

<b>DATE OF DETERMINATION</b>	1 June 2022
<b>DATE OF PANEL DECISION</b>	31 May 2022
<b>PANEL MEMBERS</b>	Alison McCabe (Chair), Juliet Grant, John Brockhoff and Jason Pauling
<b>APOLOGIES</b>	Roberta Ryan
<b>DECLARATIONS OF INTEREST</b>	Sandra Hutton declared a conflict of interest as she was employed by the applicant's planning consultant, ADW Johnson, at the time of lodgment

Papers circulated electronically on 27 April 2022.

**MATTER DETERMINED**

PPSHCC-90 – Lake Macquarie – DA/2294/2021 at 2A Maude Street, Belmont – seniors 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 has had the benefit of a number of briefings from Council and the applicant, including a final briefing before the Panel deliberated on the matter.

In reviewing the assessment report, it was clear that an acid sulphate soils management plan had not been prepared and the Panel could not be satisfied that the provisions of Clause 7.1 Acid Sulphate Soils of the LMLEP 2014 had been properly considered. The Panel was informed that a plan had been prepared and was to be submitted to Council imminently.

Furthermore, GTAs from NRAR had not been received, but were also understood to be imminent.

Arising from the briefing and review of the assessment report the Panel requested further information regarding:

- GTAs.
- Acid sulphate soils management plan.
- Timing of the stormwater upgrade work.
- Measures to mitigate light spill.
- Age reference for Seniors i.e., 55 years or 60 years.

A memo dated 18 May 2022 was prepared and considered by the Panel. The memo noted that GTAs and an Acid Sulphate Soils Management Plan had been received. Additional conditions addressing the above matters were included in the conditions attached to the memo.

The site is located next to an active and important recreational facility and the Panel has had regard to the future operation and plans for this adjoining area.

Given the scale of the development and the likely timeframe for construction, the Panel considers it is important that the development include electric charging points to enable an easier transition to EV in the future. The condition will require four (4) spaces (equivalent to 5%).

The Panel considers that the bulk, scale, and massing of the development is appropriate for its context. The interfaces with the adjoining recreational areas are well resolved.

The Panel is satisfied that the Clause 4.6 Exception to Development Standards has demonstrated sufficient environmental planning grounds to support a variation in the building height.

The development relies on upgrades to the stormwater system outside of the site boundaries and subject to a separate approval framework. These upgrades have been considered in the Panel's consideration and conditions imposed regarding timing of stormwater works.

The Panel is satisfied that the development is well designed, well located, and compatible with the character of the surrounding area.

### **Application to vary a development standard**

Following consideration of a written request from the applicant, made under Clause 4.6 (3) of the Lake Macquarie Local Environmental Plan 2014 (LEP), that has demonstrated that:

- a) Compliance with Clause 4.3 (Height of Buildings) is unreasonable or unnecessary in the circumstances; and
- b) There are sufficient environmental planning grounds to justify contravening the development standard.

The Panel is satisfied that:

- a) The applicant's written request adequately addresses the matters required to be addressed under Clause 4.6 (3) of the LEP; and
- b) The development is in the public interest because it is consistent with the objectives of Clause 4.3 (Height of Buildings) of the LEP and the objectives for development in the RE2 zone; and
- c) The concurrence of the Secretary has been assumed.

### **Development application**

The Panel determined to uphold the Clause 4.6 Variation to Building Height and to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979* subject to the conditions in Schedule 2.

The decision was unanimous.

### **REASONS FOR THE DECISION**

The Panel determined to uphold the Clause 4.6 Variation to Building Height and approve the application for the following reasons:

- The proposal contributes to housing diversity in an accessible location.
- The impacts of the development are reasonable and can be appropriately mitigated.
- The site is suitable for the scale and form of development.
- The interfaces with adjoining development can be managed.

### **CONDITIONS**

The Development Application was approved subject to the conditions in Schedule 2. The conditions have been amended from those attached to the Council Report to address:



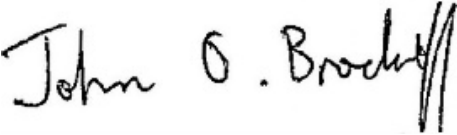

- GTAs.
- Acid sulphate soils.
- Timing of stormwater work.
- Light spill.
- Electric vehicle charging points.
- Specify age for Seniors Living.

**CONSIDERATION OF COMMUNITY VIEWS**

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from all those wishing to address the Panel. The Panel notes that issues of concern included:

- Housing affordability
- Urban design and site prominence
- Access to exhibition documents

The Panel considers that concerns raised by the community have been adequately addressed in the assessment report.

PANEL MEMBERS	
 Alison McCabe (Chair)	 Juliet Grant
 John Brockhoff	 Jason Pauling

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSHCC-90 – Lake Macquarie – DA/2294/2021
2	PROPOSED DEVELOPMENT	Seniors housing – Independent living units in a residential flat building form
3	STREET ADDRESS	2A Maude Street, Belmont
4	APPLICANT OWNER	OTH Developments Pty Ltd Belmont 88 Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>• Environmental planning instruments: <ul style="list-style-type: none"> <li>○ State Environmental Planning Policy (Planning Systems) 2021</li> <li>○ State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>○ State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>○ State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>○ State Environmental Planning Policy (SEPP) No. 65 – Design Quality of Residential Apartment Building</li> <li>○ Lake Macquarie Local Environmental Plan 2014</li> </ul> </li> <li>• Draft environmental planning instruments</li> <li>• Development control plans: <ul style="list-style-type: none"> <li>○ Lake Macquarie Development Control Plan 2014</li> </ul> </li> <li>• Planning agreements: Nil</li> <li>• Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i></li> <li>• Coastal zone management plan: Nil</li> <li>• The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>• The suitability of the site for the development</li> <li>• Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>• The public interest, including the principles of ecologically sustainable development</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>• Council Assessment Report: 27 April 2022</li> <li>• Clause 4.6 variation request prepared by ADW Johnson: September 2021</li> <li>• Supplementary Council Assessment Report: 18 May 2022</li> <li>• Written submissions during public exhibition: one</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>• Briefing – kick off: 13 October 2021 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Alison McCabe (Chair), Juliet Grant and Roberta Ryan</li> <li>○ <u>Applicant representatives</u>: Lucinda Warner, Dylan Veldman and Joel Chamberlain</li> <li>○ <u>Council assessment staff</u>: Geoffrey Keech, Amy Regado and Elizabeth Lambert</li> <li>○ <u>Department staff</u>: Alexandra Hafner, Leanne Harris, Angela Kenna and Lisa Foley</li> </ul> </li> <li>• Site inspections: <ul style="list-style-type: none"> <li>○ <u>Alison McCabe (Chair)</u>: 21 January 2022</li> <li>○ <u>Juliet Grant</u>: 1 November 2021</li> <li>○ <u>John Brockhoff</u>: 1 December 2021</li> <li>○ <u>Jason Pauling</u>: 17 December 2021</li> </ul> </li> </ul>

		<ul style="list-style-type: none"> <li>• Briefing – assessment stage: 8 December 2021 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Alison McCabe (Chair), Juliet Grant, John Brockhoff and Roberta Ryan</li> <li>○ <u>Council assessment staff</u>: Geoffrey Keech and Amy Regado</li> <li>○ <u>Department staff</u>: Leanne Harris</li> </ul> </li> <li>• Briefing – assessment stage: 3 March 2021 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Alison McCabe (Chair), Juliet Grant, John Brockhoff and Jason Pauling</li> <li>○ <u>Council assessment staff</u>: Geoffrey Keech and Amy Regado</li> <li>○ <u>Department staff</u>: Leanne Harris and Lisa Foley</li> <li>○ <u>Applicant representatives</u>: Dylan Veldman, Angus Brien, Danielle Nicol, Joel Chamberlain and Adam Crampton</li> </ul> </li> <li>• Final briefing to discuss council’s recommendation: 4 May 2022 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Alison McCabe (Chair), Juliet Grant and John Brockhoff</li> <li>○ <u>Council assessment staff</u>: Geoffrey Keech and Amy Regado</li> <li><u>Department staff</u>: Carolyn Hunt, Leanne Harris and Lisa Foley</li> </ul> </li> <li>• Applicant Briefing: 4 May 2022 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Alison McCabe (Chair), Juliet Grant, John Brockhoff and Jason Pauling</li> <li>○ <u>Council assessment staff</u>: Geoffrey Keech and Amy Regado</li> <li><u>Department staff</u>: Carolyn Hunt, Leanne Harris and Lisa Foley</li> <li>○ <u>Applicant representatives</u>: Dylan Veldman, Angus Brien, Joel Chamberlain and Adam Crampton</li> </ul> <p><u>Note</u>: Applicant briefing was requested to respond to the recommendation in the council assessment report</p> </li> </ul>
9	<b>COUNCIL RECOMMENDATION</b>	Approval
10	<b>DRAFT CONDITIONS</b>	Attached to supplementary Council assessment report dated 18 May 2022

## SCHEDULE 2

### Conditions of Consent

(Approved subject to the conditions specified in this notice and in accordance with the stamped approved plans.)

### Reason for the Imposition of Conditions

The reason for the imposition of the following conditions shall ensure, to Council's satisfaction, the objects of the *Environmental Planning and Assessment Act 1979* (as amended) are achieved:

To encourage:

- a) The proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forest, minerals, water, cities, towns, and villages for the purpose of promoting the social and economic welfare of the community and a better environment;
  - i. The promotion and co-ordination of the orderly and economic use of development of land;
  - ii. The protection, provision, and co-ordination of communication and utility services;
  - iii. The provision of land for public purposes;
  - iv. The provision and co-ordination of community services and facilities;
  - v. The protection of the environment, including the protection and conservation of native animals and plants including threatened species, populations, and ecological communities and their habitats;
  - vi. Ecologically Sustainable Development; and
  - vii. The provision and maintenance of affordable housing.
- b) To promote the sharing of the responsibility for environmental planning between the different levels of government in the State.
- c) To provide increased opportunity for public involvement and participation in environmental planning and assessment.

### Administrative Conditions

#### 1. Prescribed Conditions

- a) The work shall be carried out in accordance with the requirements of the *Building Code of Australia*.
- b) In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
- c) A sign shall be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- i. showing the name, address and telephone number of the Certifying Authority for the work, and
- ii. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- iii. stating that unauthorised entry to the work site is prohibited.

Any such sign shall be maintained while the building work, subdivision work or demolition work is being carried out, but shall be removed when the work has been completed.

- d) Residential building work within the meaning of the *Home Building Act 1989* shall not be carried out unless the Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
  - i. in the case of work for which a principal contractor is required to be appointed:
    - a. the name and licence number of the principal contractor, and
    - b. the name of the insurer by which the work is insured under Part 6 of that Act,
  - ii. in the case of work to be done by an owner-builder:
    - a. the name of the owner-builder, and
    - b. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so the information notified under (d) becomes out of date, further work must not be carried out unless the Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

## 2. Approved Documentation

The development consent incorporates this schedule of conditions and the plans and documents referenced and stamped as follows:

- a) Plans Reference:

Architectural Plans prepared by CKDS; Project Number: 20120			
Name of Plan	Drawing Number	Revision	Date
Site plan	A-1001	04	7/2/22
Basement plan	A-1101	04	7/2/22
Ground floor plan	A-1102	04	7/2/22
First floor plan	A-1103	04	7/2/22
Second floor plan	A-1104	04	7/2/22
Roof plan	A-1105	04	7/2/22
Typ. 2 Bedroom (A)	A-1201	04	7/2/22
Typ. 2 Bedroom (B)	A-1202	04	7/2/22
Typ. 2 Bedroom + study (A)	A-1203	04	7/2/22

Typ. 2 Bedroom + study (B)	A-1204	04	7/2/22
Typ. 2 Bedroom + study (C)	A-1205	04	7/2/22
Typ. 3 Bedroom	A-1206	04	7/2/22
Elevations 1-3	A-2001	04	7/2/22
Elevations 2-6	A-2002	04	7/2/22
Sections	A-3001	04	7/2/22
Detailed section 1	A-3101	04	7/2/22
Materiality and perspective	A-5001	04	7/2/22
Materiality and perspective	A-5002	04	7/2/22
Glover Street entry	A-6002	04	7/2/22
Window schedule ground floor	A-7002	04	7/2/22
Window schedule first floor	A-7003	04	7/2/22
Window schedule second floor	A-7004	04	7/2/22

Engineering Plans prepared by: Northrop; Project No: NL183048-01			
<b>Name of Plan</b>	<b>Drawing Number</b>	<b>Issue</b>	<b>Date</b>
Concept erosion and sediment control plan	DAC02.01	C	01.12.2021
Concept erosion and sediment control details	DAC02.11	B	06.09.2021
Concept erosion and sediment control notes	DAC02.12	B	01.12.2021
Concept stormwater management and levels plan – basement	DAC03.02	B	06.09.2021
Concept stormwater management and levels plan – ground	DAC03.01	E	25.03.2022
Concept bulk earthworks plan	DAC04.01	B	06.09 2021
Concept civil details	DAC05.01	B	06.09.2021



Concept driveway longitudinal section	DAC06.01	B	24.03.22
Pipe network (with Council annotation)	DAC08.01	A	25.03.2022

Landscape Plans prepared by: Xeriscapes; Project No: 21071			
Name of Plan	Drawing Number	Issue	Date
Tree management plan	L001	A	27.08.2021
Landscape Plan	L101	G	17.11.2021
Indicative plant schedule	L301	B	06.09.2021

b) Document Reference:

Document	Reference	Author	Date
Report on desktop groundwater assessment proposed residential development	205363.02.R.001.Rev0	Douglas Partners	15 March 2022
Waste Management Plan	2A Maude Street, Belmont	MRA Consulting Group	08/02/2022
Aboriginal heritage due diligence report	HN355-A	Heritage Now	16/11/2021
Arborist report	2A Maude Street, Belmont	Abacus Tree Services	23 September 2021
Tree protection plan	2A Maude Street, Belmont	Abacus Tree Services	23 September 2021
Report on contamination testing (including remediation action plan)	205363.00 R.002.Rev0	Douglas Partners	21 July 2021
Stormwater and flood management assessment	NL183048-01	Northrop	6 September 2021
Preliminary Geotechnical investigation	205363.00 R.003.Rev0	Douglas Partners	26 July 2021
Noise impact assessment	212129-9347-R2	Spectrum Acoustics	20 August 2021

CPTED report	Seniors housing facility – Maude Street, Belmont	James Marshall & Co	July 2021
Social Impact Assessment	Seniors housing development – Maude Street, Belmont NSW	AIGIS Group	August 2021
Acid sulfate soil management plan	2A Maude Street, Belmont	Northrop	May 2022

Details of the development shown in the approved plans and documents referenced are altered in the manner indicated by:

- i. Any amendments made by Council on the approved plans or documents;
- ii. Any notes, markings, or stamps on approved plans or documents, and
- iii. Any conditions contained in this consent.

## General Terms of Approval and Concurrence Requirements

### 3. General Terms of Approval

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

- Water NSW

### 4. Water NSW – General Terms of Approval

WaterNSW has granted General Terms of Approval for the proposed development (Reference Number IDAS1142581) under s91 of the Water management Act, subject to the following conditions:

#### Dewatering

- (a) Groundwater must only be pumped or extracted for the purpose of temporary construction dewatering at the site identified in the development application. For clarity, the purpose for which this approval is granted is only for dewatering that is required for the construction phase of the development and not for any dewatering that is required once construction is completed.
- (b) Before any construction certificate is issued for any excavation under the development consent, the applicant must:
  - (i) apply to WaterNSW for, and obtain, an approval under the Water Management Act 2000 or Water Act 1912, for any water supply works required by the development; and
  - (ii) notify WaterNSW of the programme for the dewatering activity to include the commencement and proposed completion date of the dewatering activity

#### Advisory Note:

- (iii) An approval under the Water Management Act 2000 is required to construct and/or install the water supply works. For the avoidance of doubt, these General Terms of Approval do not represent any authorisation for the take of

groundwater, nor do they constitute the grant or the indication of an intention to grant, any required Water Access Licence (WAL). A WAL is required to lawfully take more than 3ML of water per water year as part of the dewatering activity.

- (iv) A water use approval may also be required, unless the use of the water is for a purpose for which a development consent is in force.
- (c) A water access licence, for the relevant water source, must be obtained prior to extracting more than 3ML per water year of water as part of the construction dewatering activity.

Advisory Notes:

- (i) This approval is not a water access licence.
  - (ii) A water year commences on 1 July each year.
  - (iii) This approval may contain an extraction limit which may also restrict the ability to take more than 3ML per water year without further information being provided to WaterNSW.
  - (iv) Note that certain water sources may be exempted from this requirement - see paragraph 17A, Schedule 4 of the Water Management (General) Regulation 2018.
- (d) If no water access licence is obtained for the first 3ML / year (or less) of water extracted, then, in accordance with clause 21(6), Water Management (General) Regulation 2018, the applicant must:
    - (i) record water taken for which the exemption is claimed, and
    - (ii) record the take of water not later than 24 hours after water is taken, and
    - (iii) make the record on WAL exemption form located on WaterNSW website "Record of groundwater take under exemption", and
    - (iv) keep the record for a period of 5 years, and
    - (v) give the record to WaterNSW either via email to [Customer.Helpdesk@waternsw.com.au](mailto:Customer.Helpdesk@waternsw.com.au) or post completed forms to - PO Box 398 Parramatta NSW 2124
      - i. not later than 28 days after the end of the water year (being 30 June) in which the water was taken, or
      - ii. if WaterNSW directs the person in writing to give the record to WaterNSW on an earlier date, by that date.
  - (e) All extracted groundwater must be discharged from the site in accordance with Council requirements for stormwater drainage or in accordance with any applicable trade waste agreement.
  - (f) The design and construction of the building must prevent:
    - (i) any take of groundwater, following the grant of an occupation certificate (and completion of construction of development), by making any below-ground levels that may be impacted by any water table fully watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent potential future inundation;
    - (ii) obstruction to groundwater flow, by using sufficient permanent drainage beneath and around the outside of the watertight structure to ensure that any groundwater mounding shall not be greater than 10 % above the pre-development level; and
    - (iii) any elevated water table from rising to within 1.0 m below the natural ground surface.

- (g) Construction phase monitoring bore requirements GTA:
- (i) A minimum of three monitoring bore locations are required at or around the subject property, unless otherwise agreed by WaterNSW.
  - (ii) The location and number of proposed monitoring bores must be submitted for approval, to WaterNSW with the water supply work application.
  - (iii) The monitoring bores must be installed and maintained as required by the water supply work approval.
  - (iv) The monitoring bores must be protected from construction damage.
- (h) Construction Phase Monitoring programme and content:
- (i) A monitoring programme must be submitted, for approval, to WaterNSW with the water supply work application. The monitoring programme must, unless agreed otherwise in writing by WaterNSW, include matters set out in any Guide published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no Guide is current or published, the monitoring programme must include the following (unless otherwise agreed in writing by WaterNSW):
    - i. Pre-application measurement requirements: The results of groundwater measurements on or around the site, with a minimum of 3 bore locations, over a minimum period of 3 months in the six months prior to the submission of the approval to WaterNSW.
    - ii. Field measurements: Include provision for testing electrical conductivity; temperature; pH; redox potential and standing water level of the groundwater;
    - iii. Water quality: Include a programme for water quality testing which includes testing for those analytes as required by WaterNSW;
    - iv. QA: Include details of quality assurance and control
    - v. Lab assurance: Include a requirement for the testing by National Association of Testing Authorities accredited laboratories.
  - (ii) The applicant must comply with the monitoring programme as approved by WaterNSW for the duration of the water supply work approval (Approved Monitoring Programme)
- (i) Prior to the issuing of the occupation certificate, and following the completion of the dewatering activity, and any monitoring required under the Approved Monitoring Programme, the applicant must submit a completion report to WaterNSW.
- The completion report must, unless agreed otherwise in writing by WaterNSW, include matters set out in any guideline published by the NSW Department of Planning Industry and Environment in relation to groundwater investigations and monitoring. Where no guideline is current or published, the completion report must include the following (unless otherwise agreed in writing by WaterNSW):
- (i) All results from the Approved Monitoring Programme; and
  - (ii) Any other information required on the WaterNSW completion report form as updated from time to time on the WaterNSW website.
- The completion report must be submitted using "Completion Report for Dewatering work form" located on WaterNSW website [www.waternsw.com.au/customer-service/water-licensing/dewatering](http://www.waternsw.com.au/customer-service/water-licensing/dewatering)
- (j) The extraction limit shall be set at a total of 3ML per water year (being from 1 July to 30 June). The applicant may apply to WaterNSW to increase the extraction limit under this condition. Any application to increase the extraction limit must be in writing and provide

all information required for a hydrogeological assessment. Advisory note: Any application to increase the extraction limit should include the following: - Groundwater investigation report describing the groundwater conditions beneath and around the site and subsurface conceptualisation - Survey plan showing ground surface elevation across the site - Architectural drawings showing basement dimensions - Environmental site assessment report for any sites containing contaminated soil or groundwater (apart from acid sulphate soils (ASS)) - Laboratory test results for soil sampling testing for ASS - If ASS, details of proposed management and treatment of soil and groundwater. Testing and management should align with the NSW Acid Sulphate Soil Manual

- (k) Any dewatering activity approved under this approval shall cease after a period of two (2) years from the date of this approval, unless otherwise agreed in writing by WaterNSW (Term of the dewatering approval).

Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.

- (l) This approval must be surrendered after compliance with all conditions of this approval, and prior to the expiry of the Term of the dewatering approval, in condition GT0151-00001.

Advisory note: an extension of this approval may be applied for within 6 months of the expiry of Term.

- (m) The following construction phase monitoring requirements apply (Works Approval):

- (i) The monitoring bores must be installed in accordance with the number and location shown, as modified by this approval, unless otherwise agreed in writing with WaterNSW.
- (ii) The applicant must comply with the monitoring programme as amended by this approval (Approved Monitoring Programme).
- (iii) The applicant must submit all results from the Approved Monitoring Programme, to WaterNSW, as part of the Completion Report

#### SCHEDULE 1

The plans and associated documentation listed in this schedule are referred to in general terms of approval (GTA) issued by WaterNSW for integrated development associated with DA/2294/2021 as provided by Council:

- Douglas Partners Desktop Groundwater - 2A Maude Street, Belmont

### **Fees, Charges and Contributions**

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

In accordance with the provisions of the *Environmental Planning and Assessment Act 1979* – Sect 7.11 and the Lake Macquarie City Council *Development Contributions Plan Belmont Contributions Catchment - 2017*, the monetary contributions in the attached Contributions Schedule shall be paid to Council for the purposes identified in that Schedule.

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

- a) 14 August,  
b) 14 November,

- c) 14 February, and
- d) 14 May;

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

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

The contributions shall be paid to Council as follows:

- a) Development Applications involving subdivision – prior to the release of the Subdivision Certificate;
- b) Development Applications involving building work – prior to the release of the first Construction Certificate;
- c) Development Applications involving both subdivision and building work – prior to the release of the Subdivision Certificate or first Construction Certificate, whichever occurs first;
- d) Development Applications where no Construction Certificate or Subdivision Certificate is required – prior to the commencement of any construction work or prior to any occupation, whichever occurs first;
- e) Complying Development Certificates - prior to any work authorised by the application or certificate commencing.

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

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

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

A copy of the Lake Macquarie City Council *Development Contributions Plan Belmont Contributions Catchment - 2017* is available on Council’s website, or a copy is available at Council’s Administrative Building during Council’s opening hours.

## **CONTRIBUTION FEE SCHEDULE**

<b>DESCRIPTION</b>	<b>FEE AMOUNT</b>
B-Open Space & Recreation Facilities-Capital-CPI	\$815,197.58
B-Open Space & Recreation Facilities-Land-LVI	\$18,506.63
B-Public Transport Facilities-CPI	\$1,289.83
B-Community Facilities-Capital-CPI	\$91,501.76
B-Plan Preparation & Administration-CPI	\$53,308.62
	<b>TOTAL \$979,804.42</b>

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

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

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

## **6. Kerb and Guttering**

A design plan for kerb and guttering, road pavement, shoulder sealing and associated drainage works along the full length of the street frontage, generally in accordance with Northrop Engineers Plans – Job No.NL183048-01 Rev. E, dated 24/03/2022, shall be submitted. No works shall commence prior to the issue of a Public Works Certificate in accordance with s138 of the *Roads Act 1993*. Any works on a public road shall be approved by Council.

## **7. Concrete Footpath**

A design plan for concrete footpaths 1.5 metres wide along the full length of the Maude Street frontage shall be submitted, generally in accordance with Northrop Engineering Plans -Project No.NL183048-01 Rev. E dated 24/03/2022. Concrete foot paving shall be constructed in accordance with Lake Macquarie City Council standard drawing *EGSD-301* which is available from Councils website. No works shall commence prior to the issue of a Public Works Certificate in accordance with s138 of the *Roads Act 1993*. Any works on a public road shall be approved by Council.

## **8. Vehicles Access Crossing and Kerb Layback**

An approval for the vehicle access crossing and kerb layback, including associated cut or fill works, under s138 of the *Roads Act 1993* is required.

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

Where existing street tree/s are to be retained and are within five metres of the vehicle access, details shall be provided to identify appropriate construction techniques to retain the street tree.

Where street trees cannot be retained, street trees shall be replaced at a rate and with species approved by Council's Natural Assets section.

To obtain the *Roads Act 1993* s138 approval, an application for Minor Public Works shall be made to Council. Application can be made via Council's website.

## **9. Stormwater Disposal and Harvesting**

A Stormwater Management and Harvesting Plan shall be submitted. The plan shall be generally in accordance with the plans approved by the Development Consent prepared by Northrop Engineers, Ref: NL183048-01 Rev. E dated 24/03/2022. The stormwater plans approved by this development consent are not approved for construction. The stormwater plans shall comply with the following:

- a) Stormwater shall be disposed of through a piped system designed in accordance with *Australian Standard AS 3500* by a suitably qualified professional. The design shall be undertaken by a practising Civil Engineer deemed to be suitably experienced by

Council and qualified so as to be accepted as a Member of the Institution of Engineers Australia or a Registered Surveyor deemed to be suitably experienced by Council shall be accepted as qualified to prepare plans for drainage works (excluding flood control structures and bridges). Qualifications demonstrating the above may be requested by Council.

- b) Stormwater harvesting measures shall be constructed and maintained in accordance with *Development Control Plan 2014 Water Cycle Management Guideline*. Stormwater drainage plans shall include details of the harvesting system, including rainwater tank details, pump details and reticulation diagrams.
- c) The stormwater pipe draining water from Ernest Street through the site which is to be demolished shall not be disconnected until the new pipe through to the outflow (subject to separate approval) is constructed.

NOTE: The drainage line shown from the pit positioned on the south-western boundary of the site through to the outflow is not approved in this system for construction.

NOTE: Construction work for the offsite drainage works is expected to be restricted during the baseball season (March-October) due to impacts to the users of the sports fields.

## **10. Parking Areas and Access Ways**

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

## **11. Erosion and Sediment Control**

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

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

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

## **12. Construction Certificate**

Prior to the commencement of building work or subdivision work, a Construction Certificate shall be obtained.

Note: If the Construction Certificate is issued by a Certifying Authority that is not Council it shall be necessary to lodge the Construction Certificate and other approved



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

### **13. Construction and Fit-out of Food Premises**

#### **(a) General Construction**

The fit-out of areas used for food preparation, storage or display, shall comply with the requirements of the *Food Act 2003*, *Food Regulation 2010*, and *Australian Standard AS4674 "Design, construction and fit-out of food premises"*.

Note: Particular attention should be paid to:

- Routing of plumbing & electrical conduit
- Installation of hand wash basins and cleaners sinks
- Construction of floors, walls and ceilings
- Finishes of floors, walls and ceilings
- Cool room construction
- Installation of fixtures fittings and equipment
- Toilet facilities and airlocks
- Installation of light fittings
- Installation of floor wastes
- Ventilation and exhaust systems

#### **(b) Plans and Specifications**

Any application for the first construction certificate shall be accompanied by plans and specification demonstrating compliance with the Food Act and Regulations, and relevant Australian Standards.

#### **(c) Mechanical Ventilation**

Installation of any mechanical ventilation system(s) shall comply with the provisions of Part 2 of the Australian Standard AS1668.

#### **(d) Partition Wall Construction**

Any partition wall (that do not extend to the ceiling), sills or other ledges located within food preparation areas shall be splayed on top at an angle of 45 degrees to prevent storage of articles and reveal build-up of food waste, dirt, grease or other visible matter.

#### **(e) Waste Traps**

Any bucket traps, grease traps and associated sewer connections shall be installed in accordance with the requirements of Hunter Water Corporation.

### **14. Car Washing Bay**

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

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

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

#### **15. Development Street Addressing**

Application shall be made to Council to obtain addressing for the development in accordance with the guidelines in the NSW Address Policy and User Manual. Application is made by emailing an approved site plan, floor plan(s) and contact details to Data and Knowledge Management at [enar@lakemac.nsw.gov.au](mailto:enar@lakemac.nsw.gov.au).

#### **16. Disability Access Design Audit**

A disability access design audit which has been certified by an accredited access consultant shall be submitted, certifying the development's compliance with the *Building Code of Australia* and the *Disability Discrimination Act 1992* in relation to the provision of equity in access for disabled persons.

This certification shall be submitted to the Certifying Authority with the application for a Construction Certificate.

Note:

- a) Compliance with the Building Code of Australia only, can still leave a building professional or building owner in contravention of the *Disability Discrimination Act 1992*.
- b) The Association of Consultants in Access Aust Inc at [www.access.asn.au](http://www.access.asn.au) may be able to provide further information.

#### **17. State Environmental Planning Policy 65**

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

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

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

#### **18. Building Sustainability Index (BASIX) Certificate**

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

#### **19. Acoustic Certification – Internal Comfort Noise Levels**

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

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

## **20. Contaminated Land Remediation Action Plan Review**

The Remediation Action Plan (RAP) shall be reviewed by a NSW Environment Protection Authority Accredited Site Auditor and prior to issue of each construction certificate a statement shall be provided to Council from the Site Auditor which clearly indicates the RAP is practical and proposed remediation works shall render the site suitable for the intended use.

## **21. Garbage Storage Areas**

Details of the garbage washing and bin storage area shall be submitted demonstrating:

- a) Adequate facilities provided in a screened location within the premises for the separate storage of recyclable, non-recyclable and putrescible material.
- b) The garbage washing and bin storage area constructed of, or lined with materials that are durable, impervious to moisture, and capable of being easily cleaned.
- c) Supply of hot and cold water.
- d) Area is roofed and the floor bunded, graded and drained to a sump connected to the sewer in accordance with the requirements of the Hunter Water Corporation.

## **22. Acoustic Certification**

Plans shall be certified as being designed in accordance with the approved Acoustic Report reference 212129-9347-R2 prepared by Spectrum Acoustics dated 20 August 2021.

## **23. Washbay Construction and Operation**

Plans shall be submitted demonstrating the vehicle wash bay is roofed or covered and the floor area bunded, graded and drained to a suitable floor sump.

In sewerred areas plans shall be submitted demonstrating the vehicle wash bay/s shall be installed in accordance with Hunter Water Corporation requirements.

In unsewerred areas, plans shall be submitted demonstrating the vehicle wash bay wastewater is directed from a coalescing plate separator to an approved pump out facility for collection and disposal by a NSW Office of Environment and Heritage licensed waste removal contractor.

## **24. Electric vehicle charging**

At least 5% of the parking spaces at the basement level shall be provided with a minimum 'Level 2' charging point consisting of single or three-phase point with a power range of 7kW-22kW, as defined by NSW Electric and Hybrid Vehicle Plan, Future Transport 2056 (21 January 2019)

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

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

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

#### **25. Roadways and Drainage Works Standards**

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

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

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

#### **26. Public Works Certificate for Works**

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

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

#### **27. Stormwater Standards**

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

#### **28. Line Marking and Signposting**

The engineering design plans submitted with the Public Works Certificate application shall include details of line marking and sign posting. All regulatory line marking and sign posting on public roads shall be submitted to Council's Traffic Facilities and Road Safety Committee for approval. The works shall not commence until approved by the Committee.

## 29. Pavement Standards

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

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

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

## 30. Application Fees for Required Certificates

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

<b>Public Works Certificate</b>	<b>Please contact Council for fees</b>	Plus <b>\$85</b>	(inc GST)
		Archival Fee	
<b>Compliance Certificate</b>	<b>Please contact Council for fees</b>	Plus <b>\$85</b>	(inc GST)
		Archival Fee	

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

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

The above fees are current for the 2021/2022 financial year and are subject to change each financial year without notice. Confirmation of the relevant fee shall be obtained from Council prior to the lodgement of any application.

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

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

## 31. Erosion and Sediment Control

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

## 32. Dilapidation Survey Report

A Dilapidation Report shall be submitted to Council and the Certifying Authority prior to any works, including demolition works, commencing. The report shall be prepared by an engineer or other suitably qualified person.

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

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

### **33. Filling Importation and Compaction**

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

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

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

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

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

Construction works within the public domain in accordance with this development consent shall not commence until a Minor Public Works or Public Works Certificate has been issued by Council

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

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

### **35. Construction Management Plan/s for works within public road reserve and development site**

#### Works within public domain

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

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

#### Works within development site

The contractor engaged to undertake the construction works within the development site shall provide a CMP to the satisfaction of the Certifying Authority, a minimum of seven days prior to commencing any works. The CMP shall be approved by the Certifying Authority prior to works commencing on site. A copy of the CMP shall be forwarded to Council. The CMP shall set out the construction approach for the works and should seek to minimise disruption to the local community, including (but not limited to) the adjoining residence, childcare centre, senior citizens centre, residential care facility and sporting precinct. Consultation with adjoining site owners/occupants shall occur during preparation of the plan and throughout construction to identify any impacts.

#### CMP's

Both CMP's must address the following, where required:

##### Health and Safety

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

##### Environment

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

##### Quality

- a) Submission of current insurance certificates,
- b) Work method description,
- c) Construction equipment to be used,
- d) Inspection and testing requirements,
- e) CCTV survey of pipework,
- f) Earthworks methodologies,
- g) Haulage routes,
- h) Retaining structure construction methodologies,
- i) Concrete jointing methodologies,
- j) Subsoil drainage installation methodologies,
- k) Stormwater drainage infrastructure installation methodologies,
- l) Stormwater Quality Improvement Device installation methodologies,
- m) Road construction methodologies,
- n) Accessways and footway construction methodologies,
- o) Landscaping installation methodologies,
- p) Utility and services installation methodologies,

- q) Construction and installation methodologies of other structures not otherwise covered above.

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

A copy of the approved CMP, and any conditions imposed on that plan, shall be kept on site at all times and made available to any officer of Council upon request.

### **36. Notice of Commencement of Works within the Public Domain**

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

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

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

### **37. Hoarding and Construction Site Safety Fencing**

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

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

### **38. Native tree and vegetation protective measures**

Trees and native vegetation shall be retained and protected in accordance with *Development Control Plan 2014 – Tree Preservation and Native Vegetation Management Guidelines* (Section 6) and *Australian Standard AS4970-2009 – Protection of Trees on Development Sites*, unless they have been specifically identified for removal on the approved plans or documentation.

All reasonable measures shall be undertaken to protect trees and native vegetation on, and adjoining the site, that shall be retained from damage during construction. Such measures shall include, but not be limited to:

- a) Maintaining exclusion fencing around trees and vegetation that adjoins the construction area to minimise damage to vegetation that shall be retained.

For isolated trees that are to be retained within and immediately adjoining the site a 1.8 metre high chain mesh fence shall be erected along the perimeter of each Tree Protection Zone, prior to works commencing and shall remain intact until construction is completed.

Exclusion fencing shall be sign posted to warn of its purpose (sign example under AS4970).

- b) Prohibiting compaction and the placement of fill within five metres of trees and native vegetation that shall be retained.

For isolated trees that are to be retained within and immediately adjoining the site, excavation shall be carried out by hand, with all care taken not to damage tree roots.



If tree roots greater than 30mm are found during works that need to be severed, they shall be cut with a saw (not ripped) under the supervision of a suitably qualified AQF5 arborist or horticulturalist.

- c) Salvaging useable trees and shrubs which are felled for re-use, either in log form, or as woodchip mulch for erosion control and/or site rehabilitation. Non-salvageable material such as roots and stumps shall only be disposed of at an approved site.
- d) Any minor hand pruning of trees shall be carried out in accordance with *Australian Standard AS4373-2007 – Pruning of Amenity Trees*, by a suitably qualified AQF3 arborist or horticulturalist.
- e) Keeping all vehicles, construction materials and refuse within areas approved for buildings, structures, access ways and car parks.
- f) Limiting the number of access points.
- g) Notifying all contractors, sub-contractors, and personnel of vegetation protection requirements of this condition.

A separate application shall be made to Lake Macquarie City Council for the removal of any other trees or native vegetation. This includes application for the removal of any understorey vegetation or the stripping of ground cover vegetation that is outside those areas approved for construction.

### **39. Building Waste**

An area for the containment of building waste materials shall be provided within the boundaries of the building site, above natural or excavated ground level, by a screened area of silt stop fabric or shade cloth, having minimum dimensions of 2.4 x 2.4 x 1.2 metres high OR equivalent size waste disposal bin.

### **40. Asbestos**

Prior to commencing demolition of buildings containing asbestos, a commercially manufactured sign containing the words “DANGER ASBESTOS REMOVAL IN PROGRESS” measuring 400mm x 300mm (see below) shall be erected in a prominent visible position on the site in accordance with *AS1319 Safety Signs for the Occupational Environment*.



The person entitled to act on this consent shall notify adjoining residents in writing five working days prior to the demolition.

### **41. Dial Before You Dig (Advice)**

Prior to commencement of work, the free national community service “Dial Before You Dig” shall be contacted on 1100 regarding the location of underground services in order to prevent injury, personal liability and even death. Enquiries shall provide the property details and the nearest cross street/road.



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

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

#### 42. Noise - Construction Sites

The operating noise level of construction site operations, including machinery, plant and equipment when measured at any affected premises, shall be evaluated and comply with the requirements of the NSW Office of Environment and Heritage publication *Interim Construction Noise Guideline July 2009*.

##### Approved Construction Times

- a) The approved hours for construction of this development are –  
Monday to Friday - 7.00am to 6.00pm.  
Saturday – 8am to 1pm.
- b) No construction work shall take place on Sundays or Public Holidays.

##### Construction Periods in Excess of 26 Weeks

- a) If the construction period is in excess of 26 weeks, a Noise Management Plan shall be provided to Council prior to the issue of the first construction certificate. Such plan shall be prepared with the assistance of a suitably qualified acoustic engineer, indicating whether the use of machinery, plant and equipment during those operations can be completed without causing offensive noise (as defined in the *Protection of the Environment Operations Act 1997*) in the neighbouring area. The Noise Management Plan shall be complied with at all times during the construction period and shall identify any mitigation measures to control noise, noise monitoring techniques and reporting methods, likely potential impacts from noise and a complaints handling system.
- b) Operational times may be amended with the written advice of Council's General Manager or delegate.

#### 43. Aboriginal Heritage

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

Should any objects be discovered, all excavations or disturbance to the area shall cease immediately and the Department of Premier and Cabinet - Heritage NSW shall be notified.

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

#### **44. Excavation – human remains**

If human skeletal remains are discovered within the subject property, work shall stop immediately and the area cordoned off with a high visibility barrier and the NSW Police and Department of Premier and Cabinet - Heritage NSW must be notified.

Clearance to recommence construction works must be sought directly from the Police and/or Department of Premier and Cabinet - Heritage NSW. Any necessary approvals from the Department of Premier and Cabinet - Heritage NSW shall be obtained and a copy provided to Council prior to works recommencing.

#### **45. No-access Zone**

The person having the benefit of the consent must ensure that the chain link fence that separates AHIMS#45-7-0347 from the subject site remains in place and the area is unaffected by the proposed development.

This area shall not be affected by site works, construction materials stockpiles, waste, building products and debris, site sheds, spoil placement or the like. No access for vehicles, machinery or goods to the site shall be gained across the no-access zone.

#### **46. Inspection of site after demolition**

The person having the benefit of the consent shall ensure that after the demolition of the existing structures is carried out, a suitably qualified and practising archaeologist and/or representative(s) from the Registered Aboriginal Parties – as identified in the Aboriginal Heritage Due Diligence Letter Report by Heritage Now, dated 16 November 2021 – are awarded the opportunity to inspect the site.

#### **47. Excavation and Retaining**

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

No additional excavation/fill shall occur outside the area as shown on the approved plans.

Only fill as shown on the approved plans shall be located within any drainage easement located upon the subject property. No retaining walls are permitted within the easement.

Retaining walls, footings and associated drainage works shall be located wholly within the subject property boundaries and shall be connected to the existing stormwater system or other approved stormwater system on the subject property.

Note: Some retaining walls are able to be erected without consent, as Exempt or Complying Development pursuant to *State Environmental Planning Policy Exempt and Complying Development Codes 2008*. Prior to erection of any retaining wall not approved under this consent, reference to the *State Environmental Planning Policy Exempt and Complying Development Codes 2008* shall be undertaken to ascertain whether approval is required.

#### **48. Dust Suppression**

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

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

#### **49. Erosion and Sediment Control**

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

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

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

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

#### **50. Filling Importation and Compaction**

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

#### **51. Removal, Management and Transportation of Fill**

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

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

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

#### **52. Management of Site - Erosion Prevention and Sediment Control**

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

### **53. Topsoil and Stockpiles of Materials**

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

### **54. Landscape Works**

Landscape works shall be constructed in accordance with the approved landscape plans and specification.

- a) There shall be a minimum of fourteen trees for retention to the southern end of the site including those not physically within the boundary. All these trees shall have tree protection measures for the tree and tree protection zone installed. All retained trees shall have a mass mulched surface to the tree protection zone as a minimum. There shall be no turf planted.
- b) There shall be seven trees planted along the southern setback and driveway as scheduled.
- c) There shall be a minimum of eight trees planted along the northern boundary with Maude Street. A minimum of four of these trees shall be 75 litre endemic amenity trees with a mature growth proportional to the proposed height of the building. Trees close to the powerlines shall be a suitable size at maturity to minimise maintenance requirements in accordance with Ausgrid's clearance to powerlines requirements.
- d) There shall be fourteen trees planted along the eastern side setback with a minimum of two trees 75 litre endemic amenity trees with a mature growth proportional to the proposed height of the building. There shall be a diversity of continuous tall shrubs planted along the eastern side setback that provides dense visual screening of the site from the east.
- e) There shall be fifteen trees planted along the western side setback with a minimum of two trees 75 litre endemic amenity trees with a mature growth proportional to the proposed height of the building. There shall be a diversity of continuous tall shrubs planted along the western side setback that provides dense visual screening of the site.
- f) There shall be twenty-four trees and continuous shrub planting within the external areas around the pool deck as per the scheduled landscape concept plan.
- g) There shall be open palisade and masonry pier fence to the northern boundary with Maude Street and entirety of the eastern boundary to Glover Street. The solid panel fencing along the western boundary at Glover Street shall be planted with continuous shrub planting to a height that screens the panel fence from within the site.
- h) All landscape planting works shall be implemented under the full supervision of a contractor with a current NSW Department of Fair Trading endorsed license in Structural Landscaping.
- i) All paving works shall be implemented under the full supervision of a contractor with a current NSW Department of Fair Trading endorsed license in Structural Landscaping, Building or Minor Trade – Paving.
- j) Landscape works shall conform to planting densities as scheduled, with all plants at nominated pot sizes and spacing's and be maintained for a minimum of 52 weeks to achieve continuous healthy growth.

- k) A hard garden retaining edge (timber or concrete) shall be installed to all planting areas adjoining turf surfaces.
- l) All planted areas shall be covered with minimum 100mm mulch to aid plant establishment.
- m) The turf species used on all roadway landscapes and any other approved locations on public land shall be couch. This turf species shall be specified on all landscape concept and construction documentation.

#### **55. Waste Management**

All requirements of the approved Waste Management Plan shall be implemented during the demolition, excavation and construction of the development.

#### **56. Unobstructed Footpath Access**

The person having the benefit of the consent shall maintain unobstructed footpath access within the public road reserve at all times. Building materials shall not be placed or stored within the road reserve.

In the case of sites where it is not possible to keep the footpath or road reserve clear during construction works written approval from Council shall be obtained prior to any closing of the road reserve or footpath area. The closure shall take place in accordance with Council's written approval. The area shall be signposted and such signposting be maintained in a way that ensures public safety at all times.

#### **57. Building Waste**

The enclosure or bin shall be maintained for the term of the construction to the completion of the development.

The enclosure or bin shall be regularly cleaned to ensure proper containment of the building wastes generated on the site.

#### **58. No works on adjoining Public Reserve**

The public reserve adjoining the site shall not be affected by site works, construction materials stockpiles, waste, building products and debris, site sheds, spoil placement or the like. No access for vehicles, machinery or goods to the site shall be gained across the public reserve without written approval from Council. All costs associated shall be payable by the person having the benefit of the consent.

#### **59. Site Amenities**

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

Each toilet shall:

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

- c) be a temporary chemical closet.

## 60. Swimming Pool

The pool safety barrier shall comply and be constructed in accordance with the provisions of the *Swimming Pools Act 1992*, *Swimming Pools Regulation 2008* and *Australian Standard AS-1926-2012*.

A switchboard shall not be installed within or above the swimming pool zone or spa pool zone nor within a sauna, pursuant to *AS 3000 - 2007 - Electrical Installations*.

The swimming pool/spa water recirculation and filtration system installation shall comply with *AS 1926.3-2003 Swimming pool safety - Water recirculation systems*.

Swimming pool waste water shall be disposed to comply with the following:

- a) Sewered Area
  - i. Backwashing systems, emptying and waste water from vacuuming systems, shall discharge into the sewerage system in accordance with the Hunter Water Corporation requirements.
- b) Unsewered Area
  - i. A waste water management plan approved by the Certifying Authority.

## 61. Swimming Pool/Spa Motor and Pump

All swimming pool plant shall be sited and/or sound insulated so as to minimise emission of noise to adjoining properties. No offensive noise (as defined by the *Protection of the Environment Operations Act 1997*) shall be emitted by swimming pool plant.

Note: Under the provisions of the *Protection of the Environment Operations (Noise Control) Regulations 2000*, a person shall not cause or permit a swimming pool or spa pump to be used on residential premises if noise is audible within a habitable room of any other residential premises regardless of whether any door or window to that room is open:

- a) before 8am or after 8pm on any Sunday or public holiday;
- b) before 7am or after 8pm on any other day.

## 62. Asbestos

All works removing asbestos containing materials shall be carried out by a suitably licensed asbestos removalist duly licensed with SafeWork NSW, holding either a Friable (Class A) or a Non- Friable (Class B) Asbestos Removal License, which ever applies, and a current SafeWork NSW Demolition License where works involve demolition.

Measures shall be in place in accordance with SafeWork NSW guidelines and the Work Health and Safety Regulation 2017. Work shall not commence or continue until all necessary safeguards required by SafeWork NSW are fully in place.

Asbestos waste shall only be disposed of at a landfill site authorised to receive such waste and copies of receipts received from such disposal kept and made available for inspection by Council during normal working hours and upon the giving of reasonable notice.

Note: Council's Awaba Waste Management Facility can accept asbestos for a fee, provided the material is safely secured in accordance with the relevant guidelines.

At least 24 hours prior notice shall be given to allow an area to be prepared for disposal.

**63. Demolition**

Demolition shall only be carried out between 7.00 am and 5.00 pm on Monday to Saturday and no demolition shall be carried out at any time on a Sunday or a public holiday.

All demolition work shall be carried out strictly in accordance *with Australian Standard AS 2601-2001: The Demolition of Structure*.

Waste materials (including excavation, demolition and construction waste materials) shall be managed on the site and then disposed of at an approved waste management facility. During construction all vehicles entering or leaving the site shall have their loads covered, and shall be cleaned of dirt, sand and other materials, to avoid tracking these materials onto public roads.

**64. Contaminated Land Remediation and Validation**

The site shall be remediated in accordance with the approved Remediation Action Plan (RAP).

**65. Unexpected Contamination finds**

Should unexpected contamination be identified, works within the vicinity shall cease immediately and Council shall be notified. A suitably qualified contaminated land consultant shall be engaged to analyse and assess the contamination and provide a report to the Principal Certifier and Lake Macquarie City Council with recommendations for suitable management and/or disposal, to achieve the required contamination land use thresholds levels for the approved use.

Any remediation works shall be carried out in accordance with recommendations of the report prepared by the engaged contaminated land consultant and be validated by the consultant on completion of the works.

**66. Acid Sulfate Soil management**

The development site shall be managed in accordance with the approved Acid Sulfate Soil management plan.

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

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

**67. Provision of Council Easement (Public)**

The easement to drain water, (minimum three metres wide or the width of the 100 year flow path, whichever is greater) shall be amended, at no cost to Council, in favour of Council in accordance with the approved Stormwater Drainage Plan by Northrop Engineers ref: P/LNL183048-01 Rev. E dated 24/03/2022.



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

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

**68. Kerb and Guttering**

A Compliance Certificate shall be issued by Council stating the kerb and guttering, road pavement, shoulder sealing and associated drainage works have been constructed in accordance with the Construction Certificate and/or s138 *Roads Act* Approval, prior to the issue of the Final Occupation Certificate.

**69. Concrete Footpath**

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

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

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

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

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

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

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

**72. Dilapidation Survey Report**

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

**73. Parking Areas and Access Ways**

All parking areas and access ways shall be fully constructed and sealed in accordance with the approved Construction Certificate plans, prior to the issue of an Occupation Certificate.

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

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

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

#### **75. Stormwater Disposal and Harvesting**

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

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

#### **76. Works as Executed Plan – Public Works Certificate**

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

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

#### **77. Compliance Certificate for Public Works Certificate**

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

#### **78. Positive covenant for water quality device maintenance**

A positive covenant shall be placed on title requiring the owner on the land to undertake periodic maintenance for the water quality device(s) stormwater harvesting tank as shown on the stormwater plans by Northrop Engineers, reference NL183048-01 and dated 06.09.2021.

The maintenance schedule shall outline the required maintenance and timing intervals (e.g. monthly, quarterly etc).

A positive covenant shall be placed on title requiring the owner of the land to undertake periodic maintenance for the water quality device(s) in accordance with the above maintenance plan.

Lake Macquarie City Council shall be the party to vary, release or modify the covenant.

Note: If during detailed design stage the water quality devices are substituted for a similar product the maintenance plan shall reference the adopted devices.

## **79. Occupation Certificate**

The development shall not be occupied or used prior to the issuing of an Occupation Certificate by the Certifying Authority.

## **80. Prior to the issue of the First Occupation Certificate**

Prior to the issue of the First Occupation Certificate, the earthworks, retaining walls and driveways shall be completed to the satisfaction of the Certifying Authority.

## **81. Certification of Food Premises Fit-out**

Prior to the issue of any Occupation Certificate the food premises shall be inspected by an appropriately qualified person who shall certify that the premises, including the construction and installation of all equipment, fixtures, fittings and finishes therein, complies with the *Food Act 2003*, *Food Regulation 2010*, and *Australian Standard AS 4674 "Design, construction and fit-out of food premises"*.

## **82. Crime prevention measures**

The following crime prevention measures shall be installed:

- a) pedestrian lighting shall be installed to AS1158.1
- b) car park walls shall be a light colour or white
- c) CCTV shall be installed to the car park / basement and all access points to the facility. CCTV shall be installed to AS4806
- d) an intercom system with camera shall be installed at the entry points.

## **83. State Environmental Planning Policy 65**

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

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

## **84. Landscape Works**

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

## **85. Hunter Water Requirements**

The person with the benefit of this consent shall comply with Hunter Water's requirements to provide the development with water supply and sewerage services. A copy of Hunter Water's

compliance certificate (Hunter Water Act 1991- Sect 50) shall be submitted with your Occupation Certificate application.

#### **86. Acoustic Certification**

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

#### **87. Contaminated Land Remediation and Validation**

A suitably qualified and experienced Contaminated Land Consultant shall validate the site has been remediated. Validation shall be provided in accordance with the *Guidelines for Consultants Reporting on Contaminated Sites* (NSW Office of Environment and Heritage 2011). The validation report shall include a clear statement the consultant considers the site to be suitable for the approved use.

Note: Certification from the person who carried out remediation works shall be provided to Council in accordance with the requirements of Clause 4.15 of *State Environmental Planning Policy (Resilience and Hazards) 2021*.

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

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

#### **89. Unexpected Contamination finds**

A validation report in relation to the unexpected contamination finds shall be provided to the Principal Certifier and Lake Macquarie City Council ([council@lakemac.nsw.gov.au](mailto:council@lakemac.nsw.gov.au)).

#### **90. Operational Management Plan**

An Operational Management Plan shall be submitted. Minimum details to be included in the plan are:

- a) how the facility is proposed to be managed in accordance with the Retirement Villages Act 1999, and the Retirement Villages Regulation 2017
- b) details of the social elements/programs/activities of the facility's operations, including any on-site or off-site management
- c) provision of information to residents which includes details and outlines village issues and procedures (including how residents have the opportunity to participate in decision making processes, or raise issues, and how these are addressed)
- d) provision of personal care services associated with domestic duties and accessing other services
- e) housekeeping / cleaning services

- f) provision of home delivered meals as required
- g) provision of transport services
- h) the adequacy of the communal spaces to meet the needs of the residents, and how these are proposed to be managed
- i) maintenance and management of communal / public areas within the site
- j) emergency response / assistance processes and procedures.

**91. Restriction on the users of the site**

A restriction as to user shall be registered against the title of the property on which development shall be carried out, in accordance with section 88E of the *Conveyancing Act 1919*, limiting the use of any accommodation to which this application relates to the kinds of people referred to below. The development shall only be occupied by:

- a) Seniors aged 55 years and over, or people who have a disability,
- b) people who live within the same household with seniors or people who have a disability,
- c) staff employed to assist in the administration of and provision of services to development

**92. Stormwater pipe within easement**

No construction or landscaping works are to be finalised within the portion of the site affected by the easement to drain water (DP 1236307) until such time as the stormwater pipe / culvert within the easement as shown on Northrop drawing DAC03.01 Rev E (dated 25/03/22) has been completed.

**93. Electric vehicle charging**

The certifier shall ensure that 5% of the basement parking spaces have been provided with electric vehicle charging points.

**Operational Conditions**

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

**94. Lighting**

Any lighting shall be installed to comply with *Australian Standard AS/NZS4282-2019*.

**95. Crime prevention measures**

The following crime prevention measures shall be undertaken:

- a) signs at all public entrances shall indicate this is private property
- b) all windows and doors shall have deadlocks installed
- c) landscaping shall be maintained to allow for natural surveillance and prevent entrapment or concealment opportunities
- d) the car park shall be lit at all times

- e) after hours security (including patrols) shall monitor the boundary, grounds and access points
- f) on-site manager to be employed and present during the week (business hours)
- g) all tradespeople servicing the site shall carry identification
- h) directional signage shall be provided throughout the development to aid wayfinding
- i) a maintenance plan shall be developed for the site. The site shall be well maintained and any broken items or graffiti fixed within 24 hours.

#### **96. Block out blinds**

Block out blinds shall be installed and maintained to all eastern and northern facing bedrooms.

#### **97. Landscape Works**

All landscape works required under this consent shall undergo an establishment maintenance period of a minimum of 52 weeks to achieve the intent of the landscape design.

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

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

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

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

#### **99. Acoustic Certification**

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

#### **100. Garbage Storage Areas**

Adequate arrangements shall be made for the regular removal and disposal of waste materials.

#### **101. Access to site - gates**

The vehicle and pedestrian gates facing Glover Street shall be open and/or unlocked for unrestricted access between 7:00am to 8:00pm.

#### **Right of Appeal**

If you are dissatisfied with this decision (including a determination on a review under Section 8.2), Section 8.7 and 8.10 of the Environmental Planning and Assessment Act 1979 gives you the right to appeal to the Land and Environment Court within six months after:

- a) the date on which you receive this notice, or
- b) the date on which that application is taken to have been determined under Section 8.11.

Section 8.8 of the Environmental Planning and Assessment Act 1979, does not give a right of appeal to an objector who is dissatisfied with the determination of the Council to grant consent to a development application, unless the application is for designated development (including designated development that is integrated development). The objector may, within 28 days after the date on which the notice of the determination was given in accordance with the regulations, and in accordance with rules of the Court, appeal to the Court.

### **Right of Review**

Section 8.2 of the Environmental Planning and Assessment Act 1979 provides that the applicant may request the Council to review the determination. The request must be made in writing (or on the review application form) within six months after the date as specified in this notice of determination, together with payment of the appropriate fee. **(See exclusions note below).**

**Exclusions:** A request to review the determination of a development application pursuant to Section 82A of the Environmental Planning and Assessment Act 1979 can only be undertaken where the consent authority is Council, other than:

- (a) A determination to issue or refuse to issue a complying development certificate, or
- (b) A determination in respect of designated development, or
- (c) A determination in respect of integrated development, or
- (d) A determination made by the Council under Division 4 in respect of an application by the Crown.

### **Planning Assessment Commission**

The Planning Assessment Commission has not conducted a public hearing in respect of this application.