessment Report' mitigation measures.
	Documentary evidence of nest box installation, as required in the Biodiversity Management Plan, must be provided to and approved by Council's Natural Systems Section.
	<b>Condition Reason:</b> To ensure that the nest boxes are installed in accordance with the relevant conditions.

49.	<p><b>Construction Certificate Required</b></p> <p>In accordance with the provisions of Section 6.7 of the Environmental Planning &amp; Assessment Act 1979 (EP&amp;A Act 1979), construction or subdivision works approved by this consent must not commence until the following has been satisfied:</p> <ul style="list-style-type: none"> <li>a) A Construction Certificate has been issued by a Consent Authority;</li> <li>b) A Principal Certifying Authority (PCA) has been appointed by the person having benefit of the development consent in accordance with Section 6.5 of the EP&amp;A Act 1979; and</li> <li>c) The PCA is notified in writing of the name and contractor license number of the owner/building intending to carry out the approved work.</li> </ul> <p><b>Condition reason:</b> To ensure that a Construction Certificate has been issued for the building works prior to the commencement of work.</p>
50.	<p><b>Notice Commencement of Work</b></p> <p>Notice must be given to Council and the Principal Certifier, if not the Council, of the person's intention to commence the erection of the building or undertake subdivision work at least two days prior to subdivision and/or building works commencing in accordance with Sections 6.6 (2) and 6.12 (2) (c) of the Environmental Planning and Assessment Act 1979 and Section 59 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021. The notice must include:</p> <ul style="list-style-type: none"> <li>a) The name and address of the person;</li> <li>b) A description of the work to be carried out;</li> <li>c) The address of the land on which the work is to be carried out;</li> <li>d) The Registered numbers and date of issue of the development consent and construction certificate;</li> <li>e) A statement signed by or on behalf of the principal certifier that all conditions of the consent that must be satisfied before work commences have been satisfied; and</li> <li>f) The date on which the work is intended to commence.</li> </ul> <p>The notice must be lodged on the NSW Planning Portal.</p> <p><b>Condition reason:</b> To ensure that the Principal Certifier has given notice to the Consent Authority and Council at least two days prior to subdivision and/or building works commencing in accordance with S6.6(2)(a) of the Environmental Planning and Assessment Act 1979 and Section 59 of the Environmental Planning and Assessment (Development Certificate and Fire Safety) Regulation 2021.</p>
51.	<p><b>Notice of Principal Certifying Authority Appointment</b></p> <p>The Principal Certifier for this development must give notice must be given to the consent authority and Council, where the Council is not the consent authority, at least two days prior to subdivision and/or building works commencing in accordance with Section 6.6 (2) (a) of the Environmental Planning and Assessment Act 1979 and Section 57 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021. The notice must include:</p> <ul style="list-style-type: none"> <li>a) A description of the work to be carried out;</li> <li>b) The address of the land on which the work is to be carried out;</li> <li>c) The Registered number and date of issue of the relevant development consent;</li> <li>d) The name and address of the Principal Certifier and the person who appointed the principal certifier;</li> <li>e) If the principal certifier is a registered certifier</li> </ul>

	<ul style="list-style-type: none"> <li>i) The certifier's registration number, and</li> <li>ii) A statement signed by the registered certifier to the effect that the certifier consents to be appointed as principal certifier, and</li> <li>iii) A telephone number on which the certifier may be contacted for business purposes.</li> </ul> <p>The notice must be lodged on the NSW Planning Portal.</p> <p><b>Condition reason:</b> To ensure that the Principal Certifier has given notice that they will be the Principal Certifier to the Consent Authority and Council at least two days prior to subdivision and/or building works commencing in accordance with S6.6(2)(a) of the Environmental Planning and Assessment Act 1979</p>
52.	<p><b>Damage report – Public Infrastructure</b></p> <p>The applicant is required to notify Council in writing of any existing damage to public infrastructure (including landscaping) within the vicinity of the development, the absence of such notification signifies that no damage exists</p> <p><b>Condition reason:</b> Small-scale development - Where the development is in close proximity to Council infrastructure.</p>
53.	<p><b>Home Building Act requirements</b></p> <p>Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifier for the development to which the work related (not being the council) has given the council written notice of the following information –</p> <ul style="list-style-type: none"> <li>a) In the case of work for which a principal contractor is required to be appointed – <ul style="list-style-type: none"> <li>i) The name and license number of the principal contractor, and</li> <li>ii) The name of the insurer by which the work is insured under Part 6 of that Act,</li> </ul> </li> <li>b) In the case of work to be done by an owner-builder – <ul style="list-style-type: none"> <li>i) The name of the owner-builder, and</li> <li>ii) If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.</li> </ul> </li> </ul> <p>If arrangements for doing the residential building work are changed while the work is in progress so that the information notified becomes out of date, further work must not be carried out unless the principal certifier for the development to which the work relates (not being the certifier) has given the Council written notice of the updated information.</p> <p><b>Condition reason:</b> To ensure compliance with the Home Building Act 1989 and to verify that the certifying principal authority for the development has given appropriate written notice to council.</p>
54.	<p><b>Compliance with Home Building Act</b></p> <p>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, and that such a contract of insurance is in force before any building work authorised to be carried out by this consent commences.</p> <p><b>Condition reason:</b> To ensure that a contract of insurance is in force in accordance with Part 6 of that Act before any building work authorised to be carried out by the consent commences.</p>
55.	<p><b>Notice regarding dilapidation report</b></p> <p>Before the commencement of any site or building work, the principal certifier must ensure the adjoining building owner(s) is provided with a copy of the dilapidation report for their property(ies)</p>

	no less than seven (7) days before the commencement of any site or building works and provide a copy of the report to the Council at the same time.
	<b>Condition reason:</b> To ensure the structural safety of adjoining buildings as a result of the proposed development.
56.	<p><b>Rubbish Generated from the Development</b></p> <p>Where not already available, a waste containment facility is to be established on site. The facility is to be regularly emptied and maintained for the duration of works.</p> <p>No rubbish must be stockpiled in a manner which facilitates the rubbish to be blown or washed off site. The site must be cleared of all building refuse and spoil immediately upon completion of the development.</p> <p><b>Condition reason:</b> To ensure that construction waste is appropriately stockpiled and removed from the site.</p>
57.	<p><b>Site is to be secured</b></p> <p>The site must be secured and fenced to the satisfaction of the Principal Certifying Authority. All hoarding, fencing, or awnings (associated with securing the site during construction is to be removed upon the completion of works.</p> <p><b>Condition reason:</b> To restrict access to the site by the public and ensure that the site is adequately secured prior to the commencement of works.</p>
58.	<p><b>Public liability insurance</b></p> <p>The owner or contractor must take out a Public Liability Insurance Policy with a minimum cover of \$20 million in relation to the occupation of, and works within, public property (i.e. kerbs, gutters, footpaths, walkways, reserves, etc.) for the full duration of the proposed works.</p> <p>Evidence of this Policy must be provided to Council and the Certifying Authority.</p> <p><b>Condition reason:</b> To ensure that the owner or contractor has taken out public liability insurance.</p>

### During building work

59.	<p><b>Discovery of relics and Aboriginal objects</b></p> <p>While site works is being carried out, if a person reasonably suspects a relic or Aboriginal object is discovered:</p> <ol style="list-style-type: none"> <li>The work in the area of the discovery must cease immediately;</li> <li>The following must be notified – <ol style="list-style-type: none"> <li>For a relic – the Heritage Council; or</li> <li>For an Aboriginal object – the person who is the authority for the protection of Aboriginal objects and Aboriginal places in New South Wales under the National Parks and Wildlife Act 1974, Section 85.</li> </ol> </li> </ol> <p>Site works may recommence at a time conformed in writing by:</p> <ol style="list-style-type: none"> <li>For a relic – the Heritage Council; or</li> <li>For an Aboriginal object – the person who is the authority for the protection of Aboriginal objects and Aboriginal places in New South Wales under the National Parks and Wildlife Act 1974, section 85</li> </ol>
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	<b>Condition reason:</b> To ensure the protection of objects of potential significance during works.
60.	<b>Responsibility for changes to public infrastructure</b> <p>While site work is being carried out, any costs incurred as a result of the approved removal, relocation or reconstruction of infrastructure (including ramps, footpaths, kerb and gutter, light poles, kerb inlet pits, service provider pits, street trees or any other infrastructure in the street footpath area) must be paid as directed by the consent authority.</p> <b>Condition reason:</b> To ensure payment of approved changes to public infrastructure
61.	<b>Tree protection during work</b> <p>While site work is being carried out, all required tree protection measures must be maintained in good condition in accordance with:</p> <ul style="list-style-type: none"> <li>a) The construction site management plan approved under this consent,</li> <li>b) the relevant requirements of AS 4970 Protection of trees on development sites;</li> <li>c) Any arborist's report approved under this consent.</li> </ul> <p>This includes maintaining adequate soil grades and ensuring all machinery, builders refuse, spoil and materials remain outside tree protection zones</p> <b>Condition reason:</b> To protect trees during the carrying out of site work
62.	<b>Weed Management</b> <p>All machinery that has operated in affected areas shall be cleaned thoroughly prior to leaving the site. A wash down area shall be established and monitored for priority weeds as defined by the NSW Biosecurity Act 2015. Cleaning must include the removal of all mud and plant matter, followed by washing with high pressure water.</p> <b>Condition reason:</b> To ensure that all machinery that has operated in affected areas shall be cleaned prior to leaving the site and wash down areas are maintained in accordance with the NSW Biosecurity Act 2015.
63.	<b>Biodiversity Management</b> <p>All works must be undertaken in accordance with the approved Biodiversity Development Assessment Report and Biodiversity Management Plan recommendations.</p> <b>Condition reason:</b> To minimise impacts to local biodiversity
64.	<b>Implementation of the site management plans</b> <p>While vegetation removal, demolition and/or building work is being carried out, the applicant must ensure the measures required by the approved construction site management plan and the erosion and sediment control plan are implemented at all times.</p> <p>The developer must ensure a copy of these approved plans is kept on site at all times and made available to Council officers upon request.</p> <b>Condition reason:</b> To ensure site management plans are implemented during all works.
65.	<b>Hours of work</b> <p>Site work must only be carried out between the following times –</p> <p>7:00am to 5:00pm on Monday to 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><b>Condition reason:</b> To protect the amenity of the surrounding area</p>
66.	<p><b>Unexpected Finds Contingency (General)</b></p> <p>Should any suspect materials (identified by unusual staining, odour, discolouration or inclusions such as building rubble, asbestos, ash material, etc.) be encountered during any stage of works (including earthworks, site preparation or construction works, etc.), such works must cease immediately until a qualified environmental specialist has been contacted and conducted a thorough assessment.</p> <p>In the event that contamination is identified as a result of this assessment and if remediation is required, all works must cease in the vicinity of the contamination and Council must be notified immediately.</p> <p>Where remediation work is required, the applicant will be required to obtain consent for the remediation works.</p> <p><b>Condition reason:</b> To ensure that works relating to a development are to cease if any suspect materials are remediated in accordance with Council requirements</p>
67.	<p><b>Excavations and Backfilling</b></p> <p>All excavations and backfilling associated with this development consent must be executed safely and be properly guarded and protected to prevent them from being dangerous to life or property, and in accordance with the design of a suitably qualified Structural Engineer.</p> <p>If an excavation extends below the level of the base of the footings of a building on an adjoining allotment, the person causing the excavation must:</p> <ul style="list-style-type: none"> <li>a) preserve and protect the building from damage; and</li> <li>b) if necessary, underpin and support the building in an approved manner; and</li> <li>c) give at least seven days' notice to the adjoining owners before excavating, or of the intention to excavate.</li> </ul> <p>The principal contractor, owner builder or any person who needs to excavate and undertake building work, must contact "Dial Before You Dig" prior to works commencing, and allow a reasonable period of time for the utilities to provide locations of their underground assets.</p> <p>This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.</p> <p><b>Condition reason:</b> To ensure that any Acid Sulfate Soils encountered during works are suitably managed</p>
68.	<p><b>Compliance with the Building Code of Australia</b></p> <p>Building work must be carried out in accordance with the requirements of the Building Code of Australia.</p> <p><b>Condition reason:</b> To ensure that the development is undertaken in accordance with the Building Code of Australia.</p>



69.	<b>Construction Noise</b>
	While building work is being carried out and where no noise and vibration management plan is approved under this consent, the applicant is to ensure that any noise caused by demolition, vegetation removal or construction does not exceed an LAeq (15min) of 5dB(A) above background noise, when measured at any lot boundary of the property where the construction is being carried out.
	<b>Condition reason:</b> To ensure that developments do not give rise to offensive noise impacts during works.
70.	<b>Offensive noise, dust, odour, and vibration</b>
	All work must not give rise to offensive noise, odour, or vibration as defined in the Protection of the Environment Operations Act 1997 when measured at the nearest property boundary.
	<b>Condition reason:</b> To ensure that developments do not give rise to offensive noise, dust, odour, or vibration.
71.	<b>Toilet facilities</b>
	Temporary toilet(s) must be provided and maintained on site from the time of commencement of building work to completion. The number of toilets provided must be one toilet per 20 persons or part thereof employed on the site at any one time.  The temporary toilet is to be either connected to the sewerage system or an approved septic tank or otherwise may be a chemical toilet supplied by a licensed contractor.
	<b>Condition reason:</b> To ensure adequate amenity facilities are provided to the site during construction.
72.	<b>Building height</b>
	A survey report prepared by a Registered Surveyor confirming that the building height complies with the approved plans or as specified by the development consent, must be provided to the Principal Certifying Authority prior to the development proceeding beyond frame stage.
	<b>Condition reason:</b> To ensure that the maximum building height of the structures on site are compliant with the consent and in accordance with the approved plans.
73.	<b>Stormwater disposal</b>
	Following the installation of any roof, collected stormwater runoff from the structure must be diverted through a first flush system before being connected to an existing stormwater easement/system/street.
	<b>Condition reason:</b> To ensure that stormwater disposal from a development is managed in accordance with Council requirements.
74.	<b>Placement of fill</b>
	Filling must not be placed in such a manner that natural drainage from adjoining land will be obstructed or in such a manner that surface water will be diverted.
	Further, any alterations to the natural surface contours must not impede or divert natural surface water runoff so as to cause a nuisance to adjoining property owners.

	<b>Condition reason:</b> To ensure that fill required for a development is managed in accordance with Council requirements.
75.	<p><b>Shoring of adjoining buildings</b></p> <p>If the development involves an excavation that extends below the level of the base of the footings of a building, structure or work on adjoining land (including any structure or work within a road or rail corridor), the person having the benefit of the development consent must, at the person's own expense —</p> <p>(a) Protect and support the building, structure or work from possible damage from the excavation, and</p> <p>(b) Where necessary, underpin the building, structure or work to prevent any such damage.</p> <p>This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.</p> <p><b>Condition reason:</b> To ensure buildings on neighbouring land is protected during work.</p>
76.	<p><b>Cut and fill</b></p> <p>While building work is being carried out, the principal certifier must be satisfied all soil removed from or imported to the site is managed in accordance with the following requirements:</p> <ul style="list-style-type: none"> <li>a) 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.</li> <li>b) All fill material imported to the site must be Virgin Excavated Natural Material as defined in Schedule 1 of the Protection of the Environment Operations Act 1997 or a material identified as being subject to a resource recovery exemption by the NSW EPA</li> </ul> <p><b>Condition reason:</b> To ensure that all imported and/exported fill is VENM.</p>
77.	<p><b>Tree Removal/Pruning</b></p> <p>All approved tree removal/Pruning is subject to all pruning works being undertaken by a qualified arborist with minimum Australian Qualification Framework Level 3 qualifications or higher. All works are to be undertaken in accordance with the relevant provisions of AS 4373 'Pruning of Amenity trees'.</p> <p><b>Condition reason:</b> To ensure that vegetation removal/pruning is undertaken by a qualified arborist and in accordance with the Australian Standard.</p>

### Before issue of an occupation certificate

78.	<p><b>Occupation Certificate Required</b></p> <p>An Occupation Certificate must be obtained prior to any use or occupation of the development.</p> <p>The Principal Certifying Authority must be satisfied that the development has been constructed in accordance with approved plans, specifications and conditions of this consent.</p>
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	<p><b>Condition reason:</b> To ensure that an Occupation Certificate relating to the development is obtained from the Principal Certifying Authority prior to occupation or use</p>
79.	<p><b>Repair of infrastructure</b></p> <p>Before the issue of an Occupation Certificate:</p> <ol style="list-style-type: none"> <li>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</li> <li>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.</li> </ol> <p><b>Condition reason:</b> To ensure that approved works within the road reserve have been completed to the satisfaction of the Council.</p>
80.	<p><b>Completion of landscape and tree works</b></p> <p>Before the issue of an occupation certificate, the principal certifier must be satisfied that all landscape and tree-works, including pruning in accordance with AS 4373-2007 Pruning of amenity trees and the removal of all noxious weed species, have been completed in accordance with the approved plans and any relevant conditions of this consent.</p> <p><b>Condition reason:</b> To ensure that landscape and tree works have been completed in accordance with the approved plans prior to the issue of an Occupation Certificate.</p>
81.	<p><b>Revegetation planting</b></p> <p>The following replacement koala feed trees must be planted in the locations indicated on Figure 8 of the Biodiversity Management Plan, prepared by Anderson Environment and Planning, dated March 2025. Trees must be planted in accordance with the requirements of Section 5.1.2. of the Port Stephens Biodiversity Technical specification:</p> <ul style="list-style-type: none"> <li>• 52 x Eucalyptus robusta / Eucalyptus tereticornis; minimum pot size 20 L</li> </ul> <p>The planting must be installed prior to the issue of the Occupation Certificate for Stage 1.</p> <p>Details demonstrating compliance must be provided to the certifying authority.</p> <p><b>Condition reason:</b> To ensure that revegetation works have been completed in accordance with the approved plans prior to the issue of an Occupation Certificate.</p>
82.	<p><b>Completion of Roads Act Approval works</b></p> <p>All approved road, footpath and/or drainage works, including vehicle crossings, have been completed in the road reserve in accordance with the Roads Act Approval to the satisfaction of Council and the relevant Roads Authority.</p> <p><b>Condition reason:</b> To ensure that approved works within the road reserve have been completed to the satisfaction of the Council.</p>
83.	<p><b>Removal of waste upon completion</b></p>

	<p>Before the issue of an occupation certificate, the principal certifier must ensure all refuse, spoil and material unsuitable for use on-site is removed from the site and disposed of in accordance with the approved waste management plan. Written evidence of the removal must be supplied to the satisfaction of the principal certifier.</p> <p>Before the issue of a partial occupation certificate, the applicant must ensure the temporary storage of any waste is carried out in accordance with the approved waste management plan to the principal certifier's satisfaction.</p> <p><b>Condition reason:</b> To ensure that all waste is appropriately removed from the subject site prior to the issue of an Occupation Certificate.</p>
84.	<p><b>Stormwater/drainage works</b></p> <p>All stormwater and drainage works required to be undertaken in accordance with this consent must be completed.</p> <p>The certification/verification must be provided to the satisfaction of the Principal Certifying Authority.</p> <p><b>Condition reason:</b> To ensure stormwater and drainage works have been undertaken in accordance with the approved plans.</p>
85.	<p><b>Water authority certification</b></p> <p>A Section 50 Application under the Hunter Water Act 1991 must be lodged with the Hunter Water Corporation (HWC) and details of the Notice of Compliance from HWC must be provided to the Certifying Authority.</p> <p><b>Condition reason:</b> To ensure compliance with the water supply authority's requirements</p>
86.	<p><b>Post-construction dilapidation report</b></p> <p>Prior to the issue of an occupation certificate, a post-construction dilapidation report must be prepared by a suitably qualified engineer, to the satisfaction of the principal certifier, detailing whether:</p> <ul style="list-style-type: none"> <li>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</li> <li>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</li> <li>c) A copy of the post-construction dilapidation report must be provided to Council (where council is not the principal certifiers or a principal certifier is not required) and to the relevant adjoining property owner(s).</li> </ul> <p><b>Condition reason:</b> To identify any damage to adjoining properties resulting from site work on the development site.</p>
87.	<p><b>Survey certificate</b></p> <p>A Registered Surveyor must prepare a Survey Certificate to certify that the location of the building in relation to the allotment boundaries complies with the approved plans or as specified by this consent. The Survey Certificate must be provided to the satisfaction of the Principal Certifying Authority, prior to the issue of an Occupation Certificate.</p>

	<p><b>Condition reason:</b> To ensure that the building is located in accordance with the approved plans and evidence from a Registered Surveyor is provided to the Principal Certifying Authority.</p>
88.	<p><b>Services</b></p> <p>Evidence is to be provided to Council demonstrating that the following reticulated services are available to each dwelling:</p> <ul style="list-style-type: none"> <li>a. Electricity;</li> <li>b. Water;</li> <li>c. Sewer; and</li> <li>d. Gas (where available).</li> </ul> <p>Should any of the above reticulated services not be available to the development site, a detailed statement is to be provided explaining why connection of the relevant service is not possible or practical</p> <p><b>Condition reason:</b> To verify that reticulated services are provided to the lot/s.</p>
89.	<p><b>Car parking requirements</b></p> <p>A minimum of 310 car parking spaces including disabled car parking spaces are to be provided in accordance with AS2890 and the approved plans. Parking must be permanently marked on the pavement surface.</p> <p>The parking spaces marked visitors and residents required for visitors, must be signposted as “resident parking” and “visitor parking” respectively.</p> <p><b>Condition reason:</b> To ensure that a specified number of car parking spaces is provided in accordance with the approved plans and they are compliant with Council requirements.</p>
90.	<p><b>Works as Executed Plans</b></p> <p>Before the issue of the relevant occupation certificate, the applicant must submit, to the satisfaction of the principal certifier, works-as-executed plans, any compliance certificates and any other evidence confirming the following completed works:</p> <ul style="list-style-type: none"> <li>(a) Roads, footpaths, civil works, stormwater drainage systems and storage systems.</li> </ul> <p><b>Condition reason:</b> To ensure WAE are prepared prior to the issue of an occupation certificate.</p>
91.	<p><b>Street Tree Planting</b></p> <p>All street trees must be planted in accordance with this development consent.</p> <p>Evidence demonstrating compliance must be provided to the certifying authority prior to the issue of an Occupation Certificate.</p> <p><b>Condition reason:</b> To ensure the planting of street trees is completed prior to the issue of an Occupation Certificate.</p>
92.	<p><b>Design verification – Residential Flat Building</b></p> <p>A design verification statement from a qualified designer must be submitted to the Principal Certifying Authority demonstrating the development has been constructed in accordance with the</p>

	<p>approved plans and the requirements of State Environmental Planning Policy (Housing) 2021 (unless superseded by this DA Consent), prior to the issue of a relevant Occupation Certificate.</p> <p><b>Condition reason:</b> To ensure the development is constructed as per relevant policies.</p>
93.	<p><b>Design verification for Seniors Housing</b></p> <p>Prior to the issue of an Occupation Certificate, design verification and access audit from a qualified Access Consultant must be submitted to the Principal Certifying Authority certifying that the development has been constructed in accordance with the provisions of Schedule 4 of State Environmental Planning Policy (Housing) 2021.</p> <p><b>Condition reason:</b> To ensure that development for a Seniors living is constructed in accordance with the provisions State Environmental Planning Policy (Housing) 2021 – Schedule 4.</p>
94.	<p><b>Construction to be in accordance with Acoustic Report</b></p> <p>Prior to the issue of a relevant Occupation Certificate, certification is to be submitted to the Principal Certifying Authority to certify that the construction of each stage/building complies with the recommendations of the Acoustic Assessment, Document Number: 2221324_231025, Revision 0, prepared by Rapt Consulting, dated October 2023.</p> <p><b>Condition reason:</b> To ensure the development is constructed in accordance with the Acoustic Report recommendation.</p>
95.	<p><b>Flood Risk Management Plan</b></p> <p>A Certificate of Compliance prepared by a suitably qualified Flood engineer must be provided to the Principal Certifying Authority stating that all aspects of the Flood Risk Management Plan have been completed and/or implemented in accordance with the approved Plan.</p> <p><b>Condition reason:</b> To ensure that flood impacted development adequately mitigates risks to life and property.</p>
96.	<p><b>Restriction on title – Seniors Housing</b></p> <p>A restriction as to user must be Registered against the title of the property in accordance with section 88E of the Conveyancing Act 1919 limiting the use of any accommodation on the property to seniors housing as defined under State Environmental Planning Policy (Housing) 2021.</p> <p><b>Condition reason:</b> To ensure that development for a Seniors living is appropriately burdened by a restriction on the land title in accordance with Section 88E of the Conveyancing Act 1919.</p>
97.	<p><b>Road and Intersection Upgrade – Vardon Road</b></p> <p>Prior to the issue of an Occupation Certificate for Stage 1, the Vardon Road access driveway and the signalised intersection at Vardon Road and Nelson Bay Road must be constructed to the satisfaction of the relevant Roads Authority.</p> <p>Written endorsement of the completion of the intersection upgrade must be submitted to Council prior to the release of to the issue of Stage 1 Occupation Certificate.</p> <p><b>Condition reason:</b> To ensure suitable vehicular access is construction prior to the issue of Stage 1 occupation certificate.</p>

## Occupation and ongoing use

98.	<b>Driveways to be maintained</b>
	All access crossings and driveways must be maintained in good order for the life of the development
	<b>Condition reason:</b> To ensure that access and driveways are maintained for the life of the development.
99.	<b>Maintenance of Landscaping</b>
	Landscaping must be maintained in accordance with the approved landscape plan and conditions of this development consent. All landscape areas must be kept free of parked vehicles, stored goods, garbage or waste material at all times.  If any of the vegetation dies or is removed, it is to be replaced with vegetation of the same species and similar maturity as the vegetation which has died or was removed.
	<b>Condition reason:</b> To ensure that landscaping is maintained in accordance with the approved landscape plan and the relevant development consent.
100.	<b>Maintenance of Replacement Plantings / Revegetation</b>
	Planted trees are to be maintained (e.g. through the use of mulch and watering) for a minimum period of 5 years from planting.  If any tree or vegetation dies or is removed during this 5-year period, it is to be replaced with the same species and be a similar sized tree/plant to that which died. All planted trees and vegetation is to be retained in perpetuity.
	<b>Condition reason:</b> To ensure that replacement plants and revegetation works are maintained in accordance with the approved plans and the relevant development consent.
101.	<b>Manoeuvring of Vehicles</b>
	All vehicles must enter and exit the site in a forward direction
	<b>Condition reason:</b> To ensure that vehicles enter and leave the site in a forward direction.
102.	<b>Location of mechanical ventilation</b>
	During occupation and ongoing use of the building, the applicant must ensure all subsequently installed noise generating mechanical ventilation system(s) or other plant and equipment that generates noise are in an appropriate location on the site (including a soundproofed area where necessary) to ensure the noise generated does not exceed 5dBa at the boundary adjacent to any habitable room of an adjoining residential premises.
	<b>Condition reason:</b> To ensure that all subsequently installed noise generating mechanical ventilation system(s) or other plant and equipment that generates noise are in an appropriate location on the site.
103.	<b>Privacy screen</b>
	Any privacy screen/s must be permanently maintained in accordance with the approved plans for the life of the development.
	<b>Condition reason:</b> To ensure privacy impacts are mitigated in perpetuity.
	<b>Offensive Noise</b>

104.	<p>The use and occupation of the premises including all plant and equipment must not give rise to any offensive noise within the meaning of the <i>Protection of the Environment Operation Act 1997</i> and must comply with the <i>NSW Noise Policy for Industry 2017</i> (as amended).</p> <p><b>Condition reason:</b> To control noise in order to ensure it is not offensive.</p>
105.	<p><b>Parking areas to be kept clear</b></p> <p>At all times, the loading, car parking spaces, driveways and footpaths must be kept clear of goods and must not be used for storage purposes.</p> <p><b>Condition reason:</b> To ensure that all associated areas with vehicle storage/parking are kept clear and solely for their intended purpose.</p>
106.	<p><b>Operational Plans</b></p> <p>The development must be carried out in accordance with:</p> <ul style="list-style-type: none"> <li>• The Operational Management Plan prepared by Principle Living, Dated October 2023.</li> <li>• The Flood Emergency Response Plan prepared by Northrop Consulting Engineers, Revision C, dated 2 April 2025.</li> </ul> <p><b>Condition Reason:</b> To ensure the development is carried out in accordance with operational plans.</p>
107.	<p><b>Shuttle Bus</b></p> <p>A shuttle bus service is to be provided in accordance with Operational Plan of Management and as specified by Clause 43 of State Environmental Planning Policy (Housing) 2021.</p> <p><b>Condition Reason:</b> To ensure a shuttle service is provided as required by the Housing SEPP.</p>
108.	<p><b>Site Access</b></p> <p>Entry and exit to and from the site must be from the Vardon Road access driveway. Only construction traffic/emergency services can use the temporary construction entry point on Nelson Bay Road.</p> <p>Once the final Occupation Certificate has been released, signage/security measures must be installed to restrict use of the Nelson Bay Road access to emergency service vehicles only.</p> <p><b>Condition Reason:</b> To limit vehicular access to the Vardon Road access.</p>



## 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*: <https://www.planning.nsw.gov.au/sites/default/files/2023-07/condition-of-consent-advisory-note.pdf> . 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.

## Council advisory notes

1. **'Dial Before you Dig Australia'** – Before any excavation work starts, contractors and others should phone the “Dial Before You Dig Australia” service to access plans/information for underground pipes and cables.
2. **Responsibility for damage for tree removal/pruning** – The applicant is responsible for any damage caused to existing public utilities, footpaths or public roads during the cutting down, grinding, removal and disposal of the timber and roots. Care must also be taken by the applicant and the applicant’s agents to prevent any damage to adjoining properties. The applicant or applicant’s agent may be liable to pay compensation to any adjoining owner if, due to tree works, damage is caused to such adjoining property.
3. **Bird strike advice** – As the subject site is located in an area mapped by the Department of Defence as “Bird strike Group C”, organic waste and/or the storage of bins associated with any future development must be covered and/or enclosed and limited on-site.
4. **Approved Plans to be on-site** – A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the Site at all times and shall be readily available for perusal by any officer of Council or the Principal Certifying Authority.
5. **Council as PCA, PCA sign** – It is the responsibility of the applicant to erect a PCA sign. Where Council is the PCA, the sign is available free of charge, from Council’s Administration Building at Raymond Terrace or the Tomaree Library at Salamander Bay. The applicant is to ensure the PCA sign remains in position for the duration of works.
6. **Dividing Fences** – The erection of dividing fences under this consent does not affect the provisions of the Dividing Fences Act 1991. Under this Act, all relevant parties must be in agreement prior to the erection of any approved dividing fence/s under this consent. Council has no regulatory authority in this area and does not adjudicate civil disputes relating to the provision of, or payment for, the erection of dividing fences. If there is a neighbour dispute about the boundary fence and you are seeking mediation, you may contact the Community Justice Centre, or if legal advice or action is required, you may contact the Chamber Magistrate.
7. **Weed Management** – This property has had priority weed as defined by the NSW Biosecurity Act 2015 identified growing on site – Chinese Violet. As the applicant dealing with this property you are advised that under the Biosecurity Act 2015 you have a legal obligation to prevent, eliminate and minimise the impact caused by weeds. As the applicant you also have an obligation to ensure you advise other persons dealing with this site of the Biosecurity risk. For more information on the identification, control and management of weeds on site please contact Port Stephens Councils' Invasive Species Team on (02) 4988 0392.

# 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 Port Stephens 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.

**Local planning panel** means Hunter Central Coast Regional Planning Panel.

**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.

**Subdivision certificate** means a certificate that authorises the registration of a plan of subdivision under Part 23 of the *Conveyancing Act 1919*.

**Subdivision works certificate** means a certificate to the effect that subdivision work completed in accordance with specified plans and specifications will comply with the requirements of the EP&A Regulation.