



DETERMINATION AND STATEMENT OF REASONS
HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

DATE OF DETERMINATION	21 February 2025
DATE OF PANEL DECISION	21 February 2025
DATE OF PANEL BRIEFING	17 February 2025
PANEL MEMBERS	Alison McCabe (Chair) Roberta Ryan, Tony McNamara, Giacomo Arnott, Leah Anderson
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 7 February 2025.

MATTER DETERMINED

PPSHCC-312 – Port Stephens – DA 16-2024 -420 -1 - 35 Phillip Street, Raymond Terrace 2324 - Multi Dwelling Housing (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 meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel had the benefit of a number of briefings from the applicant and Council.

The proposed development will deliver much needed affordable and social housing. The proposed development is considered to be compatible with the character of the area and will make a positive contribution to the streetscape. The amenity of adjoining residents is maintained. The proposed development will deliver good amenity for further residents.

The Panel is satisfied that the provisions of clause 5.21 Flood Planning have been adequately addressed and notes that the site is located within a low hazard Flood Fringe area.

The variation to the minimum lot development standard for multi-dwelling housing is supported for the reasons outlined in the written request. The subdivision is a function of a built form outcome which is considered appropriate for the site.

The Panel considers that the application has merit.

Application to vary a development standard:

The Panel is satisfied that:

- a) the applicant has demonstrated that compliance with clause 4.1B (minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings) is unreasonable or

- unnecessary in the circumstances and that there are sufficient environmental planning grounds to justify contravening the development standard;
- b) compliance with the development standard is unreasonable and unnecessary in the circumstances for the reasons outlined in the clause 4.6 written document; and
 - c) there are sufficient environmental planning grounds to justify contravening the development standard for the reasons outlined in the clause 4.6 written document.

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 conditions at Schedule 2.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel approved the application for the following reasons:

1. The site is suitable for the development.
2. The proposed development is compatible with the evolving character of the area.
3. The proposal provides much-needed affordable and social housing in the area.
4. The built form will deliver good amenity for future residents.
5. The proposal is in the public interest.

CONDITIONS

The Development Application was approved subject to the conditions at Schedule 2.

The conditions at Schedule 2 differed from those attached to the Council report in the following ways:

- (i) **Condition 1** (approved plans) amended to include an updated demolition plan to capture all tree removal and correction to the date of the plans prepared by Greenview Consulting.
- (ii) A correction to **Condition 13** (development contributions) to remove an extra digit from the road works figure, to read \$57,080 instead of \$570,080.






CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel notes that no written submissions were made during public exhibition of the DA.

The Panel however notes that 5 submissions were made as part of the consultation undertaken for the Social Impact Assessment and that issues of concern included:

- Type of resident
- Safety concerns
- Displacement of existing residents
- On-street car parking
- Complaints management
- Need for more social housing

The Panel considers that concerns raised by the community have been adequately addressed in the Assessment Report and that no new issues requiring assessment were raised during the briefing meeting.

PANEL MEMBERS	
 Alison McCabe (Chair)	 Roberta Ryan
 Tony McNamara	 Giacomo Arnott
 Leah Anderson	

SCHEDULE 1

1	PANEL REF – LGA – DA NO.	PPSHCC-312 – Port Stephens – DA 16-2024 -420 -1
2	PROPOSED DEVELOPMENT	Demolition of three dwellings, vegetation removal, 3 into 2 lot Torrens title subdivision, construction of 13x multi dwelling houses
3	STREET ADDRESS	Lots 130, 129 & 151 DP 31774 31, 35 & 37 Phillip Street, Raymond Terrace 2324
4	APPLICANT/OWNER	Hume Community Housing Association Company Limited Homes NSW
5	TYPE OF REGIONAL DEVELOPMENT	Private infrastructure and community facilities over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ State Environmental Planning Policy (Biodiversity and conservation) 2021 ○ State Environmental Planning Policy (Planning Systems) 2021 ○ State Environmental Planning Policy (Resilience and Hazards) 2021 ○ State Environmental Planning Policy (Housing) 2021 ○ State Environmental Planning Policy (Sustainable Buildings) 2022 ○ Port Stephens Local Environmental Plan 2013 • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Port Stephens Development Control Plan 2014 • Planning agreements: Draft Remediation of Land State Environmental Planning Policy • Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i> - Section 61(1) demolition of buildings • Coastal zone management plan: Nil • The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality • The suitability of the site for the development • Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations • The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Council Assessment Report: 7 February 2025 • Written request to vary a development standard(s) in the PSLEP 2013 • Written submissions during public exhibition: 0 • Total number of unique submissions received by way of objection: 0
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Preliminary Briefing: 18 November 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Alison McCabe (Chair), Roberta Ryan, Tony McNamara ○ <u>Council assessment staff</u>: Emily Allen, Christopher Primrose ○ <u>Applicant Representatives</u>: Kelly Preston, Wei Ji, Penny Smith, Tarshan Ahmed, Rabi Yue Sui, Noah El-Sabsabi, Jesse Wilson

		<ul style="list-style-type: none"> • Site inspection: <ul style="list-style-type: none"> – Roberta Ryan: 14 November 2024 – Tony McNamara: 22 January 2025 – Giacomo Arnott: 23 December 2024 • Final briefing to discuss council’s recommendation: 17 February 2025 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Alison McCabe (Chair), Roberta Ryan, Tony McNamara, Giacomo Arnott, Leah Anderson ○ <u>Council assessment staff</u>: Christopher Primrose, Emily Allen and Molly Compton ○ <u>Applicant representatives</u>: Bryce Luke, Wei Ji, Penny Smith, Tarshan Ahmed, Rabi Yue Sui, Noah El-Sabsabi, Jesse Wilson
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report

SCHEDULE 2

General Conditions

1	Approved plans and supporting documentation				
	Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.				
	Approved plans				
	Plan number	Revision number	Plan title	Drawn by	Date of plan
	DA02 Sheet 3 of 33	A	Demolition Plan	Stanton Dahl Architects	17/01/2025
	DA03 Sheet 4 of 33	P24	Cut & Fill Plan	Stanton Dahl Architects	16/01/2025
	DA05 Sheet 5 of 33	P24	Site & External Works Plan	Stanton Dahl Architects	16/01/2025
	DA07 Sheet 7 of 33	P24	Ground Floor Plans	Stanton Dahl Architects	16/01/2025
	DA08 Sheet 8 of 33	P24	Level 1 Floor Plans	Stanton Dahl Architects	16/01/2025
	DA09 Sheet 9 of 33	P24	Roof Plan	Stanton Dahl Architects	16/01/2025
	DA10 Sheet 10 of 33	P24	Elevations 1	Stanton Dahl Architects	16/01/2025
	DA11 Sheet 11 of 33	P24	Elevations 2	Stanton Dahl Architects	16/01/2025
	DA12 Sheet 12 of 33	P24	Sections 1	Stanton Dahl Architects	16/01/2025
	DA13 Sheet 13 of 33	P24	Sections 2	Stanton Dahl Architects	16/01/2025
	DA18 Sheet 18 of 33	P24	External Finishes Selection	Stanton Dahl Architects	16/01/2025
	L01 Sheet 1 of 2	5	Landscape Plan	Bontanique Design	15/12/2024
	B2286SUB-A Sheet 1 of 1	A	Plan of Proposed Subdivision	Parker Scanlon	30/10/2024
	230392 DAESM2	1	Environmental Site Management Plan	Greenview Consulting	28/06/2024
	230392 DA C02	3	Ground Floor Drainage Plan	Greenview Consulting	19/12/2024
	230392 DA C03	3	Site Stormwater Details Sheet 1	Greenview Consulting	19/12/2024
	230392 DA C04	3	Site Stormwater Details Sheet 2	Greenview Consulting	19/12/2024
	230392 DA C05	3	Site Stormwater Details Sheet 3	Greenview Consulting	19/12/2024

	Approved Documents			
	Document title	Version No.	Prepared by	Dated
	Arborist Report	-	Abacus Tree Services	17 January 2025
	Acoustic DA Report	R01v2	PKA Acoustic Consulting	19 July 2024
	Geotechnical and Acid Sulfate Soil Investigation Report	-	NEO Consulting Pty Ltd	19 June 2024
	Waste Management Plan – REF-23082	-	Dickens Solutions	December 2024
	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	General Terms of Approval			
	<p>The General Terms of Approval from state authorities must be complied with prior to, during, and at the completion of the development.</p> <p>The General Terms of Approval are:</p> <ol style="list-style-type: none"> 1. NSW Rural Fire Service, referenced DA20240829003546-Original-1, dated 1 October 2024 <p>A copy of the General Terms of Approval is attached to this determination notice.</p>			
	Condition reason: To ensure that the development is carried out in accordance with the General Terms of Approval issues by Integrated Development / Concurrence Agencies			
3	Protection of existing vegetation and natural landscape features			
	<p>No vegetation or natural landscape features other than that authorized 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>Protection of trees to be retained must be in accordance with AS490 'Protection of Trees on Development Sites' and the following:</p> <ol style="list-style-type: none"> a) No existing nature strip(s), street tree(s), tree guard(s), protective bollard(s), garden bed surrounds or root barrier installation(s) must be disturbed, relocated, removed or damaged during earthworks, demolition, excavation (including any driveway installation), construction, maintenance and/or establishment works applicable to this consent, without Council agreement and/or consent. 			

	Condition reason: To ensure that vegetation is protected during works
4	<p>Building Code of Australia</p> <p>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.</p> <p>Condition reason: To ensure that all building works are completed in accordance with the Building Code of Australia.</p>
5	<p>Sign on Building</p> <p>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.</p> <p>The sign must be maintained while the work is being carried out and is to be removed when the work is completed.</p> <p>Condition reason: To require signage that details the relevant contacts of a development during construction</p>
6	<p>Driveway Gradients and Design</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> <p>a) a Works on Public Infrastructure (Driveway) approval must be obtained prior to the commencement of any works.</p> <p>Details demonstrating compliance must be provided to the Certifying Authority.</p> <p>Condition reason: To ensure that all driveways that relate to a development for the purposes of a dwelling house comply with AS2890.1 'Off Street Car Parking' and the relevant Council specification</p>
7	<p>Tree Removal/Pruning</p> <p>The trees 1-6 and 9-13, as identified on Page 37 of the Arborist Report, prepared by Abacus Tree Services and dated 17 January 2025 are approved for removal.</p> <p>Removal of existing vegetation is not to occur until the issue of the Construction Certificate or Subdivision Works Certificate, whichever occurs first.</p> <p>Condition reason: To ensure that the development removes/prunes and replaces specific tree plantings</p>

8	Demolition Works
	All demolition works are to be carried out in accordance with Australian Standard AS 2601 'The demolition of Structures'. All waste materials are to be either recycled or disposed of to a licensed waste facility.
	Any asbestos containing material encountered during demolition or works, is to be removed in accordance with the requirements of Safe Work NSW and disposed of to an appropriately licenced waste facility.
	Evidence is to be provided to the Certifying Authority demonstrating that asbestos waste has been disposed of in accordance with this condition.
9	Condition reason: To ensure a development is carried out in accordance with the Australian Standard AS 2601 'The demolition of Structures', and all waste materials are appropriately removed.
9	Dilapidation Report
	Before any site work commences, including any demolition or tree removal, 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.
	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.
	Condition reason: 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.

Building Work

Before issue of a construction certificate

10	Construction Certificate
	<p>The following information must be provided to the Certifying Authority with the Construction Certificate application:</p> <ul style="list-style-type: none"> a) Amended stormwater management plan which directs all stormwater generated from the site to the on-site detention systems prior to leaving the site, including the internal driveway access from Phillip Street. b) Driveway line marking and signage indicating appropriate right-of-way for vehicle egress and ingress to the site.

	Condition reason: To ensure that specific information is provided to the Certifying Authority prior to the issue of the Construction Certificate.																																							
11	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: <div><div>1.</div><div>the guidelines set out in 'Managing Urban Stormwater: Soils and Construction' prepared by Landcom (the Blue Book) (as amended from time to time), and</div></div> <div><div>2.</div><div>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).</div></div> Condition reason: To ensure no substance other than rainwater enters the stormwater system and waterways.																																							
12	Waste Management Plan requirements Before the issue of a Construction Certificate, a waste management plan for the development must be prepared and provided to the certifier. Condition reason: To ensure resource recovery is promoted and local amenity protected during construction.																																							
13	Section 7.11 development contributions A monetary contribution is to be paid to Council for the provision of 10 additional dwellings (a concession has been provided for the three existing), pursuant to Section 7.11 of the <i>Environmental Planning & Assessment Act 1979</i> and the Port Stephens Local Infrastructure Contributions Plan 2020 towards the provision of the following public facilities: <table><tr><th>Facility</th><th>Per Lot/Dwelling</th><th>Total \$</th></tr><tr><td>Civic Administration – Plan Management</td><td>\$655</td><td>\$6,550</td></tr><tr><td>Civic Administration – Works Depot</td><td>\$1,268</td><td>\$12,680</td></tr><tr><td>Town Centre Upgrades</td><td>\$3,414</td><td>\$34,140</td></tr><tr><td>Public Open Space, parks and reserves</td><td>\$861</td><td>\$8,610</td></tr><tr><td>Sports and Leisure facilities</td><td>\$1,846</td><td>\$18,460</td></tr><tr><td>Cultural and Community Facilities</td><td>\$443</td><td>\$4,430</td></tr><tr><td>Road Works</td><td>\$5,708</td><td>\$57,080</td></tr><tr><td>Shared Paths</td><td>\$4,239</td><td>\$42,390</td></tr><tr><td>Bus Facilities</td><td>\$18</td><td>\$180</td></tr><tr><td>Fire and Emergency Services</td><td>\$36</td><td>\$360</td></tr><tr><td>Flood & Drainage</td><td>\$720</td><td>\$7,200</td></tr><tr><td>Kings Hill Urban Release Area</td><td>\$792</td><td>\$7,920</td></tr></table>	Facility	Per Lot/Dwelling	Total \$	Civic Administration – Plan Management	\$655	\$6,550	Civic Administration – Works Depot	\$1,268	\$12,680	Town Centre Upgrades	\$3,414	\$34,140	Public Open Space, parks and reserves	\$861	\$8,610	Sports and Leisure facilities	\$1,846	\$18,460	Cultural and Community Facilities	\$443	\$4,430	Road Works	\$5,708	\$57,080	Shared Paths	\$4,239	\$42,390	Bus Facilities	\$18	\$180	Fire and Emergency Services	\$36	\$360	Flood & Drainage	\$720	\$7,200	Kings Hill Urban Release Area	\$792	\$7,920
Facility	Per Lot/Dwelling	Total \$																																						
Civic Administration – Plan Management	\$655	\$6,550																																						
Civic Administration – Works Depot	\$1,268	\$12,680																																						
Town Centre Upgrades	\$3,414	\$34,140																																						
Public Open Space, parks and reserves	\$861	\$8,610																																						
Sports and Leisure facilities	\$1,846	\$18,460																																						
Cultural and Community Facilities	\$443	\$4,430																																						
Road Works	\$5,708	\$57,080																																						
Shared Paths	\$4,239	\$42,390																																						
Bus Facilities	\$18	\$180																																						
Fire and Emergency Services	\$36	\$360																																						
Flood & Drainage	\$720	\$7,200																																						
Kings Hill Urban Release Area	\$792	\$7,920																																						

	Total	\$20,000	\$200,000	
	<p>Payment of the above must apply to the Development Application as follows:</p> <p>a) Subdivision and Building work – prior to the issue of the Construction Certificate or Subdivision Certificate, whichever occurs first.</p> <p>Note: 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>Condition reason: To ensure that a monetary contribution as specified is paid to Council in accordance with Section 7.11 of the EP&A Act 1979, and the Port Stephens Council Local Infrastructure Contributions Plan 2020.</p>			
14	Long Service Levy			
	<p>Before the issue of a Construction Certificate, the long service levy of \$15,225.00, as calculated at the date of this consent, 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>Condition reason: To ensure the Long Service Levy is paid.</p>			
15	Stormwater/Drainage Plans			
	<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>Details demonstrating compliance must be provided to the Certifying Authority, prior to the issue of the 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>Condition reason: To ensure that the development is carried out in accordance with the Port Stephens Development Control Plan 2014.</p>			
16	Stormwater System Operation and Maintenance Procedure Plan			
	<p>An Operation and Maintenance Plan for the stormwater system must be prepared by a qualified engineer detailing a regular maintenance program for pollution control devices, covering inspection, cleaning and waste disposal.</p> <p>Details demonstrating compliance must be provided to the Certifying Authority.</p>			

	<p>Condition reasons: Where a stormwater system is proposed which includes stormwater device(s) that require inspection and maintenance.</p>
17	<p>Roads Act Approval</p> <p>Before the issue of a Construction Certificate, for construction/reconstruction of Council infrastructure, including vehicular crossings, footpath, kerb and gutter, stormwater drainage, an application must be made for a Roadworks Permit under Section 138 of the Roads Act 1993. The following information must be provided to Council as the Roads Authority with the Roads Act application:</p> <ul style="list-style-type: none"> a) Stormwater connections to public infrastructure b) Footpath to be designed across the full frontage of the development site within Phillip Street, connecting to the existing bus stop and including kerb ramp(s). <p>Condition reason: To ensure that works within the road reserve are approved by a Section 138 Approval of the Roads Act 1993.</p>
18	<p>Civil engineering plans</p> <p>Before the issue of a Construction Certificate, civil engineering plans prepared by a qualified Engineer, indicating any required 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.</p> <p>Details demonstrating compliance must be provided to the Certifying Authority.</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>Condition reason: To ensure that civil engineering plans have been prepared by a qualified engineers prior to the issue of the Construction Certificate.</p>
19	<p>Construction Site Management Plan</p> <p>Before the issue of a Construction Certificate, a construction site management plan must be prepared, and provided to the principal certifier. The plan must include the following matters:</p> <ul style="list-style-type: none"> a. The location and materials for protective fencing and hoardings on the perimeter of the site; b. Provisions for public safety; c. Pedestrian and vehicular site access points and construction activity zones; d. Details of construction traffic management including: <ul style="list-style-type: none"> i. Proposed truck movements to and from the site; ii. Estimated frequency of truck movements; and iii. Measures to ensure pedestrian safety near the site; e. Details of bulk earthworks to be carried out; f. The location of site storage areas and sheds; g. The equipment used to carry out works; h. The location of a garbage container with a tight-fitting lid;

	<ul style="list-style-type: none"> i. Dust, noise and vibration control measures; j. The location of temporary toilets; k. The protective measures for the preservation of trees on-site and in adjoining public areas including measures in accordance with: <ul style="list-style-type: none"> i. AS 4970 – Protection of trees on development sites; ii. An applicable Development Control Plan; iii. An arborist's report approved as part of this consent <p>A copy of the construction site management plan must be kept on site at all times while work is being carried out.</p> <p>Condition reason: To require details of measures to be undertaken that will protect the public, and the surrounding environment, during site works and construction.</p>
20	<p>Flood Design Measures</p> <p>Before the issue of a Construction Certificate, evidence that the following flood related design precautions have been adhered to in the detailed design must be submitted to the Principal Certifying Authority:</p> <ul style="list-style-type: none"> a) In sewerred areas some plumbing fixtures may be located below the Flood Planning Level (FPL). Where this occurs sanitary drainage is to be fitted with a reflux valve to protect against internal sewage surcharge; b) All materials stored at the site and capable of causing harm to the environment must be stored at a level not less than the FPL or suitable bunding must be placed around such materials to a minimum of the FPL; c) All building materials, equipment, ducting, etc., below the FPL must be flood compatible and ducting must be provided with openings for drainage and cleaning; d) All main power supply, heating and air conditioning service installations, including meters must be located above the FPL. All electrical equipment installed below the FPL must be capable of disconnection by a single plug from the power supply; e) All electrical wiring below the FPL must be suitable for continuous submergence in water. All conduits below the FPL must be self-draining. Earth core leakage systems or safety switches are to be installed; f) Wherever possible, the premises must be designed to ensure that plant, equipment, storage tanks or other fixtures or fittings liable to damage by floods are located above the FPL or be moveable to levels above the FPL. Should this not have the ability to occur, they shall be suitable for submergence in water and securely anchored to overcome buoyancy and movement. All storage tanks must be vented to an elevation above the FPL. <p>Condition reason: To mitigate the impacts of development within flood prone land and ensure the minimisation of risk to life and property.</p>
21	<p>Retaining Walls</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. All retaining walls must be wholly contained within the lot boundaries.</p>

	Details demonstrating compliance must be provided to the Certifying Authority prior to the issue of the Construction Certificate.
	Condition reasons: To ensure that retaining walls in proximity to the boundary and over a height are designed and certified by a suitably qualified engineer.

Before building and subdivision work commences

22	All Weather Access
	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.
	Condition reason: To ensure that adequate vehicular access is provided to and from the site, prior to the commencement of works.
23	Erosion and sediment controls in place
	Before any site work commences, the certifier must be satisfied the erosion and sediment controls in the erosion and sediment control plan are in place. These controls must remain in place until any bare earth has been re-stabilized in accordance with 'Managing Urban Stormwater: Soils and Construction' prepared by Landcom (the Blue Book) (as amended from time to time).
	Condition reason: To ensure sediment laden runoff and site debris do not impact local stormwater systems and waterways.
24	Tree protection measures
	Before any site work commences, the principal certifier, or Council where a principal certifier is not required, must be satisfied the measures for tree protection detailed in the construction site management plan and this determination are in place.
	Condition reason: To protect and retain trees.
25	Notice Commencement of Work
	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: <ul style="list-style-type: none"> a) The name and address of the person; b) A description of the work to be carried out;

	<ul style="list-style-type: none"> c) The address of the land on which the work is to be carried out; d) The Registered numbers and date of issue of the development consent and construction certificate; 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 f) The date on which the work is intended to commence. <p>The notice must be lodged on the NSW Planning Portal.</p> <p>Condition reason: 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>
26	<p>Construction Certificate Required</p> <p>In accordance with the provisions of Section 6.7 of the Environmental Planning & Assessment Act 1979 (EP&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"> a) A Construction Certificate has been issued by a Consent Authority; 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&A Act 1979; <p>and</p> <ul style="list-style-type: none"> 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. <p>Condition reason: To ensure that a Construction Certificate has been issued for the building works prior to the commencement of work.</p>
27	<p>Subdivision Works Certificate Required</p> <p>In accordance with the provisions of Section 6.13 of the Environmental Planning & Assessment Act 1979 (EP&A Act 1979), subdivision works approved by this consent must not commence until the following has been satisfied:</p> <ul style="list-style-type: none"> a) a Subdivision Works Certificate has been issued by a Consent Authority; 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&A Act 1979; and c) the PCA is notified in writing of the name and contractor licence number of the owner/builder intending to carry out the approved works. <p>Condition reason: To ensure that a Subdivision Works Certificate has been issued for the subdivision works prior to the commencement of work.</p>
28	<p>Notice of Principal Certifying Authority Appointment</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</p>

	<p>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"> a) A description of the work to be carried out; b) The address of the land on which the work is to be carried out; c) The Registered number and date of issue of the relevant development consent; d) The name and address of the Principal Certifier and the person who appointed the principal certifier; e) If the principal certifier is a registered certifier <ul style="list-style-type: none"> i) The certifier's registration number, and ii) A statement signed by the registered certifier to the effect that the certifier consents to be appointed as principal certifier, and iii) A telephone number on which the certifier may be contacted for business purposes. <p>The notice must be lodged on the NSW Planning Portal.</p> <p>Condition reason: 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>
29	<p>Damage report – Public Infrastructure</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>Condition reason: Small-scale development - Where the development is in close proximity to Council infrastructure.</p>
30	<p>Public liability insurance</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. Evidence of this Policy must be provided to Council and the Certifying Authority.</p> <p>Condition reason: To verify that the owner or contractor has a Public Liability Insurance Policy where there are works over public property.</p>
31	<p>Site is to be secured</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>Condition reason: To restrict access to the site by the public and ensure that the site is adequately secured prior to the commencement of works.</p>
32	<p>Home Building Act requirements</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"> a) In the case of work for which a principal contractor is required to be appointed – <ul style="list-style-type: none"> i) The name and license number of the principal contractor, and ii) The name of the insurer by which the work is insured under Part 6 of that Act, b) In the case of work to be done by an owner-builder – <ul style="list-style-type: none"> i) The name of the owner-builder, and ii) If the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit. <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>Condition reason: 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>
33	<p>Compliance with Home Building Act (if applicable)</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>Condition reason: 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>
34	<p>Notice regarding dilapidation report</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) 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.</p> <p>Condition reason: To ensure the structural safety of adjoining buildings as a result of the proposed development.</p>
35	<p>Rubbish Generated from the Development</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>

	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.
	Condition reason: To ensure that construction waste is appropriately stockpiled and removed from the site.

During building and subdivision work

36	Discovery of relics and Aboriginal objects
	<p>While site works is being carried out, if a person reasonably suspects a relic or Aboriginal object is discovered:</p> <ul style="list-style-type: none"> a. The work in the area of the discovery must cease immediately; b. The following must be notified – <ul style="list-style-type: none"> i. For a relic – the Heritage Council; or ii. 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. <p>Site works may recommence at a time conformed in writing by:</p> <ul style="list-style-type: none"> a. For a relic – the Heritage Council; or b. 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
	Condition reason: To ensure the protection of objects of potential significance during works.
37	Unexpected Finds Contingency (General)
	<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 be 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>
	Condition reason: To ensure that works relating to a development are to cease if any suspect materials and remediated in accordance with Council requirements

38	<p>Responsibility for changes to public infrastructure</p> <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> <p>Condition reason: To ensure payment of approved changes to public infrastructure</p>
39	<p>Waste management</p> <p>While site work is being carried out:</p> <ol style="list-style-type: none"> 1. all waste management must be undertaken in accordance with the approved waste management plan; and 2. upon disposal of waste, records of the disposal must be compiled and provided to the certifying authority, detailing the following: <ol style="list-style-type: none"> a. The contact details of the person(s) who removed the waste; b. The waste carrier vehicle registration; c. The date and time of waste collection; d. A description of the waste (type of waste and estimated quantity) and whether the waste is to be reused, recycled or go to landfill; e. The address of the disposal location(s) where the waste was taken; f. The corresponding tip docket/receipt from the site(s) to which the waste is transferred, noting date and time of delivery, description (type and quantity) of waste. <p>If waste has been removed from the site under an EPA Resource Recovery Order or Exemption, records in relation to that Order or Exemption must be maintained and provided to the principal certifier and Council.</p> <p>Condition reason: To require records to be provided, during site work, documenting the lawful disposal of waste</p>
40	<p>Hours of work</p> <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>Condition reason: To protect the amenity of the surrounding area</p>
41	<p>Construction Noise</p> <p>While building work is being carried out the certifier must ensure that any noise generated from the site is controlled in accordance with the requirements of the Acoustic DA Report, prepared by PKA Acoustic Consulting and dated 19 July 2024.</p>

	<p>Condition reason: To ensure that developments do not give rise to offensive noise impacts during works.</p>
42	<p>Tree protection during work</p> <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"> a) The construction site management plan approved under this consent, b) the relevant requirements of AS 4970 Protection of trees on development sites; c) Any arborist's report approved under this consent. <p>This includes maintaining adequate soil grades and ensuring all machinery, builders refuse, spoil and materials remain outside tree protection zones</p> <p>Condition reason: To protect trees during the carrying out of site work</p>
43	<p>Offensive noise, dust, odour, and vibration</p> <p>No 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.</p> <p>Condition reason: To ensure that developments do not give rise to offensive noise, dust, odour, or vibration.</p>
44	<p>Excavations and Backfilling</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"> a) preserve and protect the building from damage; and b) if necessary, underpin and support the building in an approved manner; and c) give at least seven days' notice to the adjoining owners before excavating, or of the intention to excavate. <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>Condition reason: To ensure that any Acid Sulfate Soils encountered during works are suitably managed</p>

45	Cut and Fill (if applicable)
	<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"> 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. 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.
	Condition reason: To ensure that all imported and/or exported fill is Virgin Excavated Natural Material.
46	Placement of fill
	<p>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.</p> <p>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.</p>
	Condition reason: To ensure that fill required for a development is managed in accordance with Council requirements.
47	Location of stockpiles
	<p>Stockpiles of soil must not be located on / near any drainage lines or easements, natural watercourses or water bodies, footpath or roadway without first providing suitable protective measures adequate to protect these water bodies. All stockpiles of contaminated materials must be suitably covered to prevent dust and odour nuisance.</p>
	Condition reason: To ensure that stock piles required for a development are managed in accordance with Council requirements.
48	Implementation of Site Management Plans
	<p>While site work is being carried out:</p> <ul style="list-style-type: none"> a) the measures required by the construction site management plan and the erosion and sediment control plan (plans) must be implemented at all times, and b) a copy of these plans must be kept on site at all times and made available to council officers upon request.
	Condition reason: To ensure site management measures are implemented during the carrying out of site work

49	Disposal of Stormwater During Works
	Water seeping into any site excavations is not to be pumped into the stormwater system unless it complies with relevant Environmental Protection Agency and Australian and New Zealand Environment and Conservation Council standards for water quality discharge.
	Condition reason: To ensure that stormwater disposal from a development is managed in accordance with Council requirements.
50	Implementation of BASIX Commitments
	While building work is being carried out, the applicant must undertake the development strictly in accordance with the commitments listed in the BASIX certificate(s) approved by this consent, for the development to which the consent applies.
	Condition reason: To ensure that while building work is being carried out, the development strictly in accordance with the commitments listed in the BASIX certificate(s) approved by this consent.
51	Stormwater Disposal
	Following the installation of any roof, collected stormwater runoff from the structure must be: a) Diverted through a first flush system or leaf/debris prevention system before being connected to an approved stormwater system. Before draining to the public system, stormwater must be connected to an approved stormwater quality improvement device in accordance with the approved plans.
	Condition reason: To ensure stormwater is managed in accordance with Council's controls and does not generate nuisance flows onto adjoining properties.
52	Toilet Facilities
	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.
	Condition reason: To ensure adequate amenity facilities are provided to the site during construction.
53	Tree Removal/Pruning
	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'.

	Condition reason: To ensure that vegetation removal/pruning is undertaken by a qualified arborist and in accordance with the Australian Standard.
54	Finished Floor Level
	<p>The finished floor level of the dwelling must be a minimum level of Reduced Level 9.2 metres Australian Height Datum in accordance with the approved plans.</p> <p>A survey report prepared by a Registered Surveyor confirming that the finished floor level complies with the approved plans or floor levels specified by the development consent, must be provided to Principal Certifying Authority prior to the development proceeding beyond floor level stage.</p>
	Condition reason: To ensure the development suitably addresses flood risk to life and property.

Before issue of an occupation certificate

55	Occupation Certificate Required
	<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>
	Condition reason: To ensure that an Occupation Certificate relating to the development is obtained from the Principal Certifying Authority prior to occupation or use
56	Completion of landscape and tree works
	<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>
	Condition reason: To ensure that landscape and tree works have been completed in accordance with the approved plans prior to the issue of an Occupation Certificate.
57	Repair of infrastructure
	<p>Before the issue of an Occupation Certificate:</p> <p>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</p>

	<p>2. if the works in (a) are not carried out to Council's satisfaction, Council may carry out the works required and the costs of any such works must be paid as directed by Council and in the first instance will be paid using the security deposit required to be paid under this consent.</p>
	<p>Condition reason: To ensure that approved works within the road reserve have been completed to the satisfaction of the Council.</p>
58	<p>Removal of waste upon completion</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>Condition reason: To ensure that all waste is appropriately removed from the subject site prior to the issue of an Occupation Certificate.</p>
59	<p>Completion of Roads Act Approval works</p>
	<p>Before the issue of an Occupation Certificate, 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 the Council as the Roads Authority.</p>
	<p>Condition reason: To ensure that approved works within the road reserve have been completed to the satisfaction of the Council.</p>
60	<p>Stormwater/drainage works</p>
	<p>Before the issue of an Occupation Certificate, 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>Condition reason: To ensure stormwater and drainage works have been undertaken in accordance with the approved plans.</p>
61	<p>Water authority certification</p>
	<p>Before the issue of an Occupation Certificate, 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>Condition reason: To ensure compliance with the water supply authority's requirements</p>

62	<p>Survey Certificate</p> <p>Before the issue of an Occupation Certificate, 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.</p> <p>Condition reason: 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>
63	<p>Post-construction dilapidation report</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"> a) After comparing the pre-construction dilapidation report to the post-construction dilapidation report required under this condition, there has been any structural damage to any adjoining buildings; and b) Where there has been structural damage to any adjoining buildings, that it is a result of the work approved under this development consent, and c) A copy of the post-construction dilapidation report must be provided to Council (where council is not the principal certifiers or a principal certifier is not required) and to the relevant adjoining property owner(s). <p>Condition reason: To identify any damage to adjoining properties resulting from site work on the development site.</p>
64	<p>Services</p> <p>Before the issue of an Occupation Certificate, 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"> a) Electricity; b) Water; c) Sewer; and d) Gas (where available). <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>Condition reason: To verify that reticulated services are provided to the dwellings.</p>
65	<p>Shelter-in-place Emergency Response Strategy</p> <p>A Shelter-in-place Emergency Response Strategy for the proposed development must be provided to the Principal Certifying Authority with the occupation certificate application. The strategy must include the following as a minimum:</p>

	<ul style="list-style-type: none"> a) Details as to how the shelter-in-place strategy will be communicated to residents and how this communication will be maintained for the life of the development; b) Warning times and communication methods for when shelter-in-place is to be implemented; c) Consideration of protection from weather and appropriate heating and cooling; d) Access to personal hygiene facilities such as a toilet; e) Items for self-sufficiency including sufficient drinking water, food, fire extinguishers, radios and torches and first aid kit; f) Description of the expected flood inundation at the site and the relevant surrounding area, including flood depths, direction of flow, velocities, hazard and specific relevant vulnerabilities; g) Consideration of and strategies for, the needs of the elderly, disabled and vulnerable who may be on site; h) A strategy for effective flood risk management when the electricity, internet, telecommunications etc., are unavailable; i) Detail as to how the requirements will be maintained and enforced for the life of the development <p>Note: Digital elevation data is available from Geosciences Australia, current flood studies are available on Council's website and river gauge/ tidal gauge data is available from the Bureau of Meteorology website.</p> <p>Condition reason: To ensure the development suitably addresses risk to life and property.</p>
66	<p>Protection and Certification of Electrical Services</p> <p>All power points, fittings, electrical connections and the incoming meter box are to be located above the Flood Planning Level (FPL) which is RL 9.2m AHD.</p> <p>Switches, light fittings and power points may be located below the FPL provided they are capable of being isolated by a single Residual Current Device (RCD) protected switch that is located above the FPL. Certification of these works are to be provided to the Principal Certifying Authority.</p> <p>Condition reason: To ensure the development suitably addresses risk to life and property.</p>
67	<p>Restriction on Title – Affordable Housing</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 the of units on proposed Lot 2 to be used as affordable for 15 years. The restriction is to be registered prior to the issue of the Occupation Certificate or Subdivision Certificate, whichever occurs first.</p> <p>Condition reason: To ensure the development is used for affordable housing.</p>

Occupation and ongoing use

68	Driveways and car parking to be maintained
	All access crossings and driveways must be maintained in good order for the life of the development.
	The car parking area is to be solely used for parking and not for storage of any items.
	Condition reason: To ensure that access and driveways are maintained for the life of the development.
69	Manoeuvring of Vehicles
	All vehicles must enter and exit the site in a forward direction
	Condition reason: To ensure that vehicles enter and leave the site in a forward direction.
70	Waste management and collection
	At all times, the management body must make arrangements for the placement of the garbage bins at the kerbside for weekly collection and must ensure the return of the bins to the garbage storage area as soon as practicable after collection. Waste management is to be in accordance with the approved waste management plan for the life of the development.
	Condition reason: To ensure waste generated from the site is appropriately managed for pickup
71	Maintenance of Landscaping
	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.
	Condition reason: To ensure that landscaping is maintained in accordance with the approved landscape plan and the relevant development consent.
72	Maintenance of wastewater and stormwater treatment device/s
	During occupation and ongoing use of the development, the applicant must ensure all wastewater and stormwater treatment devices (including drainage systems, sumps and traps, and on-site detention) are regularly maintained to remain effective and in accordance with any positive covenant (if applicable) and any approved operation management plan.
	Condition reason: to ensure wastewater and stormwater systems are maintained
73	Location of Mechanical Ventilation
	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.
	Condition reason: For all applications requiring air conditioning units.

Subdivision Work

Before issue of a subdivision works certificate

74	Erosion and sediment controls plan
	Before the issue of a Subdivision Works 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: <ul style="list-style-type: none"> 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.
75	Subdivision Works Certificate
	The following information must be provided to the Certifying Authority with the Subdivision Works Certificate application: <ul style="list-style-type: none"> a) Amended stormwater management plan which directs all stormwater generated from the site to the on-site detention systems prior to leaving the site, including the internal driveway access from Phillip Street.
	Condition reason: To ensure that specific information is provided to the Certifying Authority prior to the issue of the Subdivision Works Certificate.
76	Waste Management Plan requirements
	Before the issue of a Subdivision Works Certificate, a waste management plan for the development must be prepared and provided to the certifier.
	Condition reason: To ensure resource recovery is promoted and local amenity protected during construction.
77	Stormwater/Drainage Plans
	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

	<p>Rainfall and Runoff guidelines using the Hydrologic Soil Mapping data for Port Stephens (available from Council).</p> <p>Details demonstrating compliance must be provided to the Certifying Authority, prior to the issue of a Subdivision Works 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>Condition reason: To ensure that the development is carried out in accordance with the Port Stephens Development Control Plan 2014.</p>
78	<p>Roads Act Approval</p> <p>Before the issue of a Subdivision Works Certificate, for construction/reconstruction of Council infrastructure, including vehicular crossings, footpath, kerb and gutter, stormwater drainage, an application must be made for a Roadworks Permit under Section 138 of the Roads Act 1993. The following information must be provided to Council as the Roads Authority with the Roads Act application:</p> <ul style="list-style-type: none"> a) Stormwater connections to public infrastructure b) Footpath to be designed across the full frontage of the development site within Phillip Street, connecting to the existing bus stop and including kerb ramp(s). <p>Condition reason: To ensure that works within the road reserve are approved by a Section 138 Approval of the Roads Act 1993.</p>
79	<p>Civil engineering plans</p> <p>Before the issue of a Subdivision Works Certificate, civil engineering plans prepared by a qualified Engineer, indicating any required 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.</p> <p>Details demonstrating compliance must be provided to the Certifying Authority.</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>Condition reason: To ensure that civil engineering plans have been prepared by a qualified engineers prior to the issue of the Subdivision Works Certificate.</p>
80	<p>Construction Site Management Plan</p> <p>Before the issue of a Subdivision Works Certificate, a construction site management plan must be prepared, and provided to the principal certifier. The plan must include the following matters:</p>

	<ul style="list-style-type: none"> a. The location and materials for protective fencing and hoardings on the perimeter of the site; b. Provisions for public safety; c. Pedestrian and vehicular site access points and construction activity zones; d. Details of construction traffic management including: <ul style="list-style-type: none"> i. Proposed truck movements to and from the site; ii. Estimated frequency of truck movements; and iii. Measures to ensure pedestrian safety near the site; e. Details of bulk earthworks to be carried out; f. The location of site storage areas and sheds; g. The equipment used to carry out works; h. The location of a garbage container with a tight-fitting lid; i. Dust, noise and vibration control measures; j. The location of temporary toilets; k. The protective measures for the preservation of trees on-site and in adjoining public areas including measures in accordance with: <ul style="list-style-type: none"> i. AS 4970 – Protection of trees on development sites; ii. An applicable Development Control Plan; iii. An arborist’s report approved as part of this consent <p>A copy of the construction site management plan must be kept on site at all times while work is being carried out.</p> <p>Condition reason: To require details of measures to be undertaken that will protect the public, and the surrounding environment, during site works and construction.</p>
81	<p>Retaining Walls</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. All retaining walls must be wholly contained within the lot boundaries.</p> <p>Details demonstrating compliance must be provided to the Certifying Authority prior to the issue of the Subdivision Works Certificate.</p> <p>Condition reasons: To ensure that retaining walls in proximity to the boundary and over a height are designed and certified by a suitably qualified engineer.</p>

Before issue of a subdivision certificate

82	<p>Surveyor’s Report</p> <p>Before the issue of a Subdivision Certificate, a certificate from a Registered Surveyor must be provided to the Principal Certifying Authority, certifying that all drainage lines have been laid within their proposed easements, or within the appropriate lots. Certification is also to be provided stating that no services or accessways encroach over the proposed boundary other than as provided for by easements as created by the final plan of subdivision.</p>
----	--

	Condition Reason: to ensure that all drainage lines are within the appropriate lots and/or easements
83	<p>Burdened Lots To Be Identified</p> <p>Any lots subsequently identified during construction of the subdivision as requiring restrictions must also be suitably burdened</p> <p>Condition reason: To ensure that all lots which have been identified as requiring restrictions or easements are suitably burdened.</p>
84	<p>Services</p> <p>Before the issue of a Subdivision Certificate, evidence is to be provided to Council demonstrating that the following reticulated services are available to each lot:</p> <ul style="list-style-type: none"> a) Electricity. b) Water. c) Sewer. d) Gas (where available). <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>Condition reason: To ensure that evidence of connection of services is provided to Council.</p>
85	<p>Show Easements/ Restrictions on The Plan of Subdivision</p> <p>The developer must acknowledge all existing easements and/or restrictions on the use of the land on the final plan of subdivision.</p> <p>Condition reason: To ensure that all existing easements and/or restrictions on the use of land are shown on the final plan of subdivision.</p>
86	<p>Requirements for a subdivision certificate</p> <p>The application for Subdivision Certificate(s) must be made in accordance with the requirements of Section 54 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 and Section 6.33(1) Environmental Planning and Assessment Act 1979.</p> <p>The applicant will be required to submit documentary evidence that the property has been developed in accordance with the plans approved by this development consent [16-2024-420-1], and of compliance with the applicable conditions of consent, prior to the issuing of a Torrens Plan of Subdivision.</p> <p>In addition, one signed original copy of the original plans and/or documents, and final plan of survey/title, must be submitted to Council</p>

	Condition reason: To enable the subdivision, boundary adjustment, or lot consolidation of land and ensure compliance with the relevant development consent.
87	Subdivision Certificate The issue of a Subdivision Certificate is not to occur until all applicable conditions of this development consent have been satisfactorily addressed and all applicable engineering works are complete. Condition reason: To ensure the development has satisfied the required conditions of consent in the relevant development consent to release the subdivision certificate.
88	Section 88B Instrument The applicant must prepare a Section 88B Instrument which incorporates the following easements, positive covenants and restrictions to user where necessary and in accordance with the approved plans: <ul style="list-style-type: none"> a) Right of access; and b) Easement for parking Condition reason: To ensure that specific easements and/or restrictions are imposed on the Section 88B Instrument in accordance with the relevant consent.
89	Restriction on Title – Affordable Housing 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 the of units on proposed Lot 2 to be used as affordable for 15 years. The restriction is to be registered prior to the issue of the Occupation Certificate or Subdivision Certificate, whichever occurs first. Condition reason: To ensure the development is used for affordable housing.
90	Water Authority Certification A Section 50 Application under the Hunter Water Act 1991 must be lodged with Hunter Water Corporation (HWC) and details of the Notice of Compliance from HWC must be provided to the Certifying Authority. Condition reason: To ensure compliance with the water supply authority's requirements

General advisory notes

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

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

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

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

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 “Birdstrike Group B”, 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. **Addressing** - Prior to occupying the development or release of subdivision certificate (whichever occurs first) Council's Spatial Services Team should be contacted via email at: addressing@portstephens.nsw.gov.au to obtain correct property addressing details. Please

state your Development Approval number and property address in order to obtain the correct house numbering.

7. **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.

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.