

DETERMINATION AND STATEMENT OF REASONS

HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

DATE OF DETERMINATION	4 June 2025
DATE OF PANEL DECISION	4 June 2025
DATE OF PANEL BRIEFING	3 June 2025
PANEL MEMBERS	Roberta Ryan (Alternate Chair), Amanda Wetzel, Stephen O'Connor
APOLOGIES	Alison McCabe, Tony McNamara and Leah Anderson
DECLARATIONS OF INTEREST	Councillor Giacomo Arnott declared a perceived conflict of interest given previous involvement with the Director of Kinala Pty Ltd.

Papers circulated electronically on 27 May 2025.

MATTER DETERMINED

PPSHCC-336 – Port Stephens – DA 16-2024-587 -1 at 38 Stockton – Street, Nelson Bay 2315 – Residential Flat Building (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 briefings from the applicant and Council.

The proposed development will deliver much needed housing and is considered to be compatible with the character of the area and is therefore considered to have merit.

The variation to the active street frontage development standard is supported for the reasons outlined in the written request and further detailed below.

The Panel noted that the Connecting to Country statement and approach was insufficient but acknowledged that this arose late in the process and was guided by the Council's Urban Design Review Panel. The omission to consult with First Nations peoples was of concern. Whilst there is no legislated mechanism regarding the future naming of the building, the Panel notes the issues raised in the submitted objection and strongly encourages genuine future engagement with the naming process.

Application to vary a development standard:

Following consideration of a written request from the applicant, made under cl 4.6 (3) of the Port Stephens Local Environmental Plan 2013 (LEP), the Panel is satisfied that:

- The applicant has demonstrated that compliance with cl. 7.22 (Active Street Frontages) is unreasonable or unnecessary in the circumstances because the proposal has been designed such that it will attract pedestrian traffic along the site's frontage despite the north-eastern corner not being used as a business or retail premises and still satisfies the objectives of the zone; and
- there are sufficient environmental planning grounds to justify contravening the development standard which include construction code requirements and accessibility which would be impacted by placing a retail or business premises on the ground floor.

Development application

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

The decision was unanimous.

REASONS FOR THE DECISION

The Panel determined to uphold the Clause 4.6 variation to active street frontages; and approve the application for the reasons outlined in the Council Assessment Report and for the following reasons:

- The proposal is largely compliant with the relevant planning controls
- The development is consistent with Council's strategic planning framework
- The site is well located and supported by relevant services and infrastructure

CONDITIONS


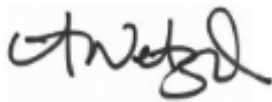

The Development Application was approved subject to the conditions in the Council Assessment Report together with the amendments shown in red in schedule 2.

Minor amendments were made to conditions 10 to 13 inclusive, 18, 24 and 25 to ensure that future plans and information is subject to an approval process.

Condition 65 was amended and a new condition number 88 was added to provide clarity to the stacked car parking and strata subdivision arrangements.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered the one written submission objecting to the proposal. The Panel notes that 68 submissions were received in support of the proposal and that issues of concern in the objection related to the proposal being an over-development of the site.

PANEL MEMBERS	
 Roberta Ryan (Alternate Chair)	 Amanda Wetzel
 Stephen O'Connor	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSHCC-336 – Port Stephens – DA 16-2024-587-1
2	PROPOSED DEVELOPMENT	Construction of a Residential Flat Building (48 Units), two business premises and one retail premises, associated car parking, landscaping and strata title subdivision
3	STREET ADDRESS	38 Stockton Street, Nelson Bay 2315
4	APPLICANT/OWNER	Perception Planning Pty Ltd / Kinala Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Capital Investment Value over \$20M (DA lodged before 1 March 2019)
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 (Housing) 2021 ○ State Environmental Planning Policy (Planning Systems) 2021 ○ State Environmental Planning Policy (Resilience and Hazards) 2021 ○ State Environmental Planning Policy (Transport and Infrastructure) 2021 ○ Port Stephens Local Environmental Plan 2013 • Draft environmental planning instruments: Draft Remediation of Land State Environmental Planning Policy. • Development control plans: <ul style="list-style-type: none"> ○ Port Stephens Development Control Plan 2014 • Planning agreements: Nil • Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i>: Section 29 Residential Apartment Development • 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 • Public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Council Assessment Report: 27 May 2025 • Clause 4.6 variation requests: Clause 7.22 Active Street Frontages • Written submissions during public exhibition: 69 • Total number of unique submissions received by way of objection: 1
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Initial Briefing: 14 January 2025 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Alison McCabe (Chair), Roberta Ryan, Tony McNamara, Giacomo Arnott, Leah Anderson ○ <u>Applicant Representatives</u>: Erin Daniel, Brooke Holdsworth, Jared Buncombe ○ <u>Council assessment staff</u>: Courtney Sargent, Emily Allen ○ <u>Department</u>: Leanne Harris, Holly McCann ○ Site inspection: <ul style="list-style-type: none"> - Roberta Ryan: 12 April 2025 • Final briefing to discuss the council's recommendation: 3 June 2025 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Roberta Ryan (Alternate Chair), Amanda Wetzel, Stephen O'Connor ○ <u>Council assessment staff</u>: Courtney Sargent, Mat Egan

		<ul style="list-style-type: none">○ <u>Applicant representatives:</u> Erin Daniel, Brooke Holdsworth, Richard Carey, Rod Salmon○ <u>Department:</u> Leanne Harris, Holly McCann
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Refer to Schedule 2

SCHEDULE 2 – CONDITIONS OF CONSENT

Recommended Conditions of Consent

General Conditions

- (1) **Approved plans and supporting documentation** – Development must be carried out in accordance with the following approved plans and supporting documentation (stamped by Council), except where the conditions of this consent expressly require otherwise.

Approved plans				
Plan number	Revision number	Plan title	Drawn by	Date of plan
A-A003 Project No. 0159	N	Site & Site Analysis Plan	Holdsworth Design	26.03.2025
A-A101 Project No. 0159	N	Floor Plan – Basement & Lower Ground	Holdsworth Design	26.03.2025
A-A102 Project No. 0159	N	Floor Plan – Ground & Level 1	Holdsworth Design	26.03.2025
A-A103 Project No. 0159	N	Floor Plan – Level 2 & Level 3	Holdsworth Design	26.03.2025
A-A104 Project No. 0159	N	Floor Plan – Level 4 & Level 5	Holdsworth Design	26.03.2025
A-A105 Project No. 0159	N	Floor Plan – Level 6 & Level 7	Holdsworth Design	26.03.2025
A-A106 Project No. 0159	N	Floor Plan – Roof Level	Holdsworth Design	26.03.2025
A-A501 – A-A502 Project No. 0159	N	Elevations – Sheet 1 – Sheet 2	Holdsworth Design	26.03.2025
A-A503-A-A504 Project No. 0159	N	Sections – Sheet 1 – Sheet 2	Holdsworth Design	26.03.2025
A-A801 Project No. 0159	N	Schedules – Glazed Doors	Holdsworth Design	26.03.2025
A-A802 Project No. 0159	N	Schedules – Glazed Windows	Holdsworth Design	26.03.2025
001 Project No. 190996	E	Stormwater Management Basement Level	ADW Johnson	21.03.2025
002 Project No. 190996	E	Stormwater Management Lower Ground Level	ADW Johnson	21.03.2025

003 Project No. 190996	E	Stormwater Management Plan Ground Level	ADW Johnson	21.03.2025
004 Project No. 190996	E	Stormwater Management Ground Level Catchment Areas	ADW Johnson	21.03.2025
005 Project No. 190996	E	Stormwater Management Plan Typical Sections	ADW Johnson	21.03.2025
006 Project No. 190996	B	Proposed Emergency Overflow Outlet Detail	ADW Johnson	21.03.2025
008 Project No. 190996	A	Proposed Layback Details	ADW Johnson	07.02.2025
009-010 Project No. 190996	A	Bulk Earthworks Plan and Site Section: AA & BB	ADW Johnson	18.03.2025
Sheets 1 – 11	A	Plan of Proposed Subdivision	North Point Surveys	26.03.2025
LP.01/D Sheet 1 of 4 Project no. 2456	D	Landscape Concept Plan – Title Sheet	Meraki Green Landscape	03.02.2025
LP.02/D Sheet 2 of 4 Project no. 2456	D	Landscape Concept Plan – Ground & Lower Ground and First Floors	Meraki Green Landscape	03.02.2025
LP.03/D Sheet 3 of 4 Project no. 2456	D	Landscape Concept Plan – Fourth and Seventh Floors	Meraki Green Landscape	03.02.2025
LP.04/D Sheet 4 of 4 Project no. 2456	D	Landscape Concept Plan – Plant Board	Meraki Green Landscape	03.02.2025

Approved Documents			
Document title	Version No.	Prepared by	Dated
Arborist Report	Final, Page 27	Abacus Tree Services	16 October 2024

Stormwater Management Plan Reference: 190996	N/A	ADW Johnson	6 February 2025
Construction Noise Management Plan Reference: J1069	00	Engineering Sciences	30 January 2025
Noise Impact Assessment Reference: J1069	00	Engineering Sciences	30 January 2025
Waste Management Plan Reference: WGA241958-RP-WM-0001_B	B	WGA	13 February 2025
Contamination Site Suitability Assessment Report	0	Tetra Tech Coffey	2 October 2024
Unexpected Finds Protocol Reference: 754-NTLGE368007-AD	0	Tetra Tech Coffey	14 October 2024

In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail. In the event of any inconsistency between the approved plans and a condition of this consent, the condition prevails.

Note: an inconsistency occurs between an approved plan and supporting documentation or between an approved plan and a condition when it is not possible to comply with both at the relevant time.

Condition reason - To ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

- (2) **Building Code of Australia** – 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.

Condition reason - To ensure that all building works are completed in accordance with the Building Code of Australia.

- (3) **Excavation for residential building works** – If the approved development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the consent must, at the person's own expense:

- a) protect and support the adjoining premises from possible damage from the excavation; and
- b) where necessary, underpin the adjoining premises to prevent any such damage.

This condition does not apply if the person having the benefit of the consent owns the adjoining land or the owner of the adjoining land has given consent in writing that condition not applying, and a copy of that written consent is provided to the PCA prior to the excavation commencing.

Condition reason - To ensure development that involves excavation that extends below the base of the footings of a building on adjoining land will not result in adverse impacts to adjoining lots.

- (4) **Sign on building** – 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.

Condition reason - To require signage that details the relevant contacts of a development.

- (5) **Tree removal/pruning** – *Trees 1-10* as identified on *Page 27* of the Arborist Report, prepared by Abacus Tree Services, dated 16/10/2024 are approved for removal.

Condition reason - To ensure that the development retains/prunes and replaces specific tree plantings.

- (6) **Design quality of development** - 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.

Condition reason - To ensure that the development is carried out in accordance with a specific design outcome.

- (7) **Separate approval for signs** – A separate development application for signage must be provide to, and approved by, the Consent Authority or under the provision of the State Environmental Planning Policy (Exempt and Complying Codes) 2008 if applicable prior to the erection or display of any such signs.

Condition reason - 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.

- (8) **Protect existing vegetation and natural landscape features** - Approval to remove existing vegetation for removal is not to occur until the issue of the Construction Certificate.

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.

Condition reason - To ensure that the removal of existing vegetation is not to occur until the issue of the Construction Certificate.

- (9) **General terms of approval** – The General Terms of Approval from state authorities must be complied with prior to, during, and at the completion of the development.

The General Terms of Approval are:

1. Water NSW, Reference: IDAS1159020, Dated 15 April 2025.

A copy of the General Terms of Approval is attached to this determination notice.

Condition reason - To ensure that the development is carried out in accordance with the General Terms of Approval issued by Integrated Development / Concurrence Agencies.

Building Work

Before issue of a construction certificate

- (10) **Civil engineering plans** – Civil engineering plans prepared by a qualified Engineer, indicating drainage, roads, access ways, 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 and approved by 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.

- (11) **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 Rainfall and Runoff guidelines using the Hydrologic Soil Mapping data for Port Stephens (available from Council). The plans must demonstrate that:

- o No stormwater flows are directed to adjoining properties.

Details demonstrating compliance must be provided to and approved by 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 review - To ensure that the development is carried out in accordance with the DCP.

- (12) **Stormwater System Operation and Maintenance Procedure Plan** – An Operation and Maintenance Plan for the stormwater system must be prepared by a qualified engineer and provided to and approved by the certifying authority prior to the issue of a construction certificate. The plan must detail a regular maintenance programme for pollution control devices, covering inspection, cleaning and waste disposal. This must include procedures to ensure the system does not get blocked requiring the use of the emergency outlet system.

Condition review - To ensure that the development is carried out in accordance with the DCP.

- (13) **Erosion and sediment control 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 and approved by the certifying authority:

- a) Council’s relevant development control plan,
- b) the guidelines set out in ‘Managing Urban Stormwater: Soils and Construction’ prepared by Landcom (the Blue Book) (as amended from time to time), and
- c) 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). The applicant must ensure the erosion and sediment control plan is kept on-site at all times during site works and construction.

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

- (14) **Roads Act Approval** – 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.

Condition reason - To ensure that works within the road reserve are approved by a Section 138 Approval of the Roads Act 1993.

- (15) **Landscape plan / street tree plan** – The following tree species must be planted at no cost to Council, as a replacement for Tree 2, as identified on Page 27 of the Arborist Report, prepared by Abacus Tree Services, dated 16/10/2024:

- a) 1 x Cupaniopsis anacardioides (Tuckeroo), minimum 40 L pot size; or
- b) 1 x Elaeocarpus reticulatus (Blueberry Ash), minimum 40 L pot size; or
- c) A suitable alternative as approved by Council’s Natural Systems Team.

Details demonstrating compliance must be provided to the Certifying Authority.

Condition reason - To ensure that further Landscape Plan / Street Tree Plan details are provided prior to the issuing of the Construction Certificate.

- (16) **Garbage room** – 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:

- a) The room must be constructed of solid material, cement rendered and trowelled to a smooth even surface;
- 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
- c) Garbage rooms must be vented to the external air by natural or mechanical ventilation.

Details demonstrating compliance must be provided to the Certifying Authority.

Condition reason - To allow for assessment and ensure compliance with the relevant plans and requirements.

- (17) **Car parking details (if applicable)** – Before a construction certificate, written evidence prepared by a suitably qualified engineer must be obtained that demonstrates, to the certifier's satisfaction, the plans for parking facilities comply with the relevant parts of AS 2890.1 Parking Facilities – Off-Street Carparking.

Condition reason - To ensure parking facilities are designed in accordance with the Australian Standard.

- (18) **Construction site management plan** - Before the issue of a construction certificate a construction site management plan must be prepared and approved by the principal certifier.

The plan must include the following matters:

- 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:
 - i) Proposed truck movements to and from the site;
 - ii) Estimated frequency of truck movements; and
- 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 including details within the approved Construction Noise Management Plan;
- 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:
 - 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

A copy of the construction site management plan must be kept on-site at all times while work is being carried out.

Condition reason - To require details of measures that will protect the public, and the

surrounding environment, during site works and construction.

- (19) **Section 7.11 Development contributions** – A monetary contribution is to be paid to Council for the provision of 46 additional 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	\$655	\$30,130
Civic Administration – Works Depot	\$1,266	\$58,236
Town Centre Upgrades	\$3,412	\$156,952
Public Open Space, Parks & Reserves	\$2,085	\$95,910
Sports & Leisure Facilities	\$1,961	\$90,206
Cultural & Community Facilities	\$1,332	\$61,272
Road Works	\$3,570	\$164,220
Shared Paths	\$3,286	\$151,156
Bus Facilities	\$9	\$414
Fire & Emergency Services	\$245	\$11,270
Flood & Drainage	\$1,877	\$86,342
Kings Hill Urban Release Area	\$302	\$13,892
TOTAL	\$20,000	\$920,000

Payment of the above amount must apply to Development Applications as follows:

- a) Building work only - prior to issue of the Construction Certificate.

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.

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.

- (20) **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 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 housing and productivity contribution (HPC) set out in the table below, but as adjusted in accordance with this condition, is required to be made:

Housing and Productivity Contribution	Amount
Housing and Productivity Contribution – Lower Hunter Region	\$308,467.01

- b) The time by which the housing and productivity contribution must be made is before the issue of a construction certificate.
- c) The payment of the contributions must be made using the NSW Planning Portal.

- d) 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.

The amount payable at the time of payment is the amount shown in the table above as the total housing and productivity contribution, adjusted by multiplying it by the following fraction:

highest PPI number

consent PPI number

Where –

highest PPI number is the highest PPI number for a quarter following the June quarter 2023 and up to and including the 2nd last quarter before the quarter in which the payment is made; and

Consent PPI is the PPI number last used to adjust the base component amount, SBC amount or TPC amount when consent was granted.

June quarter 2023 is the quarter commencing on and including 1 April 2023 and ending on and including 30 June 2023; and

PPI is the Producer Price Index (Road and Bridge Construction (NSW)) published by the Australian Bureau of Statistics).

If the amount adjusted in accordance with this condition is less than the amount at the time consent is granted, the higher amount must be paid instead.

Condition reason - 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.

- (21) **Long service levy** - Before the issue of a Construction Certificate, the long service levy of \$92,196.00 as calculated at the date of this consent, must be paid to the Long Service Corporation under the Building and Construction industry Long Service Payments Act 1986, section 34, and evidence of the payment is to be provided to the principal certifier.

Condition reason - To ensure the Long Service Levy is paid.

- (22) **Clear public access ways** - Before issue of a construction certificate, construction plans must demonstrate that access doors to enclosures for building services and facilities, such as hydrant and sprinkler booster assemblies or the like, except fire stair doors, will not open over the footway or roadway.

Condition reason - To ensure doors used to house building services and facilities do not obstruct pedestrians and vehicles

- (23) **Equal access to the premises** - 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.

Condition reason - To ensure safe and easy access to the premises for people with a disability.

- (24) **Mechanical exhaust system** – Mechanical exhaust system(s) must comply with AS 1668 'The use and Ventilation and Air Conditioning in Buildings' Parts 1 and 2 (including exhaust air quantities and discharge location points).

Details demonstrating compliance must be provided to and approved by the Certifying Authority.

Condition reason - To ensure that details demonstrating compliance with the relevant requirements are provided to the Certifying Authority.

- (25) **External lighting** - Plans detailing external lighting must be prepared by a suitably qualified person, provided to and approved by the certifying authority prior to the issue of a Construction Certificate.

The lighting plan must be consistent with the approved plans and documents, and the following requirements:

- a) comply with AS 1158: Lighting for Roads and Public Spaces;
- b) comply with AS 4282: Control of Obtrusive Effects of Outdoor Lighting
- c) lighting must be placed at all entrances to, and exits from the premises
- d) lighting must provide coverage of the premises and surrounding areas for visibility and to reduce hidden areas;
- e) lighting must not interfere with traffic safety;
- f) lighting must not give rise to obtrusive light or have adverse impacts on the amenity of surrounding properties; and
- g) external lighting must not flash or intermittently illuminate unless required for safe ingress/egress of vehicles crossing a pedestrian footway or approved vehicle entrance.

Condition reason - To ensure external lighting is provided for safety reasons and to protect the amenity of the local area.

- (26) **Detailed Design to be in accordance with acoustic requirements** - Before the issue of a construction certificate, an appropriately qualified acoustic consultant must confirm the required noise mitigation measures as referenced in the Noise Impact Assessment prepared by Engineering Sciences (Reference J1069, dated 30 January 2025). The construction plans complying with these recommendations must be submitted to the certifier.

Condition reason - To appropriate acoustic measures are implemented in the detailed design.

- (27) **Design Verification** - A design verification statement from a qualified NSW Registered Architect must be submitted to the Certifying Authority confirming the Construction Certificate plans and specifications are consistent with the Development Application approval, prior to the issue of a construction certificate.

Condition reason - To ensure that the Construction Certificate plans are verified.

- (28) **Compliance with the Design and Building Practitioners Act** - Prior to the issue of a Construction Certificate, the following matters are to be complied with and details provided to the certifying authority:

- 1. Regulated design plans shall be lodged on the NSW Planning Portal as prepared by a registered design practitioner as per the Design and Building Practitioners Act 2020. The plans shall demonstrate compliance with the National Construction Code (NCC).
- 2. Provide design compliance declarations from a registered design practitioner as per the Design and Building Practitioners Act 2020. These declarations are for the regulated design plans and for any engineering details provided.
- 3. Regulated structural design plans shall be lodged on the NSW Planning Portal as prepared by a registered design practitioner- structural engineering as per the Design and Building Practitioners Act 2020.
- 4. Provide details of the registered building practitioner who is the person who agrees to do or oversee the building work subject of this approval.

Condition reason – To ensure relevant legislation is compliant with.

Before building work commences

- (29) **Home Building Act requirements** - 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 relates (not being the council) has given the council written notice of the following information —
- a) In the case of work for which a principal contractor is required to be appointed—
 - (i) the name and licence 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—
 - (iii) the name of the owner-builder, and
 - (iv) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified 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 Council) has given the Council written notice of the updated information.

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.

- (30) **Compliance with Home Building Act (if applicable)**- In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.

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.

- (31) **Notice of Principal Certifying Authority appointment** – 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:

- 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
 - i) the certifier's registration number, and
 - ii) a statement signed by the registered certifier to the effect that the certifier consents to being appointed as principal certifier, and
 - iii) a telephone number on which the certifier may be contacted for business purposes.

The notice must be lodged on the NSW planning portal.

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 2 days prior to subdivision and/or building works commencing in accordance with S6.6(2)(a) of the EP&A Act 1979.

- (32) **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:

- a) the name and address of the person;
- b) a description of the work to be carried out;
- 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 the work commences have been satisfied; and
- f) the date on which the work is intended to commence.

The notice must be lodged on the NSW planning portal.

Condition reason - To ensure that the Principal Certifier has given notice to the Consent Authority and Council at least 2 days prior to subdivision and/or building works commencing in accordance with S6.6(2)(a) of the EP&A Act 1979 & Section 57 of the EP&A Regulations 2021.

- (33) **Construction Certificate Required** – 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:

- 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; 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.

Condition reason - To ensure that a Construction Certificate has been issued for the building works prior to the commencement of work.

- (34) **Site is to be secured** – 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.

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.

- (35) **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.

- (36) **Rubbish generated from the development** – 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.

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 site.

- (37) **Public liability insurance** – 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.

Condition reason - To verify that the owner or contractor has a Public Liability Insurance Policy where there are works over public property.

- (38) **Dilapidation report** - 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.

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 certifier, that all reasonable steps were taken to obtain access to the adjoining properties.

No less than 7 days before any site work commences, adjoining building owner(s) must be provided with a copy of the dilapidation report for their property(ies) and a copy of the report(s) must be provided to council (where council is not the principal certifier) at the same time.

Condition reason - To establish and document the structural condition of adjoining properties and public land for comparison as site work progresses and is completed and ensure neighbours and council are provided with the dilapidation report.

During building work

- (39) **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.

- (40) **Hours of work** – Site work must only be carried out between the following times –

7:00am to 5:00pm on Monday to Saturday

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.

Condition reason - To protect the amenity of the surrounding area.

- (41) **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.

- (42) **Compliance with the Building Code of Australia** – Building work must be carried out in accordance with the requirements of the Building Code of Australia.

Condition reason - To ensure that the development is undertaken in accordance with the Building Code of Australia.

- (43) **Excavations and backfilling** – 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.

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:

- 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 owner before excavating, of the intention to excavate.

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.

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.

Condition reason - To ensure that all excavations and backfilling are safely and appropriately protected.

- (44) **Building height** – 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.

Condition reason - To ensure that the maximum building height of the structures on site are compliant with the consent and in accordance with the approved plans.

- (45) **Surveys by a registered surveyor** – While building work is being carried out, the positions of the following must be measured and marked by a registered surveyor and provided to the principal certifier:

- a) All footings/ foundations in relation to the site boundaries and any registered and proposed easements
- b) At other stages of construction – any marks that are required by the principal certifier.

Condition reason - To ensure buildings are sited and positioned in the approved location

- (46) **Construction Site Management Plan implementation** - All construction management procedures and systems identified in the approved Construction Site Management Plan and Construction Noise Management Plan (prepared by Engineering Sciences, reference J1069, dated 30/01/2025) must be introduced during construction of the development to protect the public and the surrounding environment, during site works and construction.

Condition reason – To ensure the Construction Site Management Plan and Construction Noise Management Plan is implemented during works.

- (47) **Stormwater disposal** – Following the installation of any roof, collected stormwater runoff from the structure must be:

- a) Diverted through a first flush system before being connected to an existing stormwater easement/system/street.

Condition reason – To ensure stormwater is collected and discharged appropriately.

- (48) **Unexpected finds contingency (general)** – The Unexpected Finds Protocol prepared by Tetra Tech Coffey (Reference: 754-NTLGE368007-AD, dated 14 October 2024) should be implemented in that event that any suspect materials (identified by unusual staining, odour, discolouration or inclusions such as building rubble, asbestos, ash material, etc.) are encountered during any stage of works (including earthworks, site preparation or construction works, etc.). Works must cease immediately until a qualified environmental specialist has been contacted and conducted a thorough assessment.

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.

Where remediation work is required, the applicant will be required to obtain consent for the remediation works.

Condition reason - To ensure that works relating to a development are to cease if any suspect materials are remediated in accordance with Council requirements.

- (49) **Erosion and sediment controls in place** – Before any site work commences, the principal certifier, must be satisfied the erosion and sediment controls in the erosion and sediment control plan are in place. These controls must remain in place until any bare earth has been restabilised in accordance with 'Managing Urban Stormwater: Soils and Construction' prepared by Landcom (the Blue Book) (as amended from time to time).

Condition reason - To ensure sediment laden runoff and site debris do not impact local stormwater systems and waterways.

- (50) **Offensive noise, dust, odour and vibration** – All work must not give rise to offensive noise, dust, odour or vibration as defined in the Protection of the Environment Operations Act 1997 when measured at the nearest property boundary.

Condition reason - To ensure that developments do not give rise to offensive noise, dust, odour, or vibration.

- (51) **Construction noise** – While building work is being carried out, and where a noise and vibration management plan is approved under this consent, the applicant must ensure that any noise generated from the site is controlled in accordance with the requirements of that plan.

Condition reason - To ensure that developments do not give rise to offensive noise impacts during works.

- (52) **Uncovering relics or Aboriginal objects** - While site work is being carried out, if a person reasonably suspects a relic of Aboriginal object is discovered:

- a) the work in the area of the discovery must cease immediately;
- b) the following must be notified
 - 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.

Site work may recommence at a time confirmed in writing by:

- 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.

- (53) **Shoring and adequacy of adjoining property** - 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 —

- a) Protect and support the building, structure or work from possible damage from the excavation, and
- b) Where necessary, underpin the building, structure or work to prevent any such damage.

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.

Condition reason – To ensure appropriate measures are undertaken to protect adjoining properties during excavation.

- (54) **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.

- (55) **Cut and fill** – 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:

- (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.

Before issue of an occupation certificate

- (56) **Occupation Certificate required** - An Occupation Certificate must be obtained prior to any use or occupation of the development.

The Principal Certifying Authority must be satisfied that the development has been constructed in accordance with approved plans, specifications and conditions of this consent.

Condition reason - To ensure that an Occupation Certificate relating to the development has been provided to the Principal Certifying Authority.

- (57) **Survey 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.

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.

- (58) **Footpath crossing construction** – A footpath crossing and driveway must be constructed in accordance with this consent and the approved Construction Certificate prior to use or occupation of the development.

Note: A Works on Public Infrastructure (Driveway) approval must be obtained prior to the commencement of such works.

Condition reason - To require the developer to construct a footpath crossing and driveway in accordance with the approved plans.

- (59) **Services** – Evidence is to be provided to Council demonstrating that the following reticulated services are available to each lot:

- a) Electricity;
- b) Water;
- c) Sewer; and
- d) Gas (where available).

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.

Condition reason - To verify that reticulated services are provided to the lot/s.

- (60) **Stormwater/drainage works** – All stormwater and drainage works required to be undertaken in accordance with this consent must be completed.

The certification/verification must be provided to the satisfaction of the Principal Certifying Authority.

Condition reason - To ensure stormwater and drainage works have been undertaken in accordance with the approved plans.

- (61) **Repair of infrastructure** – Before the issue of an occupation certificate, the applicant must ensure any public infrastructure damaged as a result of the carrying out of building works (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concreting vehicles) is fully repaired to the written satisfaction of Council, and at no cost to Council.

Note: If the council is not satisfied, the whole or part of the bond submitted will be used to cover the rectification work.

Condition reason - To ensure that any damage resulting to public infrastructure is appropriately rectified at no cost to the Council.

- (62) **Completion of Roads Act Approval works** - 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.

Condition reason - To ensure that approved works within the road reserve have been completed to the satisfaction of the Council.

- (63) **Works as Executed Plans and any other documentary evidence** - 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:

- (a) All stormwater drainage systems and storage systems

The principal certifier must provide a copy of the plans to Council with the occupation certificate.

Condition Reason - To ensure work has been completed in accordance with the development consent.

- (64) **Completion of landscape and tree works** – 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.

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.

- (65) **Car parking requirements** – A minimum of 83 car parking spaces including 1 accessible car parking space is to be provided in accordance with AS2890 and the approved plans. Parking must be permanently marked on the pavement surface.

The parking spaces marked with a 'V' on the ground floor are required for visitors and must be signposted as "visitor parking".

Stacked car parking spaces must be allocated to a single unit.

Parking associated with the commercial premises but be signed posted as such.

- (66) **Car parking requirements – Electric Vehicle** – All car parking spaces associated with residential units must be provided with electrical circuitry that has the capacity to provide charging facilities for an electric vehicle.

Condition reason - To ensure compliance with control B8.20 of the Port Stephens Development Control Plan.

- (67) **Bicycle requirements** – A bicycle parking rack must be installed in accordance with the approved plans.

Condition reason - To ensure that bicycle parking is provided in accordance with the approved plans and they are compliant with Council requirements.

- (68) **Loading/unloading facilities** – Loading /unloading facilities must be constructed in accordance with the approved plans. The extent of the loading bay must be permanently marked on the pavement surface.

Condition reason - To ensure that all loading and unloading facilities are constructed in accordance with the approved plans and are compliant with Council requirements.

- (69) **SEPP 65 – Design verification** – Prior to the issue of an Occupation Certificate, a design verification statement from a qualified designer must be submitted to the Certifying Authority confirming the final design is consistent with the Development Application approval.

Condition reason - To ensure that verification by a qualified designer for a proposed Residential Flat Building in accordance with the Environmental Planning and Assessment Regulation 2021 has been provided.

- (70) **Noise Mitigation Measures** – Prior to the issue of any occupation certificate, a suitably qualified acoustic consultant is to provide verification that appropriate noise mitigation measures have been adopted/incorporated and/or confirm all installed noise generating mechanical ventilation system(s), roof extraction and carpark exhaust are positioned, sound proofed or acoustically attenuated to ensure any noise generated from the mechanical systems does not exceed any recognised background noise (RBL) +5dBA values.

Condition reason - To ensure that appropriate noise mitigation measures are installed, if required.

- (71) **Water authority certification** - Before the issue of an occupation certificate, a certificate of compliance must be obtained in relation to the proposed use(s) from Hunter Water.

Condition reason - To ensure compliance with the water supply authority's requirements.

- (72) **Post-Construction Dilapidation report** - Before the issue of an occupation certificate, a suitably qualified engineer must prepare a post-construction dilapidation report, to the satisfaction of the principal certifier, detailing whether:
- after comparing the pre-construction dilapidation report to the post-construction dilapidation report required under this consent, if there has been any structural damage to any adjoining buildings; and
 - where there has been structural damage to any adjoining buildings, that it is a result of the building work approved under this development consent.

Before the issue of an occupation certificate, the principal certifier is to provide a copy of the post-construction dilapidation report to Council (where Council is not the principal certifier) and to the relevant adjoining property owner(s).

Condition reason - To ensure a post-construction dilapidation report is prepared.

- (73) **Design and Building Practitioners Act** - Prior to the issue of an Occupation Certificate, the following matters are to be complied with:

- Provide to Principal Certifying Authority building compliance declarations from the registered building practitioner confirming that the building work has been constructed in accordance with the declared designs and the work complies with the Building Code of Australia.
- Comply with Section 7 of the Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020 with respect to notification of the intent to complete the building work. This must occur at least 6 months and no more than 12 months 'before an application is made for an occupation certificate. If the building work is expected to be completed within 6 months, the 'expected completion notice' must be lodged with the Secretary (Department of Customer Service) on the NSW Planning Portal, within 30 days of the commencement of that building work. An application for an occupation certificate cannot be made until such time as the expected completion notice has been provided to the Secretary pursuant to the above legislation.

Condition reason - To ensure compliance with the Design and Building Practitioners Act.

Occupation and ongoing use

- (74) **Maneuvering 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.

- (75) **Parking areas to be kept clear** – 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.

Condition reason - To ensure that all associated areas with vehicle storage/parking are kept clear and solely for their intended purpose.

- (76) **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.

- (77) **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.

- (78) **Display of goods on footpath** – No goods are to be displayed outside the confines of the building.

Condition reason - To ensure that no goods are displayed outside the confines of the building.

- (79) **Hours of operation** – The property is only to be open for business and used for the purpose approved within the following hours:

Day	Hours of Operation
Monday – Sunday including public holidays	6:00am – 9:00pm

Other internal operations such as cleaning, preparation, and office administration may be undertaken outside of the above hours provided no disturbance to the amenity of the neighbourhood occurs.

Condition reason – To identify approved business hours.

- (80) **Loading to occur on site** – All loading and unloading operations are to be carried out wholly within the building/site and in accordance with the approved plans.

The loading dock (if provided) must be used for loading and unloading operations in connection with the approved use.

Condition reason - To ensure that all associated areas with vehicle storage/parking are kept clear and solely for their intended purpose.

- (81) **Parking – Signage (loading docks)** – Proposed parking areas, service bays, truck docks, driveways and turning areas must be maintained clear of obstructions and be used exclusively for purposes of car parking, loading/ unloading, and vehicle access respectively for the life of the development. Under no circumstances are such areas to be used for the storage of goods or waste materials.

Condition reason - To ensure that all associated areas with vehicle storage/parking are kept clear and solely for their intended purpose.

- (82) **Amenity** – The business must be conducted, and customers controlled at all times so that no interference occurs to the amenity of the area, the footpath, adjoining occupations and residential or business premises.

Condition reason - To ensure that no interference occurs to the amenity of the area.

- (83) **Stormwater System Operation and Maintenance Procedure Plan** – The development must be operated in accordance with the Stormwater System Operation and Maintenance Procedure Plan required by condition 14 of this consent.

Strata Subdivision

Before issue of a strata certificate

- (84) **Strata Plan of Subdivision** – Part 4 of the Strata Schemes Development Act 2015 No 51 require an application to be provided to Council for approval prior to the issue of the certified Strata Plan of subdivision.

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 [16-2024-587-1], and of compliance with the relevant conditions of consent, prior to the issuing of a Strata Plan of Subdivision.

Note: The final Strata Plan of Subdivision must be prepared to a quality suitable for lodgement with the NSW Land Registry Services.

Condition reason - To enable the Strata subdivision of buildings and ensure compliance with the relevant development consent.

- (85) **Restriction on issue of Strata Plan of Subdivision** – An Occupation Certificate for the building must be issued by the PCA prior to the issue of any Strata Plan of subdivision associated with this development consent [16-2024-587-1].

Documentary evidence of the issue of the Occupation Certificate must be provided to Council in conjunction with the application for the Strata Plan of Subdivision.

Condition reason - To ensure an Occupation Certificate has been provided to Council in conjunction with the strata subdivision in accordance with the relevant development consent.

- (86) **Show easements / restrictions on the Plan of Subdivision** - The developer must acknowledge all existing easements and/or restrictions on the use of the land on the final plan of subdivision.

Condition reason - To ensure that all existing easements and/or restrictions on the use of land are shown on the final plan of subdivision.

- (87) **Services** – Evidence is to be provided to Council demonstrating that the following reticulated services are available to each lot:

- a) Electricity.
- b) Water.
- c) Sewer.
- d) Gas (where available).

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.

Condition reason - To ensure that evidence of connection of services is provided to Council.

- (88) **Stacked parking** – Stacked car parking spaces must be allocated to a single unit. The strata plan of subdivision must reflect this.

Condition reason - To ensure that stacked car parking spaces are allocated to a single unit.

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](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. **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.
4. **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.
5. **Street Numbering** – 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. Note: any referencing on Development Application plans to house or lot numbering operates to provide identification for assessment purposes only.