

Annexure B**DETERMINATION OF DEVELOPMENT APPLICATION BY GRANT OF CONSENT****Development Application No:** DA2016/164/1**Development:** Demolition of existing structures, consolidation of 2 lots, the construction of a part 5 / part 7 storey shop top housing development comprising 90 residential units, 4 retail tenancies and basement parking for 145 cars**(Amended by the Land and Environment Court under MOD2020/0414)****Site:** 9-11 Sherwood Road, Merrylands West**Schedule of Modifications:**

Date approved	Modification Application Number	Decision maker (Land and Environment Court or relevant council)	Proceedings Name and Number (if applicable)
2/11/2021	MOD2020/0414	Land and Environment Court	Hezlett Group Pty Ltd v Cumberland City Council and LEC No. 2021/103440

Date of determination: 21 December 2017**Date from which consent takes effect:** 21 December 2017**PRELIMINARY**

1. This consent shall lapse if the above development is not physically commenced by the date of expiry shown on the front page of this Consent.
2. Development shall take place in accordance with the attached endorsed plans and documentation:

Architectural Plans (Job No. 2220)

Drawing	Title	Issue	Date	Prepared by
DA 01	Basement Level 1	GG	7/9/2021	architex
DA 02	Level 1	II	7/9/2021	architex
DA 03	Level 2	II	14/9/2021	architex
DA 04	Level 3	EE	7/9/2021	architex
DA 05	Level 4	EE	7/9/2021	architex
DA 06	Level 5	FF	14/9/2021	architex
DA 07	Level 6	FF	14/9/2021	architex
DA 08	Levels 7 & 8	DD	30/6/2021	architex
DA 09	Roof Level	EE	7/9/2021	architex

DA 10	East Elevation	EE	14/9/2021	architex
DA 11	West Elevation	EE	7/9/2021	architex
DA 12	North – South Elevations	EE	7/9/2021	architex
DA 13	Site Elevations	EE	7/9/2021	architex
DA 13a	Site Elevations 2	EE	7/9/2021	architex
DA 13b	Building Height Details	EE	7/9/2021	architex
DA 14	Site Sections	EE	7/9/2021	architex
DA 15	Adaptable Units Layouts	A	3/5/2016	architex
DA 16	Unit Layouts	L	8/9/2017	architex
DA 17	Unit Layouts	A	3/5/2016	architex
DA 18	Unit Layouts	F	12/1/2017	architex
DA 23	Demolition Plan	A	3/5/2016	architex
DA 24	Ramp Details	C	7/9/2021	architex
DA 24a	Driveway Section & Site Details	A	7/9/2021	architex
DA 25	Waste Management Plan & Mailbox Details	J	17/8/2021	architex
DA 35	Sections – Sewer Pipe Clearance	T	9/3/2020	architex
DA 36	Section – Sewer Pipe/Shaft Detail	T	9/3/2020	architex
DA 40	Substation Details	HH	17/8/2021	architex
DA 41	Substation Details 2	FF	22/4/2021	architex

Engineering Plans (Job No. 152022016DA)

Drawing	Title	Issue	Date	Prepared by
15202-01/B	Erosion & Sediment Control Plan	B	19/12/2016	ING Consulting Engineers
15202-02/B	Basement Plan	B	19/12/2016	ING Consulting Engineers
15202-03/B	Level 1 Floor Plan	B	19/12/2016	ING Consulting Engineers
15202-04/B	Level 2 Floor Plan	B	19/12/2016	ING Consulting Engineers
15202-05/B	Level 3 Floor Plan	B	19/12/2016	ING Consulting Engineers
15202-06/B	Level 4 Floor Plan	B	19/12/2016	ING Consulting Engineers
15202-07/B	Level 5 Floor Plan	B	19/12/2016	ING Consulting Engineers
15202-08/B	Level 6 Floor Plan	B	19/12/2016	ING Consulting Engineers
15202-09/B	Level 7 & 8 Floor Plan	B	19/12/2016	ING Consulting Engineers
15202-10/B	Roof Plan	B	19/12/2016	ING Consulting Engineers
15202-11/B	Notes & Details	B	19/12/2016	ING Consulting Engineers
15202-12/B	Notes & Details 2	B	19/12/2016	ING Consulting Engineers
Council's OSD No. 2017-068				

Landscape Plans

Drawing	Title	Issue	Date	Prepared by
1297.L.01	Landscape Plan Level 2 Area 1	F	14/9/2021	Greenland Design
1297.L.02	Landscape Plan Level 2 Area 2	F	14/9/2021	Greenland Design
1297.L.03	Landscape Plan Level 3 Planters	F	14/9/2021	Greenland Design
1297.L.04	Landscape Plan Level 4	F	14/9/2021	Greenland Design
1297.L.05	Landscape Plan Level 6	F	14/9/2021	Greenland Design
1297.L.06	Landscape Details & Specification	F	14/9/2021	Greenland Design

Documentation

- Stage 2 Detailed Site Investigation, prepared by SLR global environmental solutions, Report No. 610.16797-R01, dated 7 October 2016;
- Acoustic Impact Assessment Report prepared by Day Design Pty Ltd, report reference 7255-1.1R, dated 8 September 2021.
- Traffic and Parking Assessment prepared by McLaren Traffic Engineering, Reference No. 16086.01FA, dated 4 May 2016, and addendum report prepared by McLaren Traffic Engineering, Reference No. 16511.01FA, dated 13 January 2017;
- Supplementary Letter of Advice prepared by McLaren Traffic Engineering, Reference No. 210416.11FB, dated 9 September 2021;
- Electromagnetic Field Assessment prepared by NG Child & Associates, Project Ref. CA/21/153-2001, version 1, dated 13 September 2021;
- Waste Management Plan prepared by Dickens Solutions, Ref-20180, dated September 2021;
- Schedule of External Colours and Finishes filed with the Land and Environment Court on 20 September 2021;
- BASIX Certificate No. 722281M_05 dated 1 October 2021;
- Correspondence prepared by Roads & Maritime Services, Ref SYD16/0067/02, dated 12 April 2017 and all conditions contained therein; and
- Correspondence prepared by NSW Police, Holroyd LAC, Reference No. D/2016/244136, dated 9 June 2016 and all conditions contained therein.

Note: For inconsistencies that arise in respect of the ramp design or other features between engineering drawings and architectural drawings, the architectural plans prevail.

[Amended by Land and Environment Court under MOD2020/0414]

3. All building work shall be carried out in accordance with the requirements of the Building Code of Australia. No work is to commence until such time as a Construction Certificate is obtained for the work/building permitted by this Consent.

Appointment of Council or a Private Certifier as the Principal Certifying Authority (PCA)

4. Either Council or a Private Certifier is to be appointed as the Principal Certifying Authority (PCA) for the development in accordance with Section 109E of the Act.

Accordingly, wherever reference is made to the Principal Certifying Authority in this Consent, it refers to Council or the Private Certifier as chosen by you.

Note: Once you have chosen either Council or a Private Certifier as the PCA, you cannot change from one to the other, or from one Private Certifier or another, without the approval of Department of Planning & Infrastructure.

5. The applicant shall consult with, as required:
 - (a) Sydney Water Corporation Limited
 - (b) Integral Energy
 - (c) Natural Gas Company
 - (d) A local telecommunications carrierregarding their requirements for the provision of services to the development and the location of existing services that may be affected by proposed works, either on site or on the adjacent public road(s).
6. Building materials, builders sheds, waste bins, site fencing, gates or any material of any description shall not be left or placed on any footway, road or nature strip. Footways and nature strips shall be maintained, including the cutting of vegetation, so as not to become unsightly or a hazard for pedestrians. Offenders will be prosecuted.

Demolition

7. In the event that demolition is to occur prior to the issue/release of a Construction Certificate, all relevant fees and bonds such as the demolition inspection fee, kerb & gutter and tree protection bonds shall be paid in full to Council prior to demolition commencing (as per the relevant conditions elsewhere in this Development Consent). Furthermore, the applicant/developer is to ensure that all relevant conditions in this Development Consent relating to the protection of the site, adjoining lands and trees are adhered to in full prior to commencement of any demolition works.
8. Permission is granted for the demolition of the existing structures on the property, subject to strict compliance with the following:-
 - a) Demolition is to be carried out in accordance with the applicable provisions of Australian Standard AS2601-2001 - *Demolition of Structures*. **Note:** Developers are reminded that WorkCover requires that all plant and equipment used in demolition work must comply with the relevant Australian Standards and manufacturer specifications. a) The developer is to notify owners and occupiers of premises on either side, opposite and at the rear of the development site 5 working days prior to demolition.

Such notification is to be a clearly written on A4 size paper giving the date demolition will commence and is to be placed in the letterbox of every premises

(including every residential flat or unit, if any) either side, immediately at the rear of, and directly opposite the demolition site. The demolition must not commence prior to the date stated in the notification.

- b) 5 working days (i.e., Monday to Friday with the exclusion of Public Holidays) notice in writing is to be given to Cumberland Council for inspection of the site prior to the commencement of works. Such written notice is to include the date when demolition will commence and details of the name, address, business hours, contact telephone number and licence number of the demolisher. Works are not to commence prior to Council's inspection and works must also not commence prior to the commencement date nominated in the written notice.
- c) On the first day of demolition, work is not to commence until Cumberland Council has inspected the site. Should the building to be demolished be found to be wholly or partly clad with asbestos cement, approval to commence demolition will not be given until Council is satisfied that all measures are in place so as to comply with WorkCover's document "Your Guide to Working with Asbestos", a copy of which accompanies this Development Consent and demolition works must at all times comply with its requirements.
- d) On demolition sites where buildings to be demolished contain asbestos cement, a standard commercially manufactured sign containing the words "DANGER ASBESTOS REMOVAL IN PROGRESS" measuring not less than 400mm x 300mm is to be erected in a prominent visible position on the site to the satisfaction of Council's officers. Advice on the availability of these signs can be obtained by telephoning Council's Customer Service Centre during business hours on 9840 9840. The sign is to be erected prior to demolition work commencing and is to remain in place until such time as all asbestos cement has been removed from the site to an approved waste facility. This condition is imposed for the purpose of worker and public safety and to ensure compliance with Clause 259(2)(c) of the Occupational Health and Safety Regulation 2001.
- e) Demolition shall not commence until all trees required to be retained/transplanted are protected in accordance with those conditions stipulated under "Prior to Works Commencing" in this Consent.
- f) All previously connected services are to be appropriately disconnected as part of the demolition works. The applicant is obliged to consult with the various service authorities regarding their requirements for the disconnection of services.
- g) Demolition works involving the removal and disposal of asbestos cement must only be undertaken by contractors who hold a current WorkCover "Demolition Licence" and a current WorkCover "Class 2 (Restricted) Asbestos Licence".
- h) Demolition is to be completed within 5 days of commencement.
- i) Demolition works are restricted to Monday to Friday between the hours of 7.00am to 6.00pm. No demolition works are to be undertaken on Saturdays, Sundays or Public Holidays.
- j) Protective fencing is to be installed to prevent public access to the site.
- k) All asbestos laden waste, including asbestos cement flat and corrugated sheets must be disposed of at a tipping facility licensed by the Environment Protection Authority (EPA).

- l) Before demolition operations begin, the property shall be connected to the sewer of Sydney Water to which a pedestal pan shall be temporarily connected for the use as the employees' toilet service during demolition operations.
- m) After completion, the applicant shall notify Cumberland Council within 7 days to assess the site and ensure compliance with AS2601-2001 – *Demolition of Structures*.

NOTE: The person responsible for disposing of the above asbestos waste is to telephone the OEH on (02) 9995 5000 or Council's Waste Officer on (02) 8757 9000 to determine the location of a tip licensed to receive asbestos. Within fourteen (14) days of the completion of demolition works, the applicant must lodge with Council, all original weighbridge receipts issued by the receiving tip as evidence of proper disposal.

- n) Within 14 days of completion of demolition, the applicant shall submit to Council:
 - i) An asbestos clearance certificate carried out by a licensed asbestos assessor (normally a NATA accredited occupational hygienist), or a person who has the knowledge and skills to be a licensed assessor, regardless of whether or not they are licensed; and
 - ii) A signed statement verifying that demolition work and the recycling of materials was undertaken in accordance with the Waste Management Plan approved with this consent under DCP 2013, Part A, Section 11. **In reviewing such documentation Council will require the provision of original weighbridge receipts for the recycling/disposal of all materials;** and

Note: To find a list of NATA accredited facilities visit the NATA website at www.nata.asn.au and under 'Facilities and Labs' click on 'Facilities List by Field', then click on 'Chemical Testing', then click on 'Asbestos' and finally click on 'identification'. A list of laboratories will be produced which you can contact for the purpose of having a clearance certificate issued.

- 9. Payment of **\$459.20** fee for inspection by Council of the demolition site prior to commencement of any demolition works.

BASIX (Building Sustainability Index)

- 10. Under Clause 136D of the Environmental Planning & Assessment Regulation 2000, it is a condition of this Development Consent that all the commitments listed as per Condition 2 in relation to BASIX are fulfilled.
- 11. **[Deleted by Land and Environment Court under MOD2020/0414]**

Mechanical Ventilation

- 11A. The premises must be suitably ventilated in accordance with the *National Construction Code 2019* and *AS1668.1 and 2 - 2012. The Use of Ventilation and Air-Conditioning in Buildings - Mechanical Ventilation in Buildings*.

[Inserted by Land and Environment Court under MOD2020/0414]

Future use of Mixed-Use Building for Commercial Tenancy

- 11B. The building design must incorporate measures to enable the installation of appropriate mechanical ventilation systems that comply with relevant Australian Standards including AS1668 and are capable of accommodating any exhaust/ventilation requirements for ground floor commercial units in particular food premises. In the event that a food premises requires a mechanical exhaust system for charcoal cooking purposes, separate consent is required as additional filtration systems and odour assessment will be necessary.

[Inserted by Land and Environment Court under MOD2020/0414]

Cranes on Building Sites

12. No approval is granted or implied for the installation of any crane on the premises that has the potential to swing beyond the boundaries of the subject site. Separate necessary approvals, including but not limited to Section 138 of the Roads Act and/or Section 68 of the Local Government Act, must be obtained from Council prior to installation of any such cranes.

NOTE: FEES, BONDS & CONTRIBUTIONS INDICATED IN CONDITIONS OF THIS CONSENT MAY VARY IN ACCORDANCE WITH THOSE ADOPTED BY COUNCIL AT SUBSEQUENT ANNUAL REVIEWS OF ITS "FEES AND CHARGES" AND SUBSEQUENT CHANGES TO THE BUILDING PRICE INDEX. FEES CHARGED WILL BE THOSE CURRENT AT THE TIME OF PAYMENT.

PRIOR TO ISSUE/RELEASE OF CONSTRUCTION CERTIFICATE

The following conditions must be complied with prior to the issue of a Construction Certificate. In many cases the conditions require certain details to be included with or incorporated in the detailed plans and specifications which accompany the Construction Certificate:-

Payment of Bonds, Fees and Long Service Levy

13. The Principal Certifying Authority is to ensure and obtain written proof that all bonds, fees and contributions as required by this consent have been paid to the applicable authority. This includes all Long Service Levy payments to be made to the Long Service Payments Corporation.

Section 94 Contribution

14. Prior to the issue of a Construction Certificate, a monetary contribution imposed under section 94 of the *Environmental Planning and Assessment Act 1979* and Holroyd Section 94 Development Contributions Plan 2013, for 12 x 1b/r, 71 x 2b/r & 7 x 3b/r dwellings and 448.79sqm of commercial floor space is to be paid to Council. At the time of this development consent, the current rate of the contribution is **\$1,268,928.00**. The amount of the contribution will be determined at the time of payment in accordance with the relevant s94 Contributions Plan in force at that time. A copy of the Holroyd Section 94 Development Contributions Plan 2013 can be viewed on Council's website at www.cumberland.nsw.gov.au or inspected at Council's Civic Centre located at 1 Susan Street Auburn between the hours of 8am and 4.30pm Monday to Friday.

[Amended by Land and Environment Court under MOD2020/0414]

Damage Deposit

15. A cash bond/bank guarantee of **\$5,872.10** must be paid/lodged with Council to cover making good any damage caused to the property of Council, during the course of construction associated with the development. This will be held for 'six (6) months after the completion of works' or six (6) months after the issue of 'Final Occupation Certificate' (whichever occurs last) to remedy any defects that may arise within this time.

Note:- The applicant/owner shall be held responsible for and may be required to pay the full reinstatement costs for damage caused to Council's property (such as road pavement, kerb and guttering, footway, stormwater drainage etc.), unless the applicant/owner notifies Council in writing and provides photographic proof of any existing damage to Council's property. Such notification shall occur prior to works/demolition commencing. However, if in the opinion of Council, during the course of construction existing damage has worsened, Council may require full reinstatement. If damage does occur during the course of construction, prior to reinstating any damage to Council's property, the applicant/owner shall obtain design specifications of all proposed restoration works. Restoration/construction works within the road reserve shall be carried out by a licensed construction contractor at the applicant/owners expense and shall be inspected by Council prior to placement of concrete and/or asphalt.

Consistency with Endorsed Development Consent Plans

16. The Principal Certifying Authority must ensure that any certified plans forming part of the Construction Certificate, are in accordance with the Development Consent plans.

Landscape Inspection Fee

17. Payment of a **\$636** fee for the inspection by Council of landscape works and/or trees to be retained at the key stages, where Council is the Principal Certifying Authority.

Engineering Fees and Bonds

18. Payment of a **\$1013.70** fee for the design, specifications and inspection by Council of the vehicular crossing/s prior to placement of concrete.
19. Payment of a **\$854.00** fee for the design, specifications and inspection by Council of the footpath paving prior to placement of concrete.
20. Payment of a **\$854.00** fee for the design, specifications and inspection by Council of the kerb and guttering prior to placement of concrete.
21. Payment of a **\$830.90** fee for the inspection by Council of the stormwater drainage, Onsite Stormwater Detention System and Pollution Control Device/s at the key stages, where Council is the Principal Certifying Authority.
22. Payment of a **\$232.40** fee for the inspection by Council of the stormwater drainage construction in the road reserve at the key stages.
23. The applicant shall lodge with Council a **\$4,500.00** cash bond or bank guarantee to cover the removal of redundant vehicular crossings and laybacks along the full road frontage and replacement with kerb and gutter. This bond will be held for 'Six (6) months after the completion of works' or issue of a 'Final Occupation Certificate' (whichever occurs last) to remedy and defects that may arise within this time.
24. The applicant shall lodge with Council a **\$7,200.00** cash bond or bank guarantee for the satisfactory completion of the construction and/or reconstruction of the concrete footpath paving adjacent to the site. This bond will be held for 'Six (6) months after the completion of works' or issue of a 'Final Occupation Certificate' (whichever occurs last) to remedy and defects that may arise within this time.
25. The applicant shall lodge with Council a **\$8,200.00** cash bond or bank guarantee for the satisfactory completion of the construction and/or reconstruction of the concrete kerb and guttering adjacent to the site.

This bond will be held for 'Six (6) months after the completion of works' or issue of a 'Final Occupation Certificate' (whichever occurs last) to remedy and defects that may arise within this time.

26. The applicant shall lodge with Council a **\$6,000.00** cash bond to cover the registration of a Positive Covenant and Restriction as to User over the Onsite Stormwater Detention System and Pollution Control Device/s. This bond is refundable upon the submission of proof of registration of the Restriction on Use and Positive Covenant with the Land and Property Information NSW.

Amended Plans

27. The following amendments are to be incorporated into the consent plans:

- The proposal is to provide 14 separate adaptable apartments.
- The site is to be serviced by Small Rigid Vehicle (SRV) vehicles for the retail loading / waste collection activities and by an Medium Rigid Vehicle (MRV) for the commercial loading / waste collection activities. The SRV and MRV types dimensions (except for the MRV height) are in accordance with AS2890.2-2018.
- The elevations for Block A shall be amended to reflect the façade changes proposed as per the photomontage submitted to Council on 9 November 2017.
- Tubular metal fencing shall be installed along the full length and on the northern edge of the garden bed adjoining the three north facing clerestory windows/skylights on building B rooftop level/level 6 to prevent public access.
- The approved Stormwater plans must be updated to be consistent with the approved landscape and architectural plans.
- The area directly to the west of retail 4 and north of the pedestrian link shall be provided with security gate to allow access only by residents for use as a communal open space area.

[Amended by Land and Environment Court under MOD2020/0414]

Parking/Driveway

- 27A. All internal circulation roadways, driveway, curved ramp, vehicle turning areas, and vehicle parking space dimensions shall be designed to comply with the relevant section of AS 2890.1:2004, AS2890.2:2018 and AS2890.6:2009. In this regard,
- a. The headroom clearance within the carpark shall comply with the intended usage. Refer to Condition 27B below for further details.
 - b. The curved ramp design for two-way traffic flow shall comply with section 2.5 in AS2890.1:2004.
 - c. A separator or traffic lane divider shall be installed along the centreline of two-way curved ramp.
 - d. At blind aisles, the aisles shall be extended a minimum of 1.0m beyond the last parking spaces as per clause 2.4.2 in AS2890.1:2004.
 - e. The driveway layout shall comply with AS2890.2:2018.

Details demonstrating compliance with this condition are to be submitted to the Council or registered certifier prior to the issue of a construction certificate.

[Inserted by Land and Environment Court under MOD2020/0414]

Loading Bay Standards:

- 27B. Loading bay facilities must comply with Holroyd Development Control 2013 and the Australian/New Zealand Standard AS/NZS 2890.2-2018 - Off-street commercial vehicle facilities. In this regard,
- a. Separation between residential parking and service areas (loading/ unloading areas) shall be provided as per clause C19 in part D of the Holroyd Development Control Plan 2013.

- b. The loading bay shall be designed as per section 4 in AS2890.2:2018.
- c. Headroom clearance within loading bay shall comply with the intended usage. A minimum 4.0m headroom shall apply for the travel and manoeuvring areas traversed by the adopted maximum service vehicle size (similar to an MRV but with a lesser headroom requirement). The adopted maximum service vehicle size to be provided by the applicant with reference to a formal agreement between the applicant and service vehicle provider with vehicle specifications included. A minimum height of 3.5m shall apply for the travel and manoeuvring areas traversed by the SRV service vehicle size for the retail loading / unloading area.

Details demonstrating compliance with this condition are to be submitted to and approved by the Council or registered certifier prior to the issue of a construction certificate.

[Inserted by Land and Environment Court under MOD2020/0414]

Double Dipping Covenant

- 27C. A restrictive covenant shall be created over land presently comprising Lot 1 in DP 548919 under s.88B of the Conveyancing Act 1919 preventing the creation of additional floor area over that portion of land. Cumberland Council shall be identified as the authority able to modify, vary or release the restriction. Evidence that the restriction on the use has been registered with NSW Land Registry Services is to be provided to Council prior to the release of a Construction Certificate.

(Reason: Development is proposed concurrently over Lot 1 in DP 548919 (the restricted lot) and Lot 101 in DP 789369. The FSR for lot 101 is well above the FSR control of the LEP while the FSR for the restricted lot is below the control. Any further application proposing additional gross floor area over the restricted lot would amount to a double dipping on gross floor area and would undermine the FSR control).

[Inserted by Land and Environment Court under MOD2020/0414]

Loading Bay Standards:

- 27B. Loading bay facilities must comply with Holroyd Development Control 2013 and the Australian/New Zealand Standard AS/NZS 2890.2-2002 - Off-street commercial vehicle facilities. In this regard,
 - a. Separation between Residential parking and service areas (loading/unloading areas) shall be provided as per Clause C19 in Part D of Holroyd Development Control Plan 2013.
 - b. Loading bay shall be designed as per Section 4 in AS2890.2:2002
 - c. Headroom clearance within loading bay shall comply with the intended usage.

Detail demonstrating compliance with this condition are to be submitted to and approved by the Accredited Certifier prior to the issue of a construction certificate

[Inserted by Land and Environment Court under MOD2020/0414]

Required Submissions to Certifying Authority

- 28. A building plan approval must be obtained from Sydney Water Tap In™ to ensure the development will not affect any sewer, water or stormwater mains or easements.

A copy of the building plan approval receipt from Sydney Water must be submitted to the certifying authority, prior to the issue of a construction certificate.

Please go to sydneywater.com.au/tapin to apply.

29. If the development likely to disturb or impact upon telecommunications infrastructure, written confirmation from the service provider that they have agreed to the proposed works must be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate or any works commencing, whichever occurs first.
30. The arrangements and costs associated with any adjustment to telecommunications infrastructure shall be borne in full by the applicant/developer.
31. Retaining walls greater than 1.0m above finished ground level or other approved methods necessary to prevent the movement of excavated or filled ground, together with associated stormwater drainage measures, shall be designed by an appropriately qualified person. Details are to be included with any Construction Certificate application.
32. Structural engineer's details prepared and certified by a practising qualified structural engineer of all reinforced concrete and structural members shall be submitted to the Principal Certifying Authority.
33. A lighting plan shall be provided, detailing lighting along pedestrian access ways, common areas, communal open space areas, car parking entries and all entries. Detail is to be submitted to the Principal Certifying Authority, prior to the issue of a Construction Certificate.

Required Submissions To Certifying Authority

- 33A. Documentary evidence from Endeavour Energy shall be submitted confirming that satisfactory arrangements have been made for the connection of electricity and the design requirements for the substation prior to the release of the Construction Certificate.

[Inserted by Land and Environment Court under MOD2020/0414]

- 33B. An application for connection of load shall be submitted to Endeavour Energy's Network Connections Branch for approval to carry out the final load assessment and the method of supply of electricity to the site. As part of the application, the applicant must address the compliance with fire rating and include an engineer's certificate identifying that all the external surfaces of the parts of the building within the fire restriction meet the appropriate fire rating as per Endeavour Energy's terms for the restriction in Endeavour Energy's Mains Design Instruction MDI 0044 'Easements and Property Tenure Rights'. The engineer must also specify the materials to be utilised and the fixing instructions for those materials in order to meet the stated fire rating. Padmount or indoor/chamber substations will need to be located within the property (in a suitable and accessible location) and be protected (including any associated cabling) by an easement and associated restrictions benefiting and gifted to Endeavour Energy.

[Inserted by Land and Environment Court under MOD2020/0414]

- 33C. Approval for the permanent disconnection and removal of the current electricity supply must be obtained from Endeavour Energy's Network Connections Branch (contact via

Head Office enquiries on business days on telephone: 133 718 or (02) 9853 6666 from 9am - 4:30pm) by Accredited Service Providers (ASP) with the relevant class of Authorisation for the type of work being carried out. The work could involve: • The disconnection and removal of an underground service cable or overhead service line, and • Removal of metering equipment. 33 The written request must be submitted to Endeavour Energy using Form FPJ4603 'Permission to Remove Service / Metering by Authorised Level 2 Accredited Service Provider' which must be accompanied by Notification of Service Works (NOSW) forms provided as a result of service work activity performed by a Level 2 ASP. The retailer must also provide written agreement for the permanent removal of supply.

[Inserted by Land and Environment Court under MOD2020/0414]

External Walls and Cladding Flammability

34. The external walls of the building including attachments must comply with the relevant requirements of the National Construction Code (NCC). Prior to the issue of a Construction Certificate, the Certifying Authority and Principal Certifying Authority must:
 - (a) Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the relevant requirements of the NCC; and
 - (b) Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the NCC as proposed and as built.

Fire Safety Upgrading & Essential Services

35. The Construction Certificate is to include a schedule specifying all of the essential fire or other safety measures (both current and proposed) that are required for the building or premises to ensure the safety of persons in the building in the event of fire.

Compliance with Acoustic Report

36. Prior to the issue of a Construction Certificate, the construction drawings and construction methodology must be assessed and certified by a suitably qualified acoustic consultant to be in accordance with any requirements and recommendations of the approved acoustic report prepared by Day Design Pty Ltd report reference 7255-1.1R, dated 8 September 2021.

Note: Suitably qualified Acoustic Consultant means a consultant who holds a current member grade of the Australian Acoustical Society.

[Amended by Land and Environment Court under MOD2020/0414]

Design Verification Statement

37. In accordance with Environmental Planning and Assessment Regulation 2000 and State Environmental Planning Policy (SEPP) 65 "Design Quality of Residential Apartment Development", the subject development must be undertaken or directed by a "qualified designer" (i.e., a "registered architect" under the Architects Act). In this regard, a design verification statement shall be submitted to the Principal Certifying

Authority (PCA). The PCA shall ensure that the statement prepared by the qualified designer provides the following:-

- (i) A valid and current chartered architect's certificate number (as issued by the Board of Architects of NSW);
- (ii) That the qualified designer has designed or directed the design of the subject development;
- (iii) That the plans and specifications lodged with the Construction Certificate achieve or improve the design quality of the development for which the subject development consent was granted, having regard to the design principles set out in Part 2 SEPP 65.

N.B. The design verification statement must provide an explanation of the design in terms of the design quality principles set out in Part 2 of SEPP 65.

Salinity

38. The site has been identified as having a potential salinity hazard. To prevent moisture/salinity from entering the built structure, appropriate construction methods are to be incorporated for all dwellings/buildings.

Details of proposed methods of construction are to be detailed in the engineering plans and submitted to the PCA.

Note: Further information for building in a saline environment is available in the following documents:

- "Building in Saline Environment" prepared by DIPNR 2003.
- Water Sensitive Urban Design in the Sydney Regions "Practice Note 12: Urban Salinity"
- Wagga Wagga City Council's "Urban Salinity Action" October 1999
- "Guide to Residential Slabs and Footings in Saline Environments" prepared by Cement Concrete and Aggregates Australia, May 2005

Waste Storage

39. Designated waste and recyclable storage facilities must be provided within the premises in accordance with the following requirements:
 - (a) The waste storage room/s must be fully enclosed, suitably sized to contain all waste and recyclable material generated on the premises, adequately ventilated and constructed with a concrete floor and concrete or cement rendered walls;
 - (b) The waste storage facilities including collection bays and storage rooms must be easily accessible for the collection and disposal of all waste and recyclable material;
 - (c) The floor must be graded and drain to sewer in accordance with Sydney Water requirements;
 - (d) A hot and cold hose cock shall be provided within the room;
 - (e) If there is a mix of residential and commercial uses on site, then separate storage rooms complying with the above requirements must be provided for each.

A detailed waste and recycling management strategy including plans and specifications showing the design and location of all waste/recycling storage rooms; site collection approach including any required waste/recycling collection bays must be submitted to the Council or registered certifier prior to the issue of the Construction Certificate.

[Amended by Land and Environment Court under MOD2020/0414]

On-site stormwater detention (OSD)

40. The development has been identified as requiring an On-site Stormwater Detention (OSD) system which has formed part of the development consent. Therefore, in order to satisfy the drainage requirements for the building, any construction certificate for the building shall include the construction of the OSD system. In this regard, design and construction details of the OSD system demonstrating compliance with the development consent, OSD plan number 2017-068 and Council's On-site Detention (OSD) policy shall be submitted to the Certifying Authority prior to the issue of a Construction Certificate.

Water Sensitive Urban Design (WSUD)

41. The development has been identified as requiring water sensitive urban design (WSUD) which has formed part of the development consent. Therefore, in order to satisfy the drainage requirements for the building, any construction certificate for the building shall include the construction of the WSUD system. In this regard, design and construction details of the WSUD system demonstrating compliance with Holroyd DCP 2013 Part A section 7.5 shall be submitted to the certifying authority prior to the issue of a construction certificate.
42. The Pollution Control Device(s) shall be within the subject property and maintenance, replacement etc. shall be the total responsibility of the property owner.

Note:

All electronic models shall be provided to Council.

Structures near Easements

43. Special footings will be required where the proposed/existing structure is adjacent to a drainage easement to protect Council's stormwater drainage infrastructure. The footings shall be taken down to the invert level of the existing drainage structure or to solid rock, whichever is the lesser. The footing depth may decrease by 500mm for every 1000mm increment in distance the footing is from the easement boundary. A Structural Engineer's certificate for the special footings referred to above is to be submitted to the Principal Certifying Authority.

Road Works

44. A Traffic Management Plan shall be lodged with Council for any road and drainage works to be carried out within public road reserves, or where construction activity impacts on traffic flow or pedestrian access, in strict compliance with the requirements of Australian Standard 1742.3 (Traffic Control Devices for Works on Roads). In this regard, the applicant shall pay Council a **\$511.20** fee for the assessment of the Traffic Management Plan by Council, prior to commencing works within the road reserves. A copy of the approved Traffic Management Plan shall be kept on site during the course of construction for reference and compliance.

Post Construction Road Reserve Dilapidation Report (Major Development)

- 44A The applicant must bear the cost of all restoration works to Council's road, footpath and drainage assets damaged during the course of this development.

A Post Construction Dilapidation Report after the completion of all building works and

satisfactory infrastructure inspection must be approved by Council's Executive Manager Development and Building prior to the refund of any security deposits.

[Inserted by Land and Environment Court under MOD2020/0414]

Construction and Traffic Management Plan

45. The applicant shall also provide a Construction and Traffic Management Plan, prepared by a suitably qualified consultant and submitted to Council for approval. The following matters must be specifically addressed in the Plan:
 - (a) A plan view (min 1:100 scale) of the entire site and frontage roadways indicating:
 - Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways;
 - Signage type and location to manage pedestrians in the vicinity;
 - The locations of any proposed Work Zones in the frontage roadways – note: Work Zone fees apply in accordance with Council's Fees and Charges;
 - Locations and type of any hoardings proposed along all street frontages;
 - Area of site sheds and the like;
 - Location of any proposed crane standing areas;
 - A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries;
 - Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected;
 - The provision of an on-site parking area for employees, tradesperson and construction vehicles as far as possible; and
 - (b) A Traffic Control Plan for the site must be prepared for approval by Council incorporating the following: -
 - (ii) Traffic control devices proposed in the road reserve must in accordance with the RMS publication "Traffic Control Worksite Manual" and designed by a person licensed to do so (minimum RMS 'red card' qualification).
The main stages of the development requiring specific construction management measures are to be identified and specific traffic control measures identified for each.
 - (iii) A detailed description and route map of the proposed route for vehicles involved in spoil removal, material delivery and machine floatage must be provided detailing: -
 - a. Light traffic roads and those subject to a load or height limit must be avoided at all times; and
 - b. A copy of this route is to be made available to all contractors, and shall be clearly depicted at a location within the site.
 - (iv) Evidence of RMS concurrence where construction access is provided directly or within 20m of an Arterial Road.

- (v) A schedule of site inductions to be held on regular occasions and as determined necessary to ensure all new employees are aware of the construction management obligations. These must specify that construction-related vehicles to comply with the approved requirements;
- (vi) For those construction personnel that drive to the site, the Applicant shall provide on-site parking so that their personnel's vehicles do not impact on the area.
- (d) Council's adopted fee for certification of compliance with this condition shall be payable on lodgement, or in any event, prior to the issue of the relevant approval.
- (e) Any use of Council property shall require appropriate approvals and demonstration of liability insurances prior to such work commencing.
- (f) Failure to provide complete and detailed information may result in delays. It is recommended that your Construction and Traffic Management Plan be lodged with Council as early as possible.
- (g) Dependent on the circumstances of the site, Council may request additional information to that detailed above.
- (h) Subject to an application for the occupation of public roadway or footway(Section 138, Local Govt. Act 1993), and Covered by a \$20M public liability insurance policy, with the policy noting Council as an interested party.

Sight Distance

- 46. To maintain sight distance to pedestrians, all fencing and landscaping within 2.0m of a driveway shall have a maximum height of 1m and 50% transparent above a height of 0.5m. All solid posts higher than 0.5m (but lower than 1m) shall have a maximum width 350mm and a minimum spacing of 1.2m. Detail is to be submitted to the Principal Certifying Authority, prior to the issue of a Construction Certificate.
- 47. Details of any control device (if proposed) for the roller door and the boom gates shall be shown on the plans. The control device/s should be on the drivers' side of vehicles entering the site; the control device shall not reduce the width of the access driveway below the minimum in accordance with AS 2890.1-2004, not impact on the flow of traffic (e/g/ vehicles queuing wholly within the site, etc) and road safety.

[Amended by Land and Environment Court under MOD2020/0414]

Accessibility

- 48. Prior to the issue of a construction certificate, plans must be submitted to the certifying authority demonstrating that the new development has been designed to comply with the requirements of the Disability (Access to Premises – Building) Standards 2010.

Storage

- 49. Secured storage areas for each residential unit shall be provided at the following rates:-
 - 1 bedroom units - 6m³
 - 2 bedroom units - 8m³

- 3 bedroom units - 10m³

At least 50% of the required volume is to be provided within each unit and any basement storage is to be clearly allocated to individual units. Detail is to be submitted to the Principal Certifying Authority, prior to the issue of a Construction Certificate.

50. Signs and line marking plans shall be prepared prior to the issue of a construction certificate and be in accordance with AS 2890.1-2004, AS 2890.6-2009 and the endorsed plans.

Car Wash Bay

51. A vehicle wash bay shall be provided for residents of the development. Collection, reuse and ultimate disposal of water used in the vehicle wash bay shall be in accordance with Sydney Water's requirements. The car wash bay shall be designed so that the following requirements are met:-
 - Have an adequate parking and washing floor space.
 - Provide a water supply.
 - Minimise water use with appropriate devices (e.g., such as a gun-type nozzle which closes when released and a timer operative valve, collection and use of rainwater).
 - Have a water supply cut out system/fail-safe mechanisms provided to ensure that mechanical failure; drainage blockage or lack of maintenance cannot result in wastewater surcharge into the stormwater system.
 - Be designed to ensure that over spray, drift of water or detergent does not cause a nuisance to persons, vehicles, residences, other buildings, neighbouring properties or the environment.
 - Be located so that washing can occur with minimal disturbance to other residents.

Details to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

Air Conditioning

52. Details and specifications for the mechanical ventilation system complying with the Australian Standard are to be submitted and approved by the Principal Certifying Authority.

Mechanical Ventilation – Certification of Compliance

- 52A. Details of any mechanical ventilation and/or air handling system must be prepared by a suitably qualified person and certified in accordance with clause A2.2 (a) (iii) of the *National Construction Code 2019*, to the satisfaction of the Council or registered certifier prior to the issue of a Construction Certificate. The system must be certified as complying with *AS1668.1 and 2 – 2012 The Use of Ventilation and Air-Conditioning in Buildings - Mechanical Ventilation in Buildings*, the *National Construction Code* and relevant Australian Standards.

[Inserted by Land and Environment Court under MOD2020/0414]

PRIOR TO WORKS / DEMOLITION COMMENCING

The following conditions are to be complied with prior to any works / demolition commencing on the site:

Appointment of Principal Certifying Authority and Notification of Commencement of Work

53. The person having the benefit of the development consent, not the principal contractor (builder), must: -
- a) Appoint a Principal Certifying Authority in accordance with Section 81A(2)(b) of the Act.
 - b) Have the Principal Certifying Authority complete the 'Accredited Certifier Details' on the approved form provided by Council for this purpose, an original of which is attached to this Development Consent.
 - c) Notify Council of the appointment of the Principal Certifying Authority and of the intention to commence building work, such notification is to be given to Council at least two (2) working days prior to the proposed commencement date, and be on the approved form provided by Council for this purpose, an original of which is attached to this Development Consent.

If nominated, Council can provide this service for you and act as the Principal Certifying Authority.

N.B. The Principal Certifying Authority must also notify the person having the benefit of the Development Consent of any mandatory critical stage inspections and other inspections that are to be carried out in respect of the building work such notification must comply with Clause 103A of the Regulations.

Notification of Principal Contractor (Builder)/Owner-Builder

54. The person having the benefit of the Development Consent must:-
- (a) Notify the Principal Certifying Authority that the person will carry out the work as an owner-builder, if that is the case;
- OR
- (b) Appoint a Principal Contractor for the building work (who must be the holder of a contractor licence if any residential building work is involved), and notify the Principal Contractor of any mandatory critical stage inspections and other inspections that are to be carried out in respect of the building work.
 - (c) Notify the Principal Certifying Authority of any such appointment.

Where Council is the Principal Certifying Authority, such notification is to be on the approved form provided by Council for this purpose, an original of which is attached to this Development Consent.

Notification to Relevant Public Authority

55. The applicant shall ensure that relevant public utility authorities are made aware of the salinity problems that have been identified, such that their services are designed to take into consideration the effects the saline soils may have on their installations.

Required Submissions to Certifying Authority

56. To facilitate a complete assessment and enable the Certifying Authority to check compliance on site, truss validation and design, details certified by a qualified practicing structural engineer shall be submitted to Council or the Principal Certifying Authority for examination and approval. Details shall include:
- a) job address and builder's name
 - b) design wind velocity
 - c) terrain category
 - d) truss spacing
 - e) roof pitch
 - f) material of roof
 - g) roof batten/purlin spacing
 - h) material of ceiling
 - i) job number

Photographic Record of Council Property – Damage Deposit

57. The applicant shall submit to Council, for the purposes of the damage deposit bond lodged to cover making good any damage caused to the property of Council, a full and satisfactory photographic record of the condition of Council's property (i.e., road pavement, kerb and guttering, footway, stormwater drainage, etc.) adjacent to the subject site. The purpose of the photographic record is to establish any pre-existing damage to Council's property to ensure that you are not liable for any re-instatement works associated with that damage. However, if in the opinion of Council, the existing damage has worsened or any new damage is caused during the course of construction, the Council may require either part or full re-instatement.

Note: Failure to provide a full and satisfactory photographic record described above, is likely to render the applicant liable to rectify all damages unless satisfactory proof can be provided that the damage was pre-existing.

Notification to Relevant Public Authority

58. The applicant shall ensure that relevant public utility authorities are made aware of the salinity problems that have been identified, such that their services are designed to take into consideration the effects the saline soils may have on their installations.

Fencing of Sites

59. Fencing of sites is required to prevent public access when the site is unoccupied and building works are not in progress. In this regard the MINIMUM acceptable standard of fencing to the site is properly constructed chain wire fencing 1.8m high, clad internally with Hessian or Geotextile fabric. All openings are to be provided with gates, such gates are not at any time to swing out from the site or obstruct the footpath or roadway.

Signs to be Erected on Sites

60. A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- (a) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
 - (b) 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 at any time for business purposes**, and
 - (c) stating that unauthorised entry to the work site is prohibited.

The sign must be rigid and durable and be read easily by anyone in any public road or other public place adjacent to the site.

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

This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

Note: Principal Certifying Authorities and Principal Contractors must also ensure that signs required by this clause are erected and maintained (clause 227A of the Regulations currently imposes a maximum penalty of \$1,100).

Prohibited Signage

61. Advertising, Real Estate Agents, Architects, Designers, site suppliers and any other signage not mentioned in the conditions, is not to be placed or displayed on the site, such that the signage is visible from any public place. Offenders may be prosecuted.

Protection of Public Places

62. A hoarding or fence must be erected between the work site and any public place, if the work involved in the erection or demolition of the building; is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or involves the enclosure of a public place.

If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place. The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

Site Control Measures

63. Suitable erosion and sediment control measures shall be provided at all vehicular entry/exit points and all other measures required with and/or shown on plans accompanying the Construction Certificate, to control soil erosion and sedimentation, are to be in place prior to the commencement of construction works. Such controls are to be provided in accordance with Holroyd's "Erosion & Sediment Control Policy."

Note: On-the-spot fines may be issued by council where measures are absent or inadequate.

64. Protection must be provided for Council footpaving, kerbing and guttering. Wooden mats must also be provided at all entrances where the site fronts paved footpaths.
65. Finished street levels shall not be assumed. The owner or builder must make application to Council's Engineering Services Department for street levels.

Support for Neighbouring Buildings

66. If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land (including a public road and any other public place), the person causing the excavation to be made:-
 - a) must preserve and protect the building from damage, and
 - b) if necessary, must underpin and support the building in an approved manner, and
 - c) must, at least seven (7) days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars to the owner of the building being erected or demolished.

The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land. (In this clause, *allotment of land* includes a public road and any other public place).

67. A dilapidation report of adjoining properties/allotments and details of the proposed excavation works in excess of 2m or within the zone of influence of neighbouring building foundations and required underpinning and supportive measures shall be submitted to the Principal Certifying Authority. Any required underpinning and supportive measures shall be designed by a practising structural engineer and details shall be submitted to the Principal Certifying Authority for approval prior to construction works commencing.

Toilet Facilities

68. Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
Each toilet provided:
 - a) Must be a standard flushing toilet, and
 - b) Must be connected:
 - i) To a public sewer,
 - ii) If connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or
 - iii) If connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.
 - iv) The position of the toilet on the site shall be determined by Council's Building Surveyor and/or Sydney Water.

Roadworks

69. The applicant is to submit to Council an application for a road opening permit when the drainage connection into Council's system is within the road reserve. In this regard the applicant shall pay Council a **\$168.60** fee prior to the commencement of works. Additional road opening permits and fees may be necessary where there are connections to public utility services (e.g. telephone, electricity, sewer, water or gas) required within the road reserve.
70. The applicant to arrange with the relevant public utility authority the alteration or removal of any affected services in connection with the development. Any such work being carried out at the applicant's cost.
71. Any required adjustment to utility services, trees, signs and other street furniture requires approval of the appropriate authority, which shall be undertaken by the applicant. All costs associated with the proposed works shall be borne from the applicant at no cost to Council.
72. Any works requiring closure of any road or footway closure will require submission of a Council's Temporary Road Closure application form and payment of fees.

Works within Councils Reserve

73. All works within the Council reserve shall be completed within three (3) weeks of the date of commencement. Council's Development Engineer shall be advised prior to the commencement of works.
74. Submission to Council of a Certificate of Currency of the contractor's Workers' Compensation Policy prior to the commencement of works.
75. All construction works shall be in accordance with the WorkCover safety requirements. Submission of insurance documentation demonstrating a minimum Public Liability cover of \$20,000,000 is to be submitted prior to commencement of works. Cumberland Council shall be named on the Certificate of Currency as an interested party.

Property/Street Number

76. Council is the authority responsible for the allocation of all official property addresses. For ease of identification of your new development, it is important that the allocated property numbers are used and displayed prominently. It is requested that you contact Council as soon as possible before construction is commenced to discuss proposed addressing for your development.

Please email your site plan to hcc@cumberland.nsw.gov.au or contact Council's Rates Section by Phone on 9840 9767.

Council's 'Allocation of Property Numbers' policy is available on Council's website www.cumberland.nsw.gov.au.

Residential Building Work - Insurance

77. Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the Principal Certifying Authority for the development to which the work relates (where not Holroyd City Council) has given Holroyd City Council written notice of the following information:-

- (a) in the case of work for which a Principal Contractor is required to be appointed:
 - (i) the name and licence number of the Principal Contractor, and
 - (ii) the name of the insurer by which the work is insured under Part 6 of that Act,
- (b) in the case of work to be done by an owner-builder:
 - (i) the name of the owner-builder, and
 - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

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

The notification is to be on the approved form provided by Council for this purpose, an original of which is attached to this Development Consent.

DURING DEMOLITION / CONSTRUCTION

The following conditions are applicable during demolition / construction:-

Endorsed Plans & Specifications

78. A copy of the endorsed stamped plans and specifications, together with a copy of the Development Consent, Construction Certificate and approved Traffic Management Plan are to be retained on site at all times.

Hours of Work & Display of Council Supplied Sign

79. For the purpose of preserving the amenity of neighbouring occupations building work including the delivery of materials to and from the site is to be restricted to the hours of 7.00am to 6.00pm Mondays to Fridays and 8.00am to 4.00pm Saturdays. Work on the site on Sundays and Public Holidays is prohibited. **Note: Demolition work is not permitted on weekends or Public Holidays - refer to specific demolition condition for approved hours.**

The yellow "Hours of Building Work" sign (supplied by Council with the approval), is to be displayed in a prominent position at the front of the site for the duration of the work.

Site Control

80. All soil erosion measures required in accordance with the approved sediment and erosion control plan and any other relevant conditions of this Consent are to be put in place prior to commencement of construction works are to be maintained during the entire construction period until disturbed areas are restored by turfing, paving or revegetation. This includes the provision of turf laid on the nature strip adjacent to the kerb.
81. Builder's refuse disposal and storage facilities are to be provided on the development site for the duration of construction works and all rubbish shall be removed from the site upon completion of the project.
82. Stockpiles of sand, soil and other material shall be stored clear of any drainage line or easement, tree protection zone, water bodies, footpath, kerb or road surface and shall have erosion and sediment control measures in place to prevent the movement of such materials onto the aforementioned areas and adjoining land.

Asbestos Cement Sheeting

83. i) All asbestos cement sheeting must be removed by contractors with an appropriate licence issued by WorkCover and who are familiar with asbestos removal prior to the commencement of:-
- (a) Recladding or brick veneering of any building where the existing walls to be covered are currently clad with asbestos cement;
- OR
- (b) Construction work where new work abuts existing asbestos cement sheeting and/or where parts of the existing building clad with asbestos cement sheeting are to be altered or demolished.

Removal must be carried out strictly in accordance with WorkCover's "Your Guide to Working with Asbestos" (copy attached).

- ii) All asbestos laden waste, including asbestos cement flat and corrugated sheets must be disposed of at a tipping facility licensed by the Environment Protection Authority (EPA).

Note: The person responsible for disposing of the above asbestos waste is to telephone the EPA on (02) 9995 5000 or Council's Waste Officer on (02) 8757 9000 to determine the location of a tip licensed to received asbestos. **Upon completion of tipping operations the applicant shall lodge with the Council, all receipts issued by the receiving tip as evidence of proper disposal.**

- iii) Within fourteen (14) days of completion of renovation or recladding or brick veneering works where asbestos cement sheeting was removed, the applicant shall submit to Council an asbestos clearance certificate prepared by a NATA accredited occupational hygienist.

Note: To find a list of NATA accredited facilities visit the NATA website at www.nata.asn.au and under 'Find a Facility or Lab' type in 'asbestos identification' in 'keywords' then click on 'chemical testing' in NSW then click on the search button. A list of laboratories will be produced which you can contact for the purpose of having a clearance certificate issued.

Waste Management Plan

- 84. The approved Waste Management Plan must be implemented and complied with during all stages of works on site.
- 85. Within seven (7) days of completion of construction/building works, the applicant shall submit a signed statement to Council or the Principal Certifying Authority verifying that demolition work and recycling of materials was undertaken in compliance with the Waste Management Plan. The Principal Certifying Authority shall submit a copy of the statement to Council.

In reviewing such documentation Council will require the provision of actual weighbridge receipts for the recycling/disposal of all materials.

Compliance with Critical Stage Inspections and other Inspections nominated by the Principal Certifying Authority

- 86. Section 109E(3)(d) of the Act requires certain specific inspections (prescribed by clause 162A of the Regulations) and known as 'Critical Stage Inspections' to be carried out for building work. Prior to permitting commencement of the work your Principal Certifying Authority is required to give notice of these inspections pursuant to clause 103A of the Regulations.

N.B. An Occupation Certificate cannot be issued and the building may not be able to be used or occupied where any mandatory critical stage inspections or other inspections required by the Principal Certifying Authority are not carried out.

Where Council is nominated as Principal Certifying Authority, notification of all inspections required is provided with the Construction Certificate approval.

Construction

87. The building and external walls are not to proceed past ground floor formwork/reinforcing steel level until such time as the Principal Certifying Authority has been supplied with a check survey report prepared by a registered surveyor certifying that the floor levels and external wall locations to be constructed, comply with the approved plans, finished floor levels (FFL)s and setbacks to boundary/ies. **The slab shall not be poured, nor works continue, until the Principal Certifying Authority has advised the builder/developer that the floor level and external wall setback details shown on the submitted survey are satisfactory.**

In the event that Council is not the Principal Certifying Authority, a copy of the survey shall be provided to Council within three (3) working days.

On placement of the concrete, works again shall not continue until the Principal Certifying Authority has issued a Certificate stating that the Condition of approval has been complied with and that the slab has been poured at the approved levels.

Salinity

88. The site has been identified as having a potential salinity hazard. To prevent moisture/salinity from entering the built structure, appropriate construction methods are to be incorporated for all dwellings/buildings.

Details of proposed methods of construction are to be detailed in the engineering plans and submitted to the PCA.

Note: Further information for building in a saline environment is available in the following documents:

- “Building in Saline Environment” prepared by DIPNR 2003.
- Water Sensitive Urban Design in the Sydney Regions “Practice Note 12: Urban Salinity”
- Wagga Wagga City Council’s “Urban Salinity Action” October 1999
- “Guide to Residential Slabs and Footings in Saline Environments” prepared by Cement Concrete and Aggregates Australia, May 2005

89. The building and external walls are not to proceed past ground floor formwork/reinforcing steel level until such time as the Principal Certifying Authority has confirmed that all required construction measures addressing salinity, as required by this Consent and its accompanying Construction Certificate have been carried out.

Landscaping/ Site Works

90. All turfed areas shall be finished level with adjoining surfaces and also fall evenly to approved points of drainage discharge.
91. New 1.8m high lapped and capped timber paling or colorbond fences (colour to be sympathetic with the development) determined in consultation with adjoining property owner(s), are to be erected along and within all side and rear boundaries and between courtyards at full cost to the developer, such fencing to be constructed on or within the property boundary. In situations where the boundary fence is proposed on top of a retaining wall, the height of the fence shall not exceed a maximum of 2.4m as measured from the lower adjacent ground level. A Statutory Declaration or other documentary evidence of such consultation is to be submitted to the Principal Certifying Authority.

92. A single master T.V. antenna is to be installed to service each building and provision made for connection to each dwelling within that building.

Tree Protection

93. The applicant shall accept all responsibility for the accuracy of the information provided to Council for assessment. If any tree/s are not shown on the endorsed plan or are required to be retained/transplanted and protected but are threatened by demolition/construction work through unforeseen construction requirements or plan inaccuracy, all site and building works so affected are to cease until the matter is resolved to the satisfaction of Council. Council's Environmental and Planning Services Department is to be notified immediately upon such a problem being encountered.

Underground Cabling

94. All communications cabling shall be installed underground as per relevant authority requirements (including broadband and Category 5).

Underground Power Connection

95. Where electricity reticulation cannot be obtained directly from the street, power connection is to be underground. No intermediate power pole is permitted.

Alarms

96. The developer/builder shall not install any audible intruder alarms within the units. If the building is to be provided with a burglar alarm system, this shall incorporate back to base monitoring such that residents can connect thereto from each individual unit.
97. With regard to the basement level pump out system, a suitable audible alarm with flashing light system shall be positioned at the first floor level of each common property stairwell within the building and a flashing light only shall be positioned at each common property entrance to the car parking area to provide a flood warning in the case of pump failure. The alarm system shall be to the satisfaction of Council's Engineer.

Basement Parking

98. A convex mirror is to be provided so that drivers can see up the driveway from within the basement.
99. An intercom device is to be located:
- (a) on the driver's side at an appropriate location within the basement car park so that visitors can access the visitor car parking spaces.
 - (b) within the basement foyer so that disabled persons can contact any unit if the lift is not working.

[Amended by Land and Environment Court under MOD2020/0414]

Vehicle Cleansing

100. Concrete trucks and trucks used for the transportation of building materials shall not traffic soil, cement or similar materials onto the road. Hosing down of vehicle tyres shall be conducted in a suitable off-street area where wash water is prevented from entering the stormwater system or adjoining property.

Importation of Fill

101. All imported fill shall be validated in accordance with Council's Contaminated Land Policy to ensure that it is suitable for the proposed land use from a contamination perspective.

Additional Information during Remediation/Demolition/Construction

102. Any new information which comes to light during remediation, demolition or construction works which has the potential to alter previous conclusions about site contamination, shall be notified to Council immediately.

Works within Council's Reserve

103. All works within the Council reserve shall be suitably fenced to prevent public access to the work site during construction of the stormwater drainage.

Inspection of On Site Detention Works

104. The stormwater drainage works are to be inspected during construction, by the Council or by a suitably qualified Civil Engineer. Documentary evidence of compliance with Council's specifications shall be obtained prior to proceeding to the subsequent stages of construction, encompassing not less than the following key stages:
- (a) Initial inspection to discuss concept and site conditions/constraints prior to commencement of construction of the detention basin/tank.
 - (b) Prior to landscaping of detention basin or pouring of the roof of the detention tank.
 - (c) After completion of storage but prior to installation of fittings (e.g. orifice plates, screens, flap valves etc.)
 - (d) Final Inspection

Council's standard inspection fee will apply to each of the above set inspection key stages. Additional inspection fees will apply for additional inspections required to be undertaken by Council.

Inspection of Pollution Control Device/s

105. The stormwater drainage and/or pollution control devices shall be inspected during construction, by the Council or by a suitably qualified Civil Engineer. Documentary evidence of compliance with Council's specifications shall be obtained prior to proceeding to the subsequent stages of construction, encompassing not less than the following key stages:
- (a) Initial inspection to discuss concept and site conditions/constraints prior to commencement of the construction of the pollution control device/s.
 - (b) After completion of storage but prior to installation of fittings (e.g. screens, etc.)
 - (c) Final Inspection.

Council's standard inspection fee will apply to each of the above set inspection key stages. Additional inspection fees will apply for additional inspections required to be undertaken by Council.

Roadworks and Footpaving

106. Pedestrian access, including disabled and pram access, is to be maintained as per Australian Standard AS1742.3 "Part 3 – Traffic Control Devices for Works on Roads".
107. All advisory and regulatory sign posting (for example parking restriction signage, pedestrian crossing signs, warning signs) are to remain in place during construction.

Acoustic Measures

108. The recommendations provided within the Noise Impact Assessment prepared by Day Design Pty Ltd report reference 7255-1.1R, dated 8 September 2021, shall be implemented.

[Amended by Land and Environment Court under MOD2020/0414]

PRIOR TO ISSUE OF FINAL OCCUPATION CERTIFICATE

The following conditions are to be complied with prior to the issue of a final occupation certificate:-

Certificate/ Documentary Evidence

109. A final clearance is to be obtained from Integral Energy if such clearance has not previously been issued.
110. A Section 73 compliance certificate under the Sydney Water Act 1994 must be obtained from Sydney Water.

Application can be made either directly to Sydney Water or through a Sydney Water accredited Water Servicing Coordinator.

Go to sydneywater.com.au/section73 or call 1300 082 746 to learn more about applying through an authorised Water Servicing Coordinator or Sydney Water.

Following application, Sydney Water may issue a Notice of Requirements letter detailing all requirements that must be met prior to the issue of the section 73 certificate.

The section 73 compliance certificate must be submitted to the Principal Certifying Authority prior to the issue of a final occupation certificate.

Landscape/Tree Protection

111. Certification is to be provided to the Principal Certifying Authority (PCA), from the designer of the landscape proposal (as appropriate), that all tree planting/landscape works have been carried out in accordance with the endorsed plan. If Council **is** the PCA, the certification is to be submitted to Council prior to or at the final landscape inspection. If Council **is not** the PCA, a copy of the certification is to be provided to Council with the Occupation Certificate.
112. Certification is to be provided to the Principal Certifying Authority (PCA) from a suitably qualified and licensed contractor that the specified planter boxes have been waterproofed and drained in accordance with the requirements of the current relevant Australian Standards, any relevant authority regulations and current best work practices. If Council is not the PCA a copy of the certification is to be provided to Council with the Occupation Certificate.
113. Certification is to be provided to the Principal Certifying Authority from a suitably qualified and licensed contractor that the specified fully automated commercial grade irrigation system has been designed and installed to all common planted areas in accordance with the requirements of the current relevant Australian Standards, any relevant authority regulations and current best work practices. If Council is not the PCA, a copy of the certification is to be provided to Council with the Occupation Certificate.
114. Landscaping adjacent to the driveway shall not restrict pedestrian and vehicular visibility in accordance with Australian Standard 2890.1 – 2004. Regular maintenance shall be undertaken to ensure this requirement is satisfied.

115. Boundary and courtyard fences must be erected and finished in a professional manner.
116. Increased plantings are to be provided throughout the proposal by way of larger planter boxes on lower levels with a minimum internal width of 1m and internal depth of 600mm. Where current planter box widths are 1.5m or greater suitable small trees are to be provided (for example, Magnolia 'Teddy Bear'.)
117. Green roof/roof top gardens shall be provided with planter boxes and communal facilities such as seating and shade structures.
118. *Tristaniopsis laurina* 'Luscious' shall be provided as street trees to the Sherwood Road frontage, min 100L pots, at 8m spacings.
119. A Structural Engineer's certificate from the supervising structural engineer responsible for the design shall be submitted to the Principal Certifying Authority and shall state that all foundation works/reinforced concrete/structural members have been carried out/erected in accordance with the Engineer's requirements and the relevant SAA Codes.

Note: Any such certificate is to set forth the extent to which the engineer has relied on relevant specifications, rules, codes of practice or publications in respect of the construction.

120. A registered certifier shall submit to the Principal Certifying Authority a signed checklist as per Appendix A of AS4299-1995 confirming that a minimum of 14 dwellings have achieved the desired level of adaptability (i.e. "Adaptable House Class A or B").

[Amended by Land and Environment Court under MOD2020/0414]

Parking/Driveway

121. All dwellings/units and associated car parking spaces shall be numbered on site in accordance with numbering on the endorsed plans. These numbers shall also be consistent with any strata plan for the completed development.
122. All resident, visitor and commercial parking spaces shall be signposted and line marked in accordance with Australian Standards 2890.1.2004 and 2890.6.2009.
123. All bicycle facilities shall be designed in accordance with AS 2890.3:1993. Bicycle parking shall have a clearance of 900mm from a wall or fence.
124. The entry / exit driveway shall be indicated with appropriate signage and line marking to avoid conflict at the driveway.
125. The driveway shall be signposted indicating availability of visitor off-street parking. Spaces reserved for this purpose shall be marked as such.
126. Directional signage shall be designed and provided on site to direct visitors to the residential and commercial visitor parking spaces. The signage shall be positioned in a location which will not impact on vehicle movements or damage the signage, visible to drivers and to be endorsed by a suitably qualified Traffic Practitioner.
127. Directional arrows for internal circulation shall be proximately displayed on the pavement approaches to, and within, the car park area.

128. The vehicle crossing between the street and front boundary shall be constructed of plain concrete with no colour or stencilling.
129. All disabled parking spaces shall be provided with a shared area, bollards and slip resistant surface in accordance with Australian Standard 2890.6.2009.
130. Wheel stops shall be provided at appropriate parking locations and in accordance with AS 2890.1-2004.
131. **[Deleted by Land and Environment Court under MOD2020/0414]**
132. The height clearance at any entry/exit point of the ramp shall be in accordance with AS 2890.1-2004.
133. A Give-Way sign and line marking shall be provided at the entry of the basement car park to ensure any traffic conflict is avoided when entering and exiting the basement.
134. The design envelope around a parked vehicle is to be kept clear of columns, walls or other obstructions in accordance with AS 2890.1-2004.

Loading Dock Management Plan

- 134A. A Loading Dock Management Plan shall be prepared by the Applicant and submitted to and approved by Cumberland City Council's Executive Manager Development and Building prior to the issue of any Occupation Certificate. The Plan will need to demonstrate how the loading dock will be managed to ensure that there will be only one vehicle entering and exiting the loading dock access in any period and how safe servicing arrangements including waste collection will be undertaken without interrupting general traffic. The area designated as manoeuvring areas must be kept clear of obstructions at all times. Vehicles must not be required to queue on public roads at any time.

[Inserted by Land and Environment Court under MOD2020/0414]

Operational Management Plan

- 134B. An Operational Management Plan (OMP) shall be prepared and submitted and approved by Cumberland City Council's Executive Manager Development and Building detailing the operation of the development. The OMP shall include, but not be limited to the following:
 - a. Vehicle access and egress.
 - b. Through-site circulation of vehicle movements.
 - c. Management of car parking areas.
 - d. The location and content of directional signage.
 - e. Complaints management.
 - f. Noise management.
 - g. Truck delivery times and methods of control to manage the sequencing of the loading docks.
 - h. Waste management.

Details demonstrating compliance are to be submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

[Inserted by Land and Environment Court under MOD2020/0414]

- 134C. Only left turns into Coolibah Street are permitted for heavy vehicles leaving the site. In this regard, an appropriate traffic sign shall be installed within the site. Details demonstrating compliance with this condition are to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

[Inserted by Land and Environment Court under MOD2020/0414]

Lighting

135. Adequate lighting shall be provided within the development (i.e. pedestrian access ways, common areas and communal open space, car parking areas and all entries) and shall comply with AS 1680.0:2009.

Alarms

136. Documentary evidence is to be produced from the contracted security company that the building has been provided with a burglar alarm system which has back to base monitoring, such that residents can connect thereto from each individual unit.

Lift

137. The lift provided from the commercial basement level is to be installed with a security measure so as to not allow visiting persons of the commercial tenancies access to the residential levels and the roof top terrace.

Lot Consolidation

138. Lot 101 in DP 789369 and Lots 1 in DP548919 are to be consolidated into one lot on title and all works shall be completed in accordance with this consent.

[Amended by Land and Environment Court under MOD2020/0414]

External Walls and Cladding Flammability

139. The external walls of the building including attachments must comply with the relevant requirements of the National Construction Code (NCC). Prior to the issue of an Occupation Certificate, the Certifying Authority and Principal Certifying Authority must:
- (a) Be satisfied that suitable evidence is provided to demonstrate that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the relevant requirements of the NCC; and
 - (b) Ensure that the documentation relied upon in the approval processes include an appropriate level of detail to demonstrate compliance with the NCC as proposed and as built.

Fire Safety

140. Submission to Council of a Final Fire Safety Certificate pursuant to Clause 170 of the Environmental Planning and Assessment Regulation 2000 in respect of each essential fire or other safety measure listed on the Fire Safety Schedule attached to the Construction Certificate.

NOTE:

1. Such Certificate shall state, pursuant to Clause 80E in relation to each essential fire safety measure mentioned in the certificate:–
 - that the service has been assessed by a properly qualified person (chosen by the owner of the building); and
 - that the service was found to be, when assessed, capable of performing to at least the standard required by the current fire safety schedule for the building for which the certificate is issued.
 2. The person who carries out the assessment must inspect and verify the performance of each fire safety measure being assessed, and must test the operation of each new item of equipment installed in the building premises that is included in the current fire safety schedules for the building.
 3. The assessment must have been carried out within the three (3) months prior to the date on which the final fire safety certificate is issued.
141. A copy of the Fire Safety Certificate, together with a copy of the current Fire Safety Schedule, is to be given to the Commissioner of New South Wales Fire Brigades, and a further copy of the Certificate and Schedule is to be prominently displayed in the building.
142. At least once in each period of twelve (12) months after a Fire Safety Certificate is required to have been furnished to the Council, the owner of the building shall, pursuant to Clause 177 of the Regulation, submit to the Council and the Commissioner of the New South Wales Fire Brigades, an Annual Fire Safety Statement, in respect of each essential fire or other safety measure listed on the current Fire Safety Schedule. A copy of the Certificate and Schedule is to be prominently displayed in the building.

House/Street Number

143. A house/street number must be displayed on all newly developed properties in accordance with Council's "Policy on the Display of House Numbers" available from the Customer Services Counter or Council's website, www.cumberland.nsw.gov.au.

Design Verification Statement

144. In accordance with Environmental Planning and Assessment Regulation 2000 and State Environmental Planning Policy (SEPP) 65 "Design Quality of Residential Apartment Development", the subject development must be undertaken or directed by a "qualified designer" (i.e., a "registered architect" under the Architects Act). In this regard, a design verification statement shall be submitted to the Principal Certifying Authority (PCA) assessing the development, upon completion of all works subject of this consent and its accompanying construction certificate. The PCA shall ensure that the statement prepared by the qualified designer provides the following:-
- (i) A valid and current chartered architect's certificate number (as issued by the Board of Architects of NSW);
 - (ii) That the completed development achieves the design quality of the development as shown in the plans and specifications submitted and approved with the Construction Certificate, having regard to the design quality principles set out in Part 2 SEPP 65.

Acoustic Verification Report

145. Prior to the issue of the Occupation Certificate, a suitably qualified acoustic consultant* must prepare an acoustic verification report to the satisfaction of the Principal Certifier that confirms the following:

Acoustic Verification Report

Prior to the issue of the Occupation Certificate, a suitably qualified acoustic consultant* must prepare an acoustic verification report to the satisfaction of the Principal Certifier that confirms the following:

- (a) All recommendations contained in the DA acoustic report prepared by Day Design Pty Ltd report reference 7255-1.1R, dated 8 September 2021 have been implemented, and
- (b) The project specific noise criteria established in the DA acoustic report and any other noise and vibration criteria specified in this consent are being complied with.

***Note:** Suitably qualified Acoustic Consultant means a consultant who holds a current member grade of the Australian Acoustical Society.

[Amended by Land and Environment Court under MOD2020/0414]

On-site Stormwater Detention, Certification and Covenants

146. A copy of the as approved stormwater drainage, On Site Detention and Pollution Control Device plan showing work as executed details shall be submitted to Council. The work as executed plan shall be in accordance with Council's standards and specifications for stormwater drainage and on-site stormwater detention.
147. A certificate of compliance in accordance with Council's standards and specifications for stormwater drainage, On Site Detention and Pollution Control Device shall be issued to the Principal Certifying Authority by a suitably qualified Civil Engineer.
148. A certificate of compliance for the pump out drainage system of the basement level shall be issued to the Principal Certifying Authority by the pump installers stating that the pump out system has been installed to operate in accordance with the Council requirements and approved drawings.
149. Documents giving effect to the creation of a Positive Covenant and Restriction on Use over the as constructed On Site Detention and Pollution Control Device shall be submitted to the authority benefited for approval prior to lodging with the Land and Property Information NSW. The wording of the terms of the Positive Covenant and Restriction on Use shall be in accordance with Council's standards and specifications for stormwater drainage and on-site stormwater detention. The documents shall be approved by the benefiting authority for registration with Land and Property Information NSW.

Note: Prior to release of the documents creating the Restriction on Use and Positive Covenant, the benefiting authority shall be satisfied that the as-constructed On Site Detention and Pollution Control Device is in accordance with the approved drawings and Council requirements.

The Positive Covenant and Restriction on Use documents shall be registered with the Land and Property Information NSW within six (6) months from the date of release by the benefiting authority.

Stormwater Detention Plate

150. An On-site Stormwater Detention plate shall be installed within the detention basin or tank. The plate shall be located in or near the Discharge Control Unit to alert future owners of their obligations to maintain the facility and its restrictions. The wording and plate shall be in accordance with Council's standard requirements. This plate is required to be displayed prominently among the other required signage, as specified in the current Upper Parramatta River Catchment Trust handbook & on the Approved Plans.

Stormwater Drainage connection to the kerb in Coolibah Street: -

151. The site's stormwater drainage connection into the existing kerb in Coolibah Street shall be in accordance with Council's Works Specification and standard Drawings.

Maintenance Schedule

152. A maintenance schedule for the stormwater and On-Site Detention system including a sketch plan of the components forming the sites stormwater and On-Site Detention system shall be submitted. The maintenance schedule shall be prepared by a qualified hydraulic engineer and shall be in accordance with the Upper Parramatta River Catchment Trust requirements.

Roadworks

153. Any works requiring levels within the road reserve will require the submission of Council's Vehicle Crossing application form.
154. A full width **heavy** duty vehicular crossing shall be provided opposite each vehicular entrance to the site, with a width of 6 metres at the boundary line. These works shall be carried out by a licensed construction contractor at the applicant's expense and shall be in accordance with Council's issued drawings and level sheets.

[Amended by Land and Environment Court under MOD2020/0414]

155. The reconstruction of kerb and gutter and associated works along all areas of the site at the corner of Sherwood Road and Coolibah Street. These works shall be carried out by a licensed construction contractor at the applicant's expense and shall be in accordance with Council's standard drawing SD-8100 and issued level sheets.

Footpath Construction and Reconstruction

156. The removal of existing and construction of footpath paving to the site frontage. Generally the works shall be in accordance with Council's Town Centre Master Plan report (current version), and Council issued design and levels. These works shall be carried out by a licensed construction contractor at the applicant's expense, shall be in accordance with Council's standard drawing SD 8100 & issued level sheets, and shall address the following:
 - i) A minimum 2.5m wide footpath paving and associated works along all areas of the site fronting Sherwood Road, Merrylands West.

- ii) A minimum 1.5m wide footpath paving and associated works along all areas of the site fronting Coolibah Street, Merrylands West.
 - iii) **Street tree planting.** In this regard trees shall be sited considering awnings, traffic signals, sight lines etc. Trees shall be planted in accordance with Council requirements for street trees e.g. Numbers, species, size, guards, surface treatments, root barriers.
 - iv) All footpath areas within the road reserves that are not concrete shall be turfed with ST85 Buffalo or 'Sir Walter'.
157. Removal of all redundant vehicular crossings and laybacks along the full road frontage and replacement with kerb and gutter. These works shall be carried out by a licensed construction contractor at the applicant's expense and shall be in accordance with Council's standard drawing number SD-8100.
158. A certificate of compliance for the construction of vehicular crossings, footpath paving, kerb and guttering and roadworks shall be obtained from Council and be submitted to the Principal Certifying Authority.

General

159. Documentary evidence and/or certificate of compliance must be submitted to Council to show that all works have been completed in accordance with this Development Consent and its accompanying Construction Certificate.

Mechanical Ventilation – Certificate of Completion

- 159A. Prior to issue of an Occupation Certificate and following the completion, installation, and testing of all the mechanical ventilation systems, a Mechanical Ventilation Certificate of Completion and Performance in accordance with the *National Construction Code 2019*, must be submitted to the Principal Certifier.

[Inserted by Land and Environment Court under MOD2020/0414]

160. The glass balustrading associated with the balcony areas of the development, facing the public domain, shall be maintained to opaque glass.
161. The glazing proposed for the commercial units on the ground floor shall be maintained to clear glass.
162. All privacy measures including privacy screens shall be maintained in their approved condition for the life of the development and shall not be modified or removed without written consent from Council.

Pedestrian Pathway

163. The thorough pedestrian pathway, providing a pedestrian linkage between Sherwood Road and Coolibah Street shall be maintained at all times for use by general public at no cost to Council.

CONDITIONS RELATING TO USE

The following conditions are applicable to the use of the development:-

Safety & Amenity

164. Where an intruder alarm is installed on the premises it shall be fitted with a timing device in accordance with the requirements of the Protection of the Environment Operations Act 1997.
165. Access to the residential areas of the development shall be limited to residents via an intercom swipe card system.

Mechanical Ventilation System – Car Park

166. Noise and vibration from the use of the (mechanical exhaust ventilation) system shall not exceed the background level by more than 5dB(A) and shall not be audible in any premises of a different occupancy between 10.00pm and 7.00am on weekdays and 10.00pm and 8.00am on weekends and public holidays.
167. Business is to be conducted and patrons are to be controlled at all times so that no interference occurs to the amenity of the adjoining occupations.

Traffic and Parking

168. All vehicles shall enter and leave the site in a forward direction.
169. All loading and unloading of service vehicles shall be undertaken within the site.
170. The car wash bay shall be a common, independent area, and not serve as a visitor parking space.
171. Visitor/residents parking spaces and commercial/retail spaces shall be separated. Visitor/residents parking spaces shall not be used by commercial/retail visitors.
172. So as to enable access to commercial car parking, either no roller shutter shall be provided at the Coolibah Street entry to the parking area, or, if provided, the roller door shall be on a timer so as to be permanently open for the approved hours of operation of the retail premises plus one hour either side.

[Amended by Land and Environment Court under MOD2020/0414]

173. The car parking spaces, driveways and manoeuvring areas are to be used for employees and visitors vehicles only and not for the storage of new or used materials, finished goods or commercial vehicles.
174. At least 145 car parking spaces (including 14 accessible car spaces for residential use) numbered and line marked in accordance with the endorsed plan, are to be made available at all times for residents, employees and visitors' vehicles only in conjunction with the occupation of the building/premises.

[Amended by Land and Environment Court under MOD2020/0414]

175. The operation of the premises shall be conducted in such a manner as not to interfere with or materially affect the amenity of the neighbourhood by reason of noise, vibration,

odour, fumes, vapour, steam, soot, ash, dust, particulate matter, waste water, waste products or other impurities which are a nuisance or injurious to health.

Emergency Procedures

176. The owner of a building to which an essential fire safety measure is applicable must not fail to maintain each essential fire safety measure in the building premises to a standard not less than that specified in the Fire Safety Schedule.

Car Wash – Residential/Commercial

177. Washing of vehicles shall be conducted in a car wash bay, which is roofed and bunded to exclude rainwater. The carwash bay shall be regularly cleaned and maintained. Alternative water management and disposal options may be appropriate where water is recycled, minimised or re-used on the site.
178. The car wash bay shall be managed and maintained so that the following requirements are met:
- a) The Owners Corporation or building owner should advise all users of the car wash facilities how to operate, maintain and use the equipment so that good housekeeping practices can be adopted at all times.
 - b) Have clearly visible sign(s) indicating that no degreasing, engine washing or mechanical work is to be undertaken in the car wash bay, informs car wash bay users of how to use and maintain the system, and encourages users to minimise the use of detergents and water.

Signage on Stormwater Drains (Commercial)

179. Signs shall be displayed adjacent to all stormwater drains on the premises indicating that only clean water is allowed to enter these drains. Examples of possible signage include: 'Clean Rainwater Only', 'Clean water only - NO waste' or 'H₂O only'.

Lighting

180. Any lighting on the site shall be designed so as not to cause nuisance to other residences in the area or to motorists on nearby roads, and to ensure no adverse impact on the amenity of the surrounding area by light overspill. All lighting shall comply with *AS4282-1997 Control of the obtrusive effects of outdoor lighting*.

Maintenance of Waste Storage Area – Residential

181. Waste storage bins must be covered at all times to prevent entry of stormwater or dispersal by wind and must be sealed to prevent leakage.
182. All waste and recycling containers must be stored in the designated waste storage area. The owner, or if the building is strata subdivided the owner's corporation, shall clean the waste storage areas, dry arrestor pit/s and waste collection containers.

[Amended by Land and Environment Court under MOD2020/0414]

183. **[Deleted by Land and Environment Court under MOD2020/0414]**
184. Identification number/s is/are to be clearly displayed at the front of the premises.

185. The use of the premises shall not give rise to air impurities in contravention of the *Protection of the Environment Operations Act 1997* and shall be controlled in accordance with the requirements of such Act.
186. In the event of Council receiving complaints regarding air pollution or odour from the premises, the person(s) in control of the premises shall at their own cost arrange for an environmental investigation to be carried out (by a suitably qualified person) and submit a report to Council specifying the proposed methods for the control of odour exiting the premises.
187. Any discharge to the atmosphere must not result in any odour or other air impurity detectable outside the boundaries of the property.
188. In the event of Council receiving complaints regarding excessive odour from the garbage bay area, the person(s) in control of the premises shall at their own cost arrange for an environmental investigation to be carried out (by a suitably qualified person) and submit a report to Council specifying the proposed methods for the control of odour emanating from the garbage bay area.

General Noise Conditions

189. The operation of all plant and equipment shall not give rise to an equivalent continuous (L_{Aeq}) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background L_{A90} level (in the absence of the noise under consideration).
190. In the event of Council receiving complaints regarding excessive noise, the person(s) in control of the premises shall at their own cost arrange for an acoustic investigation to be carried out (by a suitably qualified person) and submit a report to Council specifying the proposed methods for the control of noise emanating from the premises.

Noise - Residential buildings

191. Noise emitted by the air conditioning unit installed at the premises must comply with the following criteria:
 - (a) Shall be inaudible within any room in any other residential premises (that is not a garage, storage area, bathroom, laundry, toilet or pantry) whether or not any door or window to that room is open during the following hours:
 - i. before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or
 - ii. before 7 am or after 10 pm on any other day, and
 - (b) Shall not emit an $L_{Aeq,15min}$ noise level when measured at the boundary of any other residential property which exceeds the background ($L_{A90, 15minutes}$) by more than 5dB(A) when used during all other times not restricted in (a) above.

[Amended by Land and Environment Court under MOD2020/0414]

Clean Water Discharge

192. The operation of the premises shall be conducted in a manner, which does not pollute waters as defined by the *Protection of the Environment Operations Act 1997*.

Waste Collection

193. Liquid and solid wastes generated on the site shall be collected, transported and disposed of in accordance with the *Protection of the Environment Operation Act 1997*. Records shall be kept of all liquid and solid waste disposal from the site, and be made available to Council Officers on request.
194. All putrescible waste must be stored in approved, lidded, flyproof containers. Proper arrangements such as waste paper bales and stands are to be provided for any waste paper or cardboard.
195. A sufficient number of approved garbage receptacles must be provided on the premises for the storage of garbage and trade waste. Such receptacles are to be fitted with close fitting and flyproof lids.

Residential Waste Collection (Loading Bay 1)

196. The owner, or if strata subdivided, the Owners Corporation, must engage a caretaker or otherwise have arrangements in place for the relocation and temporary storage of waste bins from the bin room near Sherwood Road to the bin room near Coolibah Street. Bins must be relocated no earlier than 12 hours prior to the scheduled collection and must be returned no longer than 4 hours after collection.

[Condition replaced by Land and Environment Court under MOD2020/0414]

Business/Trade Commercial Waste Collection (Loading Bay 2)

- 196A At all times, the owner, or is strata subdivided, Owners Corporation, must have arrangements in place for the collection of commercial waste from the retail bin room shown on drawing .02 Issue II by Architex. Collection must be with a private contractor, with the collection vehicle no greater size than a small rigid vehicle.

[Condition replaced by Land and Environment Court under MOD2020/0414]

Mechanical Ventilation

197. Any discharge to the atmosphere from the subject development shall not result in any odour or other air impurity being detected outside the boundaries of the property.
198. **[Deleted by Land and Environment Court under MOD2020/0414]**

General

199. All privacy measures shall be maintained at all times, throughout the lifetime of the development.
200. No roller shutters are permitted to be installed for the commercial tenancy at any time.

Merchandise Location

- 201 At no time may any signs, sound amplification equipment and the like or goods for sale or display be placed on the public road, public footpath, service land, parking area and driveways, public or private pedestrian walkways or outside the retail premises without the prior consent of Council.

[Inserted by Land and Environment Court under MOD2020/0414]

Deliveries

- 202 To minimise noise disturbance for the approved residential apartments and for surrounding residential dwellings, no deliveries are to occur before 7.00am or after 9.00pm Monday to Saturday and before 9.00am or after 6.00pm on Sundays and public holidays.

[Inserted by Land and Environment Court under MOD2020/0414]

Flashing Lights

- 203 No flashing, moving or intermittent lighting, visible from any public place may be installed on the premises or to any external sign associated with the development.

[Inserted by Land and Environment Court under MOD2020/0414]

Hours of Business Operation

- 204 The hours of operation for the retail premises are restricted to between 7:00am to 10:00pm, seven days per week.

[Inserted by Land and Environment Court under MOD2020/0414]

Compliance with Acoustic Report - Ongoing Use

205. All recommendations contained in the DA acoustic report prepared by Day Design Pty Ltd report reference 7255-1.1R, dated 8 September 2021 relating to use and/or management of the site must be implemented and complied with.

[Inserted by Land and Environment Court under MOD2020/0414]

Sightlines within Carpark

206. The required sight lines to pedestrians and other vehicles in and around the carpark and entrance(s) are not to be obstructed by structures.

[Inserted by Land and Environment Court under MOD2020/0414]

ADVISORY NOTES

Other Necessary Approvals

- A. The applicant's attention is drawn to the need to obtain Council's separate approval for any ancillary activity not approved by this consent, including:
 - (a) Works, including the pruning or removal of any tree(s) not authorised in the preceding conditions or on the approved plans. Council's Tree Preservation Order protects trees by definition taller than 3.5m or having a trunk circumference exceeding 500mm measured one metre above ground level. If in doubt contact Council's Tree Management Officer.
 - (b) Any fencing located forward of the proposed building and exceeding the limitations specified in State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.
 - (c) The erection of any advertising sign, not being exempt from the need to obtain approval.
 - (d) The installation of any furnace, kilns, steam boiler, chemical plant, sand blast, spray painting booth or the like.

- B. Section 97 of the Act provides that an applicant who is dissatisfied with the Council's determination of the Development Application may appeal to the Land and Environment Court within 6 months of the date of determination, or as otherwise prescribed.

- C. Section 82A of the Act provides that an applicant may request, within 6 months of the date of determination of the Development Application, that the Council review its determination (this does not apply to integrated or designated development). A fee is required for this review.

It should also be noted that an application under Section 82A of the Act cannot be reviewed/determined after 6 months of the date of determination. Therefore, the submission of a Section 82A Application must allow sufficient time for Council to complete its review within the prescribed time frame, including the statutory requirement for public notification.

- D. The applicant and Owner are advised that the Commonwealth Disability Discrimination Act 1992 may apply to this particular proposal. Approval of this application does not imply or confer compliance with this Act. Applicants and owners should satisfy themselves as to compliance and make their own enquiries to the Australian Human Rights Commission. Attention is also drawn to the provisions of Parts 2, 3 and 4 of Australian Standard 1428 - Design for Access and Mobility.
- E. A Construction Certificate shall be obtained in accordance with Section 81A (2)(a) of the Act, prior to the commencement of any work on site. Council can provide this service for you.
- F. An Occupation Certificate is to be issued by the Principal Certifying Authority prior to the occupation of the building.
- G. DEMOLITION
 - (a) Demolition is to be carried out in accordance with AS2601-2001, *Demolition of Structures*.

- (b) Demolition is to be carried out in such a way and with such control measures as are necessary to prevent the occurrence of any dust, noise, runoff or other nuisance.
- (c) All sediment/soil is to be prevented from entering Council's stormwater drainage system.
- (d) The public footpath and roadway is to be protected against damage as a result of demolition activities and is to be kept clean and free of all soil and other materials.
- (e) On completion of demolition the site is to be left in a clean and tidy condition.
- (f) Cumberland Council has a Tree Management Order which applies to the entire City of Cumberland. No ring-barking, cutting down, topping, lopping, removing, injuring or wilful destruction of any tree or trees exceeding 3.5m in height and 3m in branch spread shall take place without the prior written consent of Cumberland Council.
- (g) There shall be no burning of any waste, as this is prohibited within the City of Cumberland.
- (h) Demolition material can be recycled saving the environment and also tipping costs. For more information, contact the Environment Protection Authority's Recycling hotline on 9325 5555.
- (i) Public roads shall be kept clean and free of any materials which may fall from vehicles or plant to ensure safety and amenity of the area.

H. BANK GUARANTEES

Bank guarantees will be accepted from list of banks which have at least an "A" rating from Standard and Poors and at least an "A2" or "Prime-1" standard from Moodys Investor Services.

To enable the bank guarantee to be enforceable during an entire project with consideration for delays, **the guarantee must not contain a facility expiry date.**

To get to Standard and Poors www.standardpoors.com then from Ratings Action choose Ratings Lists. Then click on Financial Institutions followed by clicking on Financial Institutions Counterparty Ratings List. Go to "**Banks**" and download to Australian Banks.

To get to Moodys www.moodys.com then look up Ratings and then Banking and then Bank Ratings list. It will take you to Bank Credit Research page. Look at the table of contents and choose Global Bank Ratings by Country. Look up Australian Banks.

I. SMOKE DETECTORS

A system of self-contained smoke alarms complying with the requirements of AS3786-1993, *Smoke Alarms* or listed in the *Scientific Services Laboratory Register of Accredited Products* being installed in the dwelling, connected to the mains power supply and provided with a standby power supply. Alarms are to be positioned on the ceiling and setback a minimum distance of 300mm from any wall. Alarms are to be placed in the vicinity of each area containing bedrooms with a minimum of one (1) alarm required for each storey of the dwelling.

J. TERMITE PROTECTION

Structural members are to be protected from attacked by subterranean termites in accordance with the requirements of AS3660.1-2000 *Protection of building from subterranean termites* and a durable notice must be affixed within the metre box

indicating the type of protection, its date of installation, life expectancy of any chemical barrier used, and system maintenance and inspection requirements. A certificate of compliance of the approved system must be submitted to Council or the Principal Certifying Authority on completion of the system installation. With respect to chemical protection, a pipe system shall be installed beneath the slabs plastic membrane to allow re-application of the chemical border.

K. WET AREAS

Wet areas in the dwelling are to be waterproofed in accordance with AS3740 *Waterproofing of wet areas within residential buildings*.

Where Council is the Principal Certifying Authority for the works, the submission of evidence of suitability for the waterproofing product used will be required at the wet area inspection stage. The evidence of suitability is to be in the form of:-

1. A current Certificate of Accreditation for the product.

AND

2. A certificate from the person responsible for the installation of the product advising that the product was applied in accordance with the relevant manufacturers specifications.

Note: Any copy of documentary evidence submitted, must be a complete copy of the original report or document.

L. LANDINGS

A landing having a minimum length of 750mm and a grade no steeper than 1:50, must be provided where the sill of a threshold of a doorway opens onto a stair that provides a change in floor level or floor to ground level greater than 3 risers or 570mm in accordance with Clause 3.9.1.3 (Stair Construction) of the Building Code of Australia.

M. SARKING

To reduce the risk of injury during works to the roof, sarking with fall arresting ability is to be provided to the underside of the roof. Manufacturers specifications for the sarking is to be submitted to Council prior to its installation.

N. MINIMISING WATER USE

Examples of ways water use can be minimised in the car wash facility are:

- the use of a gun type nozzle on the hose that closes when released and
- filter and recycle wash water where possible.

O. CONSTRUCTION/OCCUPATION CERTIFICATE FEES

An administration fee in accordance with Council's adopted fees and charges is payable to Council on lodgement of Construction and Occupation Certificates from Principal Certifying Authorities.

P. SOUND TRANSMISSION AND INSULATION

To ensure the amenity of occupants in multi-residential development (Class 2 and 3 buildings and Class 9c Aged Care buildings), separating walls must be constructed in accordance with Part F5 of the Building Code of Australia.

Q. SOUND TRANSMISSION AND INSULATION

To ensure the amenity of occupants in attached residential development (Class 1 buildings), separating walls must be constructed in accordance with Part 3.8.6 of the Building Code of Australia.

R. GLAZING CERTIFICATION

A certificate shall be submitted to the Principal Certifying Authority stating that safety glazing has been used in the building in accordance with AS1288 - "Glass in Buildings - Selection and Installation".

S. FIRE SAFETY

Paths of travel a minimum of 1000mm wide in accordance with D1.6 of the Building Code of Australia are to be clearly defined and line marked on the floor prior to occupation.

T. DIAL BEFORE YOU DIG

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you dig service in advance of any construction or planning activities.

U. Information regarding the location of underground services may be obtained from Sydney One Call Service (NSW Dial Before You Dig), telephone 1100, Fax 1300 652 077. Inquirers should provide SOCS with the street/road name and number, side of street/road and the nearest cross street/road.

V. TELECOMMUNICATIONS ACT 1997 (COMMONWEALTH)

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution.

Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact Telstra's Network Integrity Team on Phone Number 1800810443.

W. DIVIDING FENCES

Please be advised that arrangements concerning existing or proposed fences between properties are a civil matter determined by the involved parties under the [Dividing Fences Act](#). You are therefore required to consult with the owners of neighbouring properties if fences are to be removed or constructed.

The Dividing Fences Act is administered by the [Department of Lands](#) who can act as a mediator in disputes

- Y. The applicant is advised of s.49A of the Electricity Supply Act 1995, enabling Endeavour Energy to serve notice on the manner in which excavation work in, on or near Endeavour Energy's electrical infrastructure is to take place.

[Amended by Land and Environment Court under MOD2020/0414]

- Z. If the development entails the completion of any work in and / or affecting Endeavour Energy's adjoining electrical infrastructure, prior contact must be made to Endeavour Energy's Easements Officer, Philip Wilson, on 9853 7110 alternately Philip.Wilson@endeavourenergy.com.au.

[Amended by Land and Environment Court under MOD2020/0414]