Councillors,

In accordance with section 367 of the Local Government Act, 1993 notice is hereby given that a Development Applications Committee Meeting will be held on:

DATE: Tuesday 15 August 2017

TIME: Following the Public Voice Committee Meeting

VENUE: Council Chambers
2nd Floor
City Hall
290 King Street
Newcastle NSW 2300

Jeremy Bath
Interim Chief Executive Officer

City Administration Centre
282 King Street
NEWCASTLE NSW 2300

Tuesday 8 August 2017

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_NOTE: ITEMS MAY NOT NECESSARILY BE DEALT WITH IN NUMERICAL ORDER_
CONFIRMATION OF PREVIOUS MINUTES

MINUTES - DEVELOPMENT APPLICATIONS COMMITTEE 18 JULY 2017

RECOMMENDATION

The draft minutes as circulated be taken as read and confirmed.

ATTACHMENTS

Attachment A: 170718 Development Applications Committee Minutes

Note: The attached minutes are a record of the decisions made by Council at the meeting and are draft until adopted by Council. They may be viewed at www.newcastle.nsw.gov.au
Minutes of the Development Applications Committee Meeting held in the Council Chambers, 2nd Floor City Hall, 290 King Street, Newcastle on Tuesday 18 July 2017 at 6.28pm.

PRESENT

IN ATTENDANCE
J Bath (Interim Chief Executive Officer), A Glauser (Interim Director Corporate Services), K Liddell (Interim Director Infrastructure), P Chrystal (Director Planning and Regulatory), M Blackburn-Smith (Manager Development and Building), E Kolatchew (Interim Manager Legal and Governance), K Baartz (Communications Manager) and K Sullivan (Council Services/Minutes/Webcasting).

APOLOGIES
MOTION
Moved by Cr Clausen, seconded by Cr Posniak

The apologies submitted on behalf of Lord Mayor, Cr Nelmes and Councillor Osborne be received and leave of absence granted. Carried

DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTERESTS

Councillor Dunn
Councillor Dunn declared a non-pecuniary interest in Item 10 - DA 2017/00019 - 23 Alfred Street Newcastle East indicating that a close friend was an adjoining property owner. Councillor Dunn advised he would leave the Chamber for discussion on the item.

Councillor Compton
Councillor Compton declared a less than significant, non pecuniary interest noting he operated a building company and was engaged by architects from time to time to tender on various projects. Councillor Compton advised he had no relation to the architect in respect of the agenda item and would remain in the Chamber for the meeting.

CONFIRMATION OF PREVIOUS MINUTES

MINUTES - DEVELOPMENT APPLICATIONS COMMITTEE - 20 JUNE 2017

MOTION
Moved by Cr Clausen, seconded by Cr Robinson
The draft minutes as circulated be taken as read and confirmed.  

Carried

PROCEEDINGS IN BRIEF

The Deputy Lord Mayor had declared a non-pecuniary interest in DA 2017/00019 and indicated that he would retire from the Chamber for discussion on the item.

Councillor Doyle was nominated to Chair the meeting.

PROCEDURAL MOTION
Moved by Cr Clausen, seconded by Cr Posniak

Councillor Doyle chair the meeting in the absence of the Deputy Lord Mayor.  

Carried

The Deputy Lord Mayor left the Chamber and Councillor Doyle assumed the Chair.

DEVELOPMENT APPLICATIONS

ITEM-10 DAC 18/07/17 - DA2017/00019 - 23 ALFRED STREET NEWCASTLE EAST - ALTERATIONS AND ADDITIONS TO DWELLING

MOTION
Moved by Cr Posniak, seconded by Cr Robinson

A THAT Council, as the consent authority, note the objection under clause 4.6 Exceptions to Development Standards of Newcastle Local Environmental Plan 2012 (NLEP 2012), against the development standard at Clause 4.4 (Floor space Ratio) and Council considers the objection to be justified in the circumstances and consistent with the aims of the relevant NLEP 2012 clause;

B THAT the application to carry out alterations and additions to the dwelling at 23 Alfred Street, Newcastle East be approved and consent granted, subject to compliance with the conditions set out in the Draft Schedule of Conditions at Attachment B; and

C THAT those persons who made submissions be advised of the determination of the application.

For the Motion: Councillors Clausen, Compton, Doyle (Chair), Luke, Robinson, Rufo and Waterhouse.

Against the Motion: Nil.

Carried

The meeting concluded at 6.35pm.
DEVELOPMENT APPLICATIONS

ITEM-11 DAC 15/08/17 - DA2017/00185 - 84 CARRINGTON STREET MAYFIELD - ALTERATIONS TO EXISTING DWELLING, ERECTION OF TWO ATTACHED TWO STOREY DWELLINGS, CARPORT AND ASSOCIATED SITE WORKS

APPLICANT: NAIMOOK PTY LTD
OWNER: NAIMOOK PTY LTD
REPORT BY: PLANNING AND REGULATORY
CONTACT: DIRECTOR PLANNING & REGULATORY / MANAGER DEVELOPMENT AND BUILDING

PART I

PURPOSE

The purpose of the report is to present a development application to the Development Applications Committee for determination, as requested in writing by two Councillors.

The application seeks consent for alterations to a dwelling, erection of two attached two-storey dwellings, a carport (for the existing dwelling) and associated site works.

A copy of the submitted plans for the proposed development is included in Attachment A.

The application was notified in accordance with Council's Public Notification Policy for a period of 14 days and two submissions were received in response. The submissions raised concerns regarding parking, traffic, subdivision, privacy, overshadowing, boundary fencing and building appearance.

The proposal has been amended in response to concerns raised by the community and Council officers, as described below:

1) The proposed subdivision has been deleted from the development.

2) A visitor parking bay has been provided.

3) A separate driveway access for the existing dwelling (adjacent to the northern side boundary) has been removed. A shared driveway access for
all three dwellings is now proposed on the southern side of the lot. This has enabled the private open space for the existing dwelling to be relocated to the north and the existing kerb-side parking to be maintained on the street.

4) Alterations to the existing dwelling to enable a carport to be erected behind the building line of the dwelling.

5) The ground floor footprint of the proposed new dwellings have been set further back from the northern and southern side boundaries to improve articulation and separation from neighbouring sites.

6) The existing kerb inlet pit in the street has been relocated to facilitate a new double driveway crossover.

Details of the submissions are summarised in Section 3.0 of Part II of this report and the concerns raised are addressed as part of the Environmental Planning Assessment at Section 4.0.

Issues

a) Amenity impacts to the adjoining properties in Carrington Street and Fawcett Street.

b) Public submissions.

Conclusion

The proposed development has been assessed having regard to the relevant heads of consideration under Section 79C(1) of the Environmental Planning and Assessment Act 1979 (as amended) NSW and is considered to be acceptable subject to compliance with appropriate conditions as nominated in this report.

RECOMMENDATION

A. THAT the application at 84 Carrington Street, Mayfield be approved and consent granted, subject to compliance with the conditions set out in the Draft Schedule of Conditions (refer to Attachment B); and

B. THAT those persons who made submissions be advised of Council's determination.

Political Donation / Gift Declaration

Under Section 147 of the Environmental Planning and Assessment Act 1979, the applicant, and any person related to this Development Application must report any political donation and/or gift to a Councillor and/or any gift to a Council employee within a two year period before the date of this application.

The applicant has answered NO to the following question on the application form: Have you, or are you aware of any person having a financial interest in the
application, made a 'reportable donation' or 'gift' to a Councillor or Council employee within a two year period before the date of this application?

PART II

1.0 THE SUBJECT SITE

The site is rectangular in shape and has an area of 766m². It contains a single-storey dwelling (119m² in area), a detached single garage and a storage shed. The site fronts Carrington Street to the east and has vehicular access from a single driveway crossover located adjacent to the north-east corner of the site. The site slopes approximately 3m from the rear to the street frontage and there are no trees on the site. The general form of development in the immediate area consists of a mixture of single-storey and two-storey detached dwellings.

2.0 THE PROPOSAL

The proposed development includes the demolition of the detached garage and shed on the site, alterations to the dwelling, including partial demolition of the front verandah, the addition of a bedroom and a carport behind its building line, the erection of two attached two-storey dwellings with integrated single garages.

The plans have been amended after lodgement, in response to concerns raised by Council officers and the community, as follows:

I. The proposed subdivision has been deleted from the development.

II. A visitor parking bay has been provided.

III. A separate driveway access for the existing dwelling (adjacent to the northern side boundary) has been removed. A shared driveway access for all three dwellings is now proposed on the southern side of the site. This has enabled the private open space for the existing dwelling to be relocated to the north and the existing kerb-side parking to be maintained on the street.

IV. Alterations to the existing dwelling to enable a carport to be erected behind the building line of the dwelling.

V. The ground floor footprint of the new dwellings has been set further back from the northern and southern side boundaries to improve articulation and separation from neighbouring sites.

VI. The existing kerb inlet pit in the street has been relocated to facilitate a new double driveway crossover.

A copy of the current amended plans is included at Attachment A.
The steps in the processing of the application to date are outlined in the Processing Chronology (refer to Attachment C).

3.0 PUBLIC NOTIFICATION

The development application was notified in accordance with Council's Public Notification Policy for a period of 14 days to adjoining property owners, during which two submissions were received.

The concerns raised during the notification period are summarised as follows:

a) Minimum Subdivision Lot Size - the development is inconsistent with this NLEP development standard.
b) Overshadowing - including unacceptable shadowing of solar panels.
c) Privacy - overlooking of neighbouring properties.
d) Light pollution - 'good surveillance' of the development presumed to include installation of CCTV which requires the site to be well lit.
e) Building appearance - lack of detail on the colour scheme.
f) Fencing - lack of detail on the boundary fencing. The boundary fence along the southern boundary of the site shared with 82 Carrington Street needs replacing.
g) Parking - multi-dwelling development requires on site visitor parking.
h) Traffic - sufficient parking must be provided on site to limit the pressure on kerb-side parking availability in Carrington Street adjacent to the property.
i) Drawings – the submitted drawings label the orientation incorrectly and no subdivision plans for proposed Torrens or strata have been provided by the applicant.

It is noted that the proposal was the subject of a presentation to the Public Voice Committee on 18 July 2017 when one of the objectors elaborated on their issues of concern. The objectors’ concerns as raised at Public Voice and also the matters in the written submissions have been addressed in the assessment of the application.

4.0 ENVIRONMENTAL PLANNING ASSESSMENT

The application has been assessed having regard to the relevant matters for consideration under the provisions of Section 79C(1) of the Environmental Planning and Assessment Act 1979, as detailed hereunder.

4.1 Statutory Considerations

State Environmental Planning Policy 55 – Remediation of Land (SEPP 55)

SEPP 55 requires that where land is contaminated, Council must be satisfied that the land is suitable in its contaminated state or will be suitable after remediation for the purpose for which the development is proposed.
The land is currently developed and the site is not listed as potentially contaminated on Council’s Contaminated Lands Register. The site does not have a history of potentially contaminating uses. Having regard for the requirements of SEPP 55 and the nature of the proposal, no further consideration is required.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

A BASIX Certificate was lodged with the application, demonstrating that the development has achieved the required water and energy reduction targets. A condition of consent has been recommended, reflecting this Certificate.

Newcastle Local Environmental Plan 2012 (LEP)

Clause 2.3 Zone objectives and land use table

The property is located within the R2 Low Density Residential zone under the provisions of NLEP 2012. The proposed development is categorised as 'multi dwelling housing', being a type of 'residential accommodation'. The development consists of the retention of a dwelling and the erection of two additional dwellings. The development is permissible in the zone and is consistent with the zone objectives, which are as follows:

a) To provide for the housing needs of the community within a low density residential environment.

b) To enable other land uses that provide facilities or services to meet the day to day needs of residents.

c) To accommodate a diversity of housing forms that respects the amenity, heritage and character of surrounding development and the quality of the environment.

The proposed development will increase the diversity of housing forms in the locality and is of a type that is compatible with the character of the existing low density residential environment and the amenity of surrounding development.

Clause 4.3 Height of buildings

NLEP 2012 provides for a maximum building height of 8.5m on the subject site. The proposed dwellings have a maximum height of 7.6m, which complies with the NLEP 2012 maximum height for the site.

Clause 4.4 Floor space ratio

NLEP 2012 provides for a maximum floor space ratio (FSR) of 0.75:1 on the subject site. The site has an area of 766m². The proposed development has a gross floor area of 316m², resulting in a FSR of 0.41:1, which complies with the NLEP 2012 maximum FSR for the site.
Clause 5.9 Preservation of trees or vegetation

The development is located in close proximity to a street tree in the adjacent road verge along Carrington Street and the proposed driveway crossover involves the removal of this tree. The applicant has demonstrated that there is no practical alternative available to retain this tree and allow for efficient development of the site. Recommended conditions of consent require that the tree be removed and replaced by Council's City Greening Services at the developers' cost.

Clause 6.1 Acid sulfate soils

The site is mapped as containing Class 5 Acid Sulfate Soils. The proposed construction works are unlikely to lower the water table and thereby trigger the need for an acid sulfate soils management plan. As such, the application is considered acceptable with regards to Clause 6.1 of NLEP 2012.

Clause 6.2 Earthworks

The proposal involves earthworks associated with the development of the site. The proposed cut and fill will not have any adverse impacts on the environmental functions and processes of the area or cause any impacts to neighbouring properties.

Newcastle Section 94A Development Contribution Plan

The application attracts Section 94A Contributions pursuant to Council's Section 94A Development Contributions Plan 2009. A contribution of 1% of the cost of development would be payable to Council.

4.2 Any draft environmental planning instrument that is or has been placed on public exhibition

No draft environmental planning instrument is relevant to the proposal.

4.3 Merit Considerations

Hunter Regional Plan

The proposal is considered to be consistent with the aim of providing greater housing choice in existing communities, close to jobs and services and well supported by public transport and walking and cycling options.

4.4 Newcastle Development Control Plan (NDCP)

An amendment to residential accommodation provisions of the NDCP commenced on 8 July 2017, consolidating and updating controls for various forms of residential buildings. A savings provision is included in the NDCP amendment, stating that any development application lodged but not determined will be determined as though the provisions of this section did not apply. On this basis, the application has been
assessed under the provisions of the NDCP that were relevant to the application at lodgement.

The following assessment is made in respect of relevant parts of the NDCP:

Chapter 3.04 - Attached Dwellings and Multiple Dwelling Housing

The proposed development meets the aims of this section as it allows for the efficient use of residential land, provides housing options and encourages residential uses of high amenity.

Clause 4.04 - Safety and Security

The main living space window openings at the ground floor level overlook the public and semi-public accessible areas of the site to ensure adequate safety and security for the development.

Clause 4.05 - Social Impact

The proposal will not have a negative social impact. It will encourage social diversity through providing housing in the area for a range of ages and household types.

Clause 5.01 - Soil Management

The earthworks proposed as part of this application are minimal and consistent with the requirements of the NDCP.

A sediment and erosion control plan was submitted with the application and a recommended condition requires that the plan be implemented during construction works.

Clause 5.02 - Land Contamination

The site is considered to not have any contamination constraints that will impact on the development of the site.

Clause 5.03 - Tree Management

There are no trees on the site and no trees on neighbouring sites in close proximity to the development.

There is an established street tree (Narrow Leaved Ash) located in the road verge along Carrington Street in close proximity to the development. The development proposes the removal of this street tree to facilitate a proposed driveway crossover. A replacement tree planting has been proposed to compensate for the loss of this tree.

It is considered that the development proposal meets the objectives and controls of Section 5.03.04 Part A (Infill Development - Street Trees) and Section 4.1.6 of the
Urban Forest Technical Manual as the applicant has adequately demonstrated that no practical alternative is available to allow for the efficient development on site.

The impact on trees is considered to be acceptable.

**Clause 7.01 - Building Design Criteria**

The following table is a summary of the assessment of the proposal against Clause 7.01 of the DCP:

<table>
<thead>
<tr>
<th>DCP requirement</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>7.01.04 Streetscape and front setbacks</td>
<td>The proposed two-storey dwellings are located at the rear of the site approximately 24m from the front boundary. They are largely hidden from the street by the existing single-storey dwelling which is located at the front of the site and occupies approximately 55% of the lot width. Furthermore, the garages for the proposed dwellings are setback behind the existing dwelling, reducing the impact of the building on the streetscape. The proposed parking space for the existing dwelling (carport) is positioned behind the building line of the dwelling. To delineate the proposed carport from the adjacent driveway, a condition of consent is recommended to require that a fence and kerb be erected between the front carport column and the rear corner of the carport. Such a fence will also provide for some screening of parked vehicles from the street.</td>
</tr>
<tr>
<td>7.01.05 Side and rear setbacks</td>
<td>The proposed two-storey dwellings are within the building envelope specified for an R2 Low Density Residential zone. The proposed development complies with the setback provisions of the NDCP for the R2 zone, with the dwellings having a setback of 3m from the rear western boundary, and 1m from the northern and southern side boundaries.</td>
</tr>
<tr>
<td>7.01.06 Open space</td>
<td>Open space is defined by fencing and landscaping to distinguish between the site boundary and private open space. Each proposed dwelling is provided with a 16m² (4m x 4m) principle area of private open space and a minimum 30m² of overall private open space. Each courtyard is directly accessible from living rooms and is provided with adequate solar access.</td>
</tr>
<tr>
<td>7.01.07 Building design and appearance</td>
<td>The development is considered to be compatible with the existing character, bulk, scale and massing of development in the immediate area. The design incorporates a mixture of building elements and materials which adds visual interest and amenity to the development.</td>
</tr>
<tr>
<td>7.01.08 Solar access</td>
<td>The NDCP requires that new buildings maintain at least three hours of sunlight to the north facing living room windows of adjacent dwellings between 9am and 3pm on 21 June. The NDCP also requires that the principle area of ground level private open space of adjacent dwellings receive at least 2 hours of sunlight between 9am and 3pm on 21 June. Shadow diagrams have been provided showing the proposed shadow cast throughout the day at 3 hourly intervals between</td>
</tr>
</tbody>
</table>
The living room windows and principal area of ground level open space of adjoining dwellings will have adequate access to sunlight with the proposed development. The main indoor and outdoor living spaces of the proposed and existing dwellings on the site have adequate access to sunlight.

**7.01.09 Views and privacy**

The development does not unreasonably impact on any views or the general outlook from surrounding properties, nor will it impact views from the public domain.

The first floor level of the proposed dwellings includes bedrooms and bathrooms, with the exception of a study room at the western rear elevation of Units 1 and 2. A condition of consent is recommended that the west facing window of the upstairs study of Unit 1 and Unit 2 be amended to be a highlight window to reduce the potential for overlooking to the adjacent properties.

**7.01.10 Fencing and walls**

The private open space of the existing and proposed dwellings will be screened by a 1.8m high solid fence.

**7.01.11 Utilities and services**

There is adequate external space for the storage of refuse and recycling bins and for a clothes drying area for each strata lot.

The proposal is considered to be satisfactory having regard to the requirements of this section of the NDCP.

**Clause 7.02 - Landscaping, Open Space and Visual Amenity**

The site is 766m² in area and is located in a Moderate Growth Precinct. A comprehensive landscape plan has been prepared by a landscape designer. The NDCP requires 60m² landscaping per dwelling and a 12% deep soil area for the whole site. This equates to a minimum collective total of 180m² landscaping and 92m² deep soil for the whole site.

The site has a total of 192m² which can be categorised as suitable for landscaping and at least 126m² (16.5%) that can be categorised as suitable for deep soil, which complies with the control. The minimum 3m setback of landscaping is exceeded along the front boundary at Carrington Street.

There are no existing trees on site and no compensatory tree planting is required. Overall, the development provides a reasonably even distribution of landscaping for the site, with landscaped areas being of useable size and proportions.

**Clause 7.03 - Traffic, Parking and Access**

The proposal has been assessed by Council's Development Engineer as being acceptable, subject to recommended conditions of consent. The proposal has been amended to increase vehicle circulation space.

The application proposes a single garage for each proposed dwelling, a carport for the existing dwelling and a visitor car parking space. This is considered to be adequate.
Vehicles for the new dwellings can enter and exit the site in a forward direction in accordance with the relevant Australian Standard. A condition of consent is recommended to require the driveway crossover to be increased in width to 4.5m to enable a parked vehicle to be stacked in front of the carport for the existing dwelling, without encroaching onto the road verge or inhibiting vehicular access to the two proposed dwellings at the rear of the site.

The proposal does not result in the removal of any street parking spaces. A recommended condition of consent requires that new infrastructure within the road reserve be provided, along with additional access between the existing dwelling and the street, to replace the current access arrangement that is to be removed.

**Clause 7.05 - Energy Efficiency**

The proposal complies with the requirements of BASIX.

**Clause 7.06 - Stormwater**

The proposal has been assessed by Council's Development Engineer as being acceptable, subject to conditions of consent. A Kerb Inlet Pit (KIP) is located at the location of the proposed new driveway, connected to an existing Council stormwater pipe located within the road pavement. A concept plan has been provided to ensure the KIP is reconstructed at a suitable location, to minimise any impact on the downstream drainage network. This is addressed by a recommended condition of consent.

**Clause 8.00 - Public Participation**

As previously discussed two submissions were received during the notification period. The issues raised in the submissions have been addressed during the assessment of the application.

**4.5 Impacts on Natural and Built Environment**

The development is considered to be compatible with the existing character, bulk, scale and massing of development in the immediate area.

It is not expected that the proposal will adversely impact any public or private views. Views from surrounding roads and residential premises are generally screened as a result of landform, existing developments or by existing trees.

The development will have minimal impacts on the natural environment. The site does not contain any significant vegetation and will not impact on any natural ecosystems. Appropriate measures are required to be in place during the construction of the development to minimise any sediments leaving the site or entering the waterways.
4.6 Social and Economic Impacts in the Locality

The development will have positive social and economic benefits. It will provide additional residential accommodation and increase housing diversity, as well as providing employment during the construction period. In addition, the development does not have any significant overshadowing or privacy impacts and will provide a suitable level of amenity for occupants.

4.7 The suitability of the Site for the Development

The site is suitable for the proposed development as it is located in an existing urban area that is well serviced by public transport and community facilities. The proposed dwellings are compatible with existing residential uses in the area.

The constraints of the site including street trees and the public stormwater management system have been considered in the design of the development.

4.8 Any submissions made in accordance with the Act or Regulations

The application was notified in accordance to the Regulations and two submissions were received. The concerns raised during the notification period are summarised as follows, with corresponding assessment comments:

<table>
<thead>
<tr>
<th>Issue</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Subdivision Lot Size - the development is inconsistent with this NLEP development standard.</td>
<td>The amended proposal does not include any subdivision.</td>
</tr>
<tr>
<td>Overshadowing - including unacceptable shadowing of solar panels.</td>
<td>The shadow diagrams indicate that two hours of sunlight is available to the property to the south on 21 June. There will be some impact on the solar panels in the afternoon of 21 June, however the panels achieve full sun prior to 12pm on this day, which is considered to be acceptable.</td>
</tr>
<tr>
<td>Privacy - overlooking of neighbouring properties.</td>
<td>The ground floor living room windows and private open space of the dwellings will be screened by a 1.8m high solid fence. The first floor windows are not living rooms and privacy impacts are considered to be minimal. The side elevations of both dwellings at first floor level consist of a bedroom window which is highlight, and a bathroom window. The privacy impact of the first floor level balconies at the front elevation are considered to be minimal as they are accessed from bedrooms only, are limited to 1m in depth and are recessed behind the front bedrooms. Highlight windows are recommended to be included in the study of both proposed dwellings, to</td>
</tr>
</tbody>
</table>
4.9 The public interest

**Sustainability**

The proposal is in the public interest, allowing for the orderly and economic development of the site. It will provide for additional residential accommodation in a predominantly residential urban area, that is well serviced by public transport and community facilities.

**General**

The proposed development does not raise any significant general public interest issues beyond matters already addressed in this report.

5.0 CONCLUSION

Subject to a number of relevant conditions as recommended in the attached draft schedule of conditions, the proposal is considered to be acceptable against the relevant heads of considerations under section 79C of the *Environmental Planning and Assessment Act 1979*. 
ATTACHMENTS

Attachment A: Submitted Plans, as amended - 84 Carrington Street Mayfield - Under Separate Cover

Attachment B: Draft Schedule of Conditions - 84 Carrington Street Mayfield

Attachment C: Processing Chronology - 84 Carrington Street Mayfield

Attachment A - Submitted Plans - Under Separate Cover
DRAFT SCHEDULE OF CONDITIONS

Application No: DA2017/00185
Land: Lot 1 DP 963002
Property Address: 84 Carrington Street Mayfield NSW 2304
Proposed Development: Alterations to dwelling, erection of two attached two-storey dwelling houses, carport and associated site works

SCHEDULE 1

REASONS FOR CONDITIONS

1. The conditions of this consent have been imposed in accordance with Section 80A of the Environmental Planning and Assessment Act 1979 (NSW). The conditions relate to any matter referred to in Section 79C(1) of relevance to the development the subject of the consent and are imposed to ensure that the development is undertaken in an orderly manner, with acceptable impacts on the natural and built environment.

APPROVED DOCUMENTATION

2. The development is to be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent:

<table>
<thead>
<tr>
<th>Plan No / Supporting Document</th>
<th>Reference / Version</th>
<th>Prepared by</th>
<th>Dated</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site Plan - 1.1</td>
<td>Amended</td>
<td>Grand Designs</td>
<td>Not dated (Received by Council 16.06.17)</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Property</td>
<td></td>
</tr>
<tr>
<td>Floor Plans - 1.2 &amp; 1.3</td>
<td>Amended</td>
<td>Grand Designs</td>
<td>Not dated (Received by Council 16.06.17)</td>
</tr>
<tr>
<td></td>
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<td>2.3</td>
<td>Building Sustainability Assessments</td>
<td>16.06.17</td>
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</tbody>
</table>

In the event of any inconsistency between conditions of this development consent and the plans/supporting documents referred to above, the conditions of this development consent prevail.

3. The existing street tree (Council Tree ID 54507) located in the road verge in Carrington Street, adjacent to the proposed driveway crossover to the site, is approved to be removed subject to arrangements being made for the removal of the street tree by contacting Council's City Greening Services. All tree removal works are to be carried out by Council at the Developer's expense.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

4. A total monetary contribution of $3,750.00 is to be paid to Council, pursuant to Section 94A of the Environmental Planning and Assessment Act 1979, such contribution to be payable prior to the issue of a Construction Certificate in respect of the proposed development.

Note:

a) This condition is imposed in accordance with the provisions of The City of Newcastle S94A Development Contributions Plan 2009 (updated version operational from 15 March 2011). A copy of the plan may be inspected at Council's Customer Enquiry Centre, ground floor of the City Administration Centre, 292 King Street Newcastle 8.30 am to 5.00 pm, excluding public holidays.

b) The City of Newcastle S94A Development Contributions Plan 2009 permits deferred or periodic payment of levies in certain circumstances. A formal modification of this condition will be required to enter into a deferred or periodic payment arrangement. Refer to the s94A Development Contributions Plan 2009.

c) The amount of contribution payable under this condition has been calculated on the basis of the current rate as at the date of consent and is based on the most recent quarterly Consumer Price Index (CPI) release made available by the Australian Bureau of Statistics (ABS). The CPI index rate is expected to rise at regular intervals and therefore the actual contribution payable is indexed and recalculated at the CPI rate applicable on the day of payment.

CPI quarterly figures are released by the ABS on a date after the indexation quarter and as a guide, these approximate dates are provided below. Indexation quarters from the ABS are as follows:

<table>
<thead>
<tr>
<th>Indexation quarters</th>
<th>Approx release date</th>
</tr>
</thead>
<tbody>
<tr>
<td>September</td>
<td>Late October</td>
</tr>
<tr>
<td>December</td>
<td>Late January</td>
</tr>
<tr>
<td>March</td>
<td>Late April</td>
</tr>
</tbody>
</table>
Any party intending to act on this consent should contact Council’s Customer Enquiry Centre for determination of the indexed amount of contribution on the date of payment.

5. On-site parking accommodation is to be provided for a minimum of 4 vehicles (including 1 visitor parking space) and such be set out generally in accordance with the minimum parking layout standards indicated in Element 7.03 ‘Traffic, Parking and Access’ of Council’s adopted Newcastle Development Control Plan 2012. Full details are to be included in documentation for a Construction Certificate application.

6. The proposed garage door openings and proposed carport opening are to be a minimum width of 2.7m clear. Full details are to be included in documentation for a Construction Certificate application.

7. Parking spaces and access for residences on the site including visitor parking are to be designed to comply with AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking. Full details are to be included in documentation for a Construction Certificate application.

8. All proposed driveways, parking bays, loading bays and vehicular turning areas are to be constructed with a basecourse of adequate depth to suit design traffic, being sealed with either bitumen seal, asphaltic concrete, concrete or interlocking pavers and being properly maintained. The driveways are to be constructed in accordance with AS2890 - (Off street parking) and Council design specifications. Full details are to be included in documentation for a Construction Certificate application.

9. The visitor parking bay is to be constructed in paving bricks or in a suitable alternative visually unobtrusive paving material which contrasts in colour and texture with that used in the construction of the driveway. Full details are to be included in documentation for a Construction Certificate application.

10. Kerbing or dwarf walls having a minimum height of 100mm are to be constructed along the edge of all garden or lawn areas adjacent to driveways and parking bays sufficient to discourage the encroachment of vehicles thereon. Full details are to be included in documentation for a Construction Certificate application.

11. Roof water from the proposed new work is to be directed to the proposed water tanks (minimum capacity 4,000L per dwelling) and being reticulated there from to any new toilet cisterns and cold water washing machine taps, with a mains water top up being installed to maintain between 10% and 15% of the tank capacity. Alternatively, an electronically activated mechanical valve device is to be installed to switch any new toilet cisterns and laundry taps to mains water when the tank falls below 10% capacity. The water tank and plumbing is to be installed in accordance with Australian Standard AS 3500, the relevant plumbing regulations and the requirements of the Hunter Water Corporation. Full details are to be included in documentation for a Construction Certificate application.

12. Overflows from the roof water tank and any additional discharge controls (if required) are to be directed to Council’s drainage system by means of an interlotment drainage line or underground pipe directly to the street gutter. Full details are to be included in documentation for a Construction Certificate application.

13. All stormwater runoff from the proposed development being managed in accordance with the requirements of Element 7.06 ‘Stormwater’ of Newcastle Development Control Plan 2012, the associated Technical Manual and the latest issue of AS 3500.3 as applicable, as indicated on the stormwater management concept plan prepared by MFC Consulting Engineers (Job No. 17-343, Dwg No. C01, Issue 3, dated 16.06.17).
Full details are to be included in documentation for a Construction Certificate application.

14. All new impervious surfaces, including driveways and paved areas, are to be drained to the nominated discharge controls, full details are to be included in documentation for a Construction Certificate application.

15. Fencing and a kerb is to be provided along the southern elevation of the proposed carport to delineate and separate the carport from the adjacent driveway. The kerbing is to be constructed to a minimum height of 100mm, located between the driveway and the fence sufficient to discourage the encroachment of vehicles. The fencing is to be constructed along the full length of the carport to a height of 1.2m above the kerbing and driveway, with horizontal slats designed to achieve an area of 50% openings over the area of the fence. Full details are to be included in documentation for a Construction Certificate application.

16. All proposed planting and landscape elements indicated on the submitted landscape concept plan or otherwise required under the conditions of this consent are required to be detailed on a comprehensive landscape design plan and specification. The required comprehensive landscape design plan and specifications is to be in accordance with the provisions of Newcastle Development Control Plan 2012 and is to include details of the following:
   a) cross sections through the site where appropriate
   b) proposed contours or spot levels
   c) botanical names
   d) quantities and container size of all proposed trees
   e) shrubs and ground cover
   f) details of proposed soil preparation
   g) mulching and staking
   h) treatment of external surfaces and retaining walls where proposed
   i) drainage, location of taps and
   j) appropriate maintenance periods.

   The plan is to be prepared by a qualified landscape designer and be included in documentation for a Construction Certificate application.

17. The applicant is to comply with all requirements of the Hunter Water Corporation regarding the connection of water supply and sewerage services, including the payment of any required cash contribution towards necessary amplification of service mains in the locality as a result of the increased intensity of land use proposed. A copy of the Corporation’s compliance certificate (refer s50 Hunter Water Act 1991) is to be included in documentation for a Construction Certificate application.

18. Adequate facilities are to be provided within the proposed individual private courtyards, or in another adequately screened location, for the storage of garbage. Full details are to be included in documentation for a Construction Certificate application.

19. A group type mailbox is to be provided at the street frontage in accordance with the requirements of Australia Post, clearly displaying individual unit numbers and the required house number. Full details are to be included in the documentation for a
Construction Certificate application.

20. Erosion and sediment control measures are to be implemented prior to the commencement of works and be maintained during the period of construction in accordance with the details set out on an Erosion and Sediment Control Plan that is to be submitted for approval with the Construction Certificate application. Controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover.

21. The proposed lighting including car park lighting of the premises is to be designed, positioned, and installed, including appropriate shielding and orientation of the lighting fixture, as to not give rise to obtrusive light, interfere with traffic safety or detract from the amenity of surrounding properties in accordance with Australian Standard 4282:1997 - Control of the obtrusive effects of outdoor lighting. Full details are to be included in the documentation for a Construction Certificate application.

22. A residential vehicular crossing is to be constructed across the road reserve, in accordance with the following criteria:
   a) Constructed in accordance with Council’s A1300 - Driveway Crossings Standard Design Details.
   b) The driveway crossing, within the road reserve, shall be 4.5 metres wide at the kerb
   c) Letterboxes, landscaping and any other obstructions to visibility should be kept clear of or limited in height to 1.2 metre, in the 2 metre by 2.5 metre splay within the property boundary each side of the driveway entrance
   d) The proposed driveway shall be a minimum of 3 metres clear of the trunk of any tree within the public reserve
   e) The proposed driveway shall be a minimum of 750mm clear of the centre of any pole or obstruction within the public reserve and 1 metre clear of any drainage pit.

These works are not approved until consent under Section 138 of the Roads Act 1993 (NSW) has been granted by Council. An application under Section 138 must be applied for and approved before the issue of a Construction Certificate.

23. A separate application is to be be lodged and consent obtained from Council for all works within the road reserve pursuant to Section 138 of the Roads Act 1993 (NSW), before the issue of a Construction Certificate.

24. All downpipes discharging to the rainwater tanks are to have pre-storage insect, debris and vermin control (e.g. a rainwater head being leaf screened and vermin and insect proof) to minimise the contamination of captured roof water. A first flush device is to be provided for the inlet to the tank and a backflow prevention device is to be installed in the tank overflow outlet before connecting to the stormwater drainage system. If the roof downpipes are charged to the rainwater tank, all pipes are to be chemically welded and the stormwater system is to be designed such that the system is capable of being flushed in the event of pipe blockage (e.g. capped relief access points at the lowest level of stormwater drainage).

25. A structural engineer is to determine the location and depth of the proposed underground tank and on-site retention and certify that it will not adversely affect any building foundation footings or slabs when the tank is empty. Stormwater Management Plan is to be designed in accordance with current NDCP Section 7.06 Stormwater Management and The City of Newcastle’s Stormwater and Water Efficiency Technical Manual. Full details are to be included with documentation for a construction
26. The developer is to arrange (contact Council’s City Greening Services) for the removal of an existing street tree (Council Tree ID 54507) and the planting of a suitable replacement tree. A fee, to be determined by contacting Council’s City Greening Services, is to be paid to Council for the required removal and compensatory planting and evidence of the payment of the required fee is to be included in the documentation for a Construction Certificate application.

Note: The tree selection and location of the required compensatory tree will be determined by Council’s City Greening Coordinator in accordance with “The City of Newcastle’s Street Tree Master Plan”. The location of the compensatory tree planting may not be in the immediate proximity of the site.

27. The two windows serving the study rooms at the first floor level within the western elevations of Units 1 and 2 (facing toward Fawcett Street) are to be amended to highlight windows having a minimum sill height of 1.5m above the finished floor level of the proposed rooms. Full details are to be included in documentation for a Construction Certificate application.

28. The steps on the road reserve leading to the existing dwelling are to be removed as part of the S138 Roads Act works and suitable replacement access is otherwise to be provided between the street and the existing dwelling. Full details are to be included in the documentation for a Construction Certificate application.

29. The developer is to design and construct the following Public Domain Plan Works at no cost to Council and in accordance with Council’s guidelines and design specifications.

a) Public Domain Plan Works

i. Installation of new concrete footpath starting from the corner extending 3m either side of the property.
ii. Installation of new driveway, kerb and gutter as required.
iii. Removal of redundant driveway and installation of new kerb and gutter.
v. Removal of the steps within the footpath area and associated works.
vi. Installation of new drainage pit, removal of existing kerb inlet pit and associated road works.

Detailed public domain plan including civil and survey & details, cross sections (footpath path being designed with 2.5% cross fall) and longitudinal are to be submitted to Council for review and approval as part of the S138 Road Act Type 2 application, prior to the issue of any construction certificate.

The Public Domain works are to be implemented and construction works are to be completed to Council satisfaction prior to the issue of any Occupation Certificate.

In this regard the separate approval from Council must be obtained for all works within the public road reserve, pursuant to Section 138 of the Roads Act 1993, before the issue of a Construction Certificate. Engineering design plans and specifications for the works being undertaken in the public road reserve are required to be prepared by a suitably qualified practising civil engineer/landscape architect with experience and competence in the related field and submitted to Council for approval with the Section 138 application.

Note: An additional fee will be required by Council for the assessment of engineering plans submitted for the public road works. In this regard the developer is advised to confer with Council’s Development & Building Services Section in order to confirm this fee.
New Driveway and redundant driveway can be approved as part of this application.

CONDITIONS TO BE SATISFIED PRIOR TO THE COMMENCEMENT OF WORK AND DURING THE CONSTRUCTION PHASE

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

   Each toilet is to:

   a) Be a standard flushing toilet connected to a public sewer, or

   b) Have an on-site effluent disposal system approved under the Local Government Act 1993 (NSW), or

   c) Be a temporary chemical closet approved under the Local Government Act 1993 (NSW).

31. Building demolition is to be planned and carried out in accordance with Australian Standard 2601:2001 - The Demolition of Structures.

32. A Hazardous Substances Management Plan is to be prepared by a competent person for the building(s) or parts of the building(s) proposed to be demolished in accordance with Australian Standard 2601:2001 - The Demolition of Structures. A copy of the Hazardous Substances Management Plan is to be provided to Council (marked to Attention: Compliance Services) and the demolisher prior to commencement of work.

33. The demolition works are to be undertaken in accordance with Australian Standard 2601:2001 - The Demolition of Structures and the following requirements:

   a) Demolition works shall be conducted in accordance with the submitted Hazardous Substances Management Plan and a copy of the Hazardous Substances Management Plan shall be kept on-site for the duration of the proposed development

   b) The removal, handling and disposal of any asbestos material is to be undertaken only by an asbestos removal contractor who holds the appropriate class of Asbestos Licence, issued by the WorkCover Authority of NSW

   c) A copy of all waste disposal receipts are to be kept on-site for the duration of the proposed development and made available to authorised Council Officers upon request

   d) Seven working days’ notice in writing is to be given to Council and the owners/occupiers of neighbouring premises prior to the commencement of any demolition works. Such written notice is to include the date demolition will commence and details of the name, address, contact telephone number(s) and licence details (type of licences held and licence numbers) of any asbestos removal contractor and demolition contractor. Notification to owners/occupiers of neighbouring premises shall also include Council’s contact telephone number (49742000) and the Workcover Authority of NSW telephone number (49212900) and

   e) On sites where asbestos materials are to be removed, 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 position during asbestos removal works.
34. The demolisher is to ensure that all services (ie water, telecommunications, gas, electricity, sewerage etc), are disconnected in accordance with the relevant authority’s requirements prior to demolition.

35. Any waste containers used in association with the proposed demolition are to be located on the site where possible.

Note: Where this is not feasible, application must be made for Council’s approval to position the container on the adjacent public road in accordance with Council’s adopted Building Waste Container Policy.

36. The demolisher is to ensure that all demolition material is kept clear of the public footway and carriageway as well as adjoining premises.

37. Any demolition/waste building materials that are not suitable for recycling are to be disposed of at Council’s Summehill Waste Management Facility or other approved site.

38. At a minimum, the following waste management measures shall be implemented during the construction phase:

a) A waste container of at least one cubic metre capacity shall be provided, maintained and regularly serviced from the commencement of operations until the completion of the building for the reception and storage of waste generated by the construction of the building and associated waste.

b) The waste container is to be, at minimum, constructed with a ‘star’ picket (corners) and weed control mat (sides), or equivalent. The matting is to be securely tied to the pickets.

c) Appropriate provision is to be made to prevent windblown rubbish leaving the site and

d) Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.

Note: Fines may be issued for pollution/littering offences under the Protection of the Environment Operations Act 1997 (NSW).

39. A rigid and durable sign is to be erected on any site on which building work, subdivision work or demolition work is being carried out, before the commencement of the work:

a) showing the name, address and telephone number of the Principal Certifying Authority for building work and subdivision work, and

b) showing the name, address and telephone number of the Principal Contractor for any building work and also including a telephone number on which the Principal Contractor may be contacted at any time for business purposes, and

c) stating that unauthorised entry to the work site is prohibited, and

d) being erected in a prominent position that can 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.

40. All building work must be carried out in accordance with the provisions of the Building
41. In the case of residential building work for which the *Home Building Act 1989* (NSW) requires there to be a contract of insurance in force in accordance with Part 6 of that Act, such a contract of insurance is to be in force before any building work authorised to be carried out by this consent commences.

42. All excavations and backfilling are to be executed safely in accordance with appropriate professional standards and excavations are to be properly guarded and protected to prevent them from being dangerous to life and property.

43. All building materials, plant and equipment is to be placed on the site of the development so as to ensure that pedestrian and vehicular access in public places is not restricted and to prevent damage to the road reserve. The storage of building materials on Council reserves including the road reserve is not permitted.

44. The dwelling, the retaining wall and all associated works, including all cutting and filling of the site, embankments associated with the construction of the dwelling, retaining wall footings, drainage lines and backfill, are to be entirely within the bounds of the allotment in order that there will not be any encroachment on the adjacent land.

45. A Registered Surveyor’s certificate detailing the setting out of the proposed building on the site, including the relationship of the set out building to property boundaries, is to be submitted to the Principal Certifying Authority before construction is commenced.

46. Certification is to be prepared by a Registered Surveyor and submitted to the Principal Certifying Authority on completion of the retaining wall construction, confirming that the location of the wall/walls is consistent with the approved location and confirming that finished levels are consistent with the approved levels.

47. Any proposed paving works within the public footway are to be in accordance with the requirements of Council’s specification (Standard Drawing A1400).

Note: It will be necessary for the Developer to notify water, telecommunications, gas and electricity authorities of the proposed paving works in order to enable the various authorities to carry out and complete any necessary repairs and/or amplification to their respective services before such works are commenced.

48. Any alteration to natural surface levels on the site is to be undertaken in such a manner as to ensure that there is no increase in surface water runoff to adjoining properties or that runoff is impounded on adjoining properties, as a result of the development.

49. All roof and surface waters are to be conveyed to the street gutter by way of a sealed pipe system, extending through the footway to Council requirements, in accordance with Element 7.06 ‘Stormwater’ of Newcastle Development Control Plan 2012.

50. The proposed visitor parking bays are to be clearly indicated by means of signs and/or pavement markings.

51. Construction/demolition work that generates noise that is audible at residential premises is to be restricted to the following times:
   - Monday to Friday, 7:00 am to 6:00 pm and
   - Saturday, 8:00 am to 1:00 pm.

No noise from construction/demolition work is to be generated on Sundays or public holidays.

52. Council’s ‘PREVENT POLLUTION’ sign is to be erected and maintained in a
conspicuous location on or adjacent to the property boundary so it is clearly visible to the public or at other locations on the site as otherwise directed by Council for the duration of demolition and construction work.

Note: Council's 'PREVENT POLLUTION' sign can be obtained by presenting your development application receipt at Council's Customer Enquiry Counter at 282 King Street Newcastle.

53. Any excavated material to be removed from the site is to be assessed, classified, transported and disposed of in accordance with the Department of Environment and Climate Change's (DECC) 'Waste Classification Guidelines Part 1: Classifying Waste'.

54. Any fill material imported into the site is to be Virgin Excavated Natural Material or material subject to a Resource Recovery Order that is permitted to be used as a fill material under the conditions of the associated Resource Recovery Exemption, in accordance with the provisions of the Protection of the Environment Operations Act 1997 and the Protection of the Environment (Waste) Regulation 2014.

55. Documentation demonstrating the compliance with the conditions of the appropriate Resource Recovery Order and Resource Recovery Exemption must be maintained for any material received at the site and subsequently applied to land under the conditions of the Resource Recovery Order and Exemption. This documentation must be provided to Council officers or the Principal Certifying Authority on request.

56. Erosion and sediment control measures are to be implemented prior to the commencement of works and maintained during the period of demolition and/or construction in accordance with the requirements of Managing Urban Stormwater: Soils and Construction 4th Edition - Vol. 1 (the 'Blue Book') published by Landcom, 2004. Controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover.

57. Prior to the commencement of work, a 3m wide all weather vehicle access is to be provided from the kerb and gutter to the building under construction, to reduce the potential for soil erosion. Sand shall not be stockpiled on the all weather vehicle access.

58. All necessary measures are to be undertaken to control dust pollution from the site. These measures must include, but not are limited to:
   a) Restricting topsoil removal
   b) Regularly and lightly watering dust prone areas (note: prevent excess watering as it can cause damage and erosion
   c) Alter or cease construction work during periods of high wind and
   d) Erect green or black shadecloth mesh or similar products 1.8m high around the perimeter of the site and around every level of the building under construction.

59. Proposed landscape works are to be carried out generally in accordance with the details indicated on the submitted landscape design plans except as required to be modified under the terms of this consent.

60. Where the proposed development involves the destruction or disturbance of any existing survey monuments, those monuments affected are to be relocated at no cost to Council by a Surveyor registered under the Surveying and Spatial Information Act 2002 (NSW).

61. The developer shall contact Council's City Greening Services a minimum of 14 days, before the commencement of works on the driveway on 4974 6043 to arrange for the
removal of an existing street tree (Council Tree ID 54507). All tree works are to be at the developer’s expense and be completed by Council.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE, A SUBDIVISION CERTIFICATE OR A STRATA CERTIFICATE

62. All commitments listed in the relevant BASIX certificate for the development are to be satisfactorily completed prior to the issue of an Occupation Certificate. Should there be any changes to the specifications of the dwelling that have implications for compliance with the approved certificate, except where restricted or excluded by any other condition of consent, an amended BASIX Certificate can be relied upon as having complied with this condition. A copy of any amended BASIX Certificate is to be provided to Council within fourteen days of receipt.

63. All public footways, footpaving, kerbs, gutters and road pavement damaged during the works are to be immediately repaired following the damage, to a satisfactory state that provides for safe use by pedestrians and vehicles. Full restoration of the damage is to be carried out to Council’s satisfaction prior to the completion of demolition work or prior to the issue of any occupation certificate in respect of development involving building work.

64. All works within the road reserve required by this consent are to be completed prior to the issue of a Final Occupation Certificate.

65. Any redundant existing vehicular crossing is to be removed at no cost to Council. The road reserve and kerb being restored to, Council’s satisfaction, to match the existing infrastructure. Works are to be completed prior to the issuing of a Final Occupation Certificate for the proposed development.

66. A copy of the stormwater drainage design plans approved with the Construction Certificate with ‘work as executed’ levels indicated, shall be submitted to the Principal Certifying Authority and to The City of Newcastle prior to the issue of an Occupation Certificate. The plans shall be prepared by a Practising Professional Engineer or Registered Surveyor experienced in the design of stormwater drainage systems.

67. The water management measures as indicated on the submitted plans and Statement of Environmental Effects and/or as modified under the terms of this consent are to be implemented and the nominated fixtures and appliances are to be installed and operational prior to issue of an Occupation Certificate.

68. A Landscape Practical Completion Report is to be submitted to the Principal Certifying Authority prior to the issue of the Final Occupation Certificate. The report is to verify that all landscape works have been carried out in accordance with the comprehensive landscape design plan and specifications that were required to be included in documentation for a Construction Certificate application and is to verify that an effective maintenance program has been commenced.

69. The premises are to be identified by the provision of house and street numbers on the building exterior and mailbox, respectively, such that they are clearly visible from the road frontage.

The minimum numeral heights shall be:

a) Exterior of the building = 75mm and

b) Group mailbox - street number = 150mm
   - house number = 50mm
70. A Landscape Establishment Report is to be submitted to Council following completion of a three month maintenance period, verifying that satisfactory maintenance of the landscape works has been undertaken and any necessary rectification measures have been carried out to a high professional standard.

71. The driveway crossing, parking areas and stormwater management system are to be properly maintained for the life of the development.

72. Proposed parking areas, vehicle bays, driveways and turning areas are to be maintained clear of obstruction and be used exclusively for purposes of car parking, loading and unloading, and vehicle access, respectively. Under no circumstances are such areas to be used for the storage of goods or waste materials.

73. The premises are allocated the following street addresses in accordance with Council's House Numbering Policy and the Surveying and Spatial Regulation.

<table>
<thead>
<tr>
<th>Unit/dwelling number on plan</th>
<th>Street number</th>
<th>Street name</th>
<th>Street type</th>
<th>Suburb</th>
</tr>
</thead>
<tbody>
<tr>
<td>Existing Dwelling</td>
<td>84</td>
<td>Carrington</td>
<td>Street</td>
<td>Mayfield</td>
</tr>
<tr>
<td>Proposed Unit 1</td>
<td>84</td>
<td>Carrington</td>
<td>Street</td>
<td>Mayfield</td>
</tr>
<tr>
<td>Proposed Unit 2</td>
<td>84</td>
<td>Carrington</td>
<td>Street</td>
<td>Mayfield</td>
</tr>
</tbody>
</table>

74. A Maintenance Manual for all water quality devices is to be prepared in accordance with Council’s Stormwater and Water Efficiency for Development Technical Manual (Updated 2013). The Maintenance Manual is to address maintenance issues concerning the water quality devices including routine monitoring and regular maintenance and be kept on site at all times. Establishment and maintenance of the water quality devices in accordance with the Maintenance Manual prepared by the applicant is to be completed prior to occupation of this site for the intended use.

ADVISORY MATTERS

- Retaining walls not clearly noted on the approved plans or outside of the parameters of 'exempt development' as specified in State Environmental Planning Policy (Exempt and Complying Development Codes) 2006 (NSW) are to be subject to a separate development application. An application in this regard is to be approved prior to any works relating to the retaining wall taking place.

- It is recommended that, prior to commencement of work, the free national community service ‘Dial before you Dig’ be contacted on 1100 or by fax on 1200 652 077 regarding the location of underground services in order to prevent injury, personal liability and even death. Inquiries should provide the property details and the nearest cross street/road.

- Any necessary alterations to public utility installations are to be at the developer/demolisher's expense and to the requirements of both Council and any other relevant authorities. Council and other service authorities should be contacted for specific requirements prior to the commencement of any works.
• Any approval for fences on side boundaries, common to other private properties, is independent of any consent or agreement which may be required of any adjoining owner under the provisions of the *Dividing Fences Act 1991* (NSW).

• Prior to commencing any construction works, the following provisions of the *Environmental Planning and Assessment Act 1979* (NSW) (the 'Act') are to be complied with:
  a) A Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act
  b) A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b) of the Act and
  c) Council is to be given at least two days' notice of the date intended for commencement of building works, in accordance with Section 81A(2)(c) of the Act.

• Development applications are not assessed against the provisions of the Building Code of Australia. A Section 96 modification under the *Environmental Planning and Assessment Act 1979* (NSW) will be required if design amendments that cause the proposal to be inconsistent with the development consent are necessary to comply with the provisions of the Building Code of Australia.

• Prior to the occupation or use of a new building, or occupation or use of an altered portion of, or an extension to an existing building, an Occupation Certificate is to be obtained from the Principal Certifying Authority appointed for the proposed development. An application for an Occupation Certificate must contain the information set out in Clause 149 of the *Environmental Planning and Assessment Regulation 2000* (NSW).

• It is an offence under the provisions of the *Protection of the Environment Operations Act 1997* (NSW) to act in a manner causing, or likely to cause, harm to the environment. Anyone allowing material to enter a waterway or leaving material where it can be washed off-site may be subject to a penalty infringement notice ('on-the-spot fine') or prosecution.

• Failure to comply with the conditions of consent constitutes a breach of the *Environmental Planning and Assessment Act 1979* (NSW), which may be subject to a penalty infringement notice ('on-the-spot fine') or prosecution.

**END OF CONDITIONS**
PROCESSING CHRONOLOGY

DA 2017/00185 – 84 Carrington Street, Mayfield

24 February 2017 - Application lodged
01 March - 16 March 2017 - Public Notification
13 March & 16 March 2017 - Submissions received
11 April 2017 - Further information requested
20 April 2017 - Application called-in by two Councillors
01 May 2017 - Further information requested
01 May 2017 - Additional information submitted (amended architectural plans)
03 May 2017 - Further information requested
03 May 2017 - Additional information submitted (amended architectural plans)
09 May 2017 - Additional information submitted (amended architectural plans)
09 May 2017 - Meeting with applicant and further information requested
12 May 2017 - Additional information submitted (landscape plans and amended architectural and engineering plans)
15 May 2017 - Further information requested
15 May 2017 - Additional information submitted (amended architectural and landscape plans)
17 May 2017 - Additional information submitted (cost summary report)
24 May 2017 - Additional information submitted (amended engineering plans)
15 June 2017 - Further information requested
15 June 2017 - Additional information submitted (amended architectural plans)
16 June 2017 - Further information requested
16 June 2017 - Additional information submitted (amended architectural and engineering plans)
18 July 2017 - Public Voice Committee meeting
26 July 2017 - Instruction from applicant to delete proposed subdivision from the development.
ITEM-12 DAC 15/08/17 - DA2017/00005 - 62 FLEMING STREET WICKHAM - DEMOLITION OF OUTBUILDING AND ERECTION OF THREE STOREY DWELLING

APPLICANT: PETER PRINCI ARCHITECTS
OWNER: L ANGLICAS & J T ANGLICAS
REPORT BY: PLANNING AND REGULATORY
CONTACT: DIRECTOR PLANNING AND REGULATORY / MANAGER DEVELOPMENT AND BUILDING

PART I

PURPOSE

An application has been received seeking consent for demolition of an outbuilding and erection of a three storey dwelling at 62 Fleming Street Wickham.

A copy of the submitted plans for the proposed development is attached at Attachment A.

The proposed development was publicly notified for 14 days in accordance with Council's Public Notification policy and one submission was received in response.

The objector's concerns include overshadowing, ventilation and air flow, fencing and car parking.

The objector was invited to Public Voice to expand upon the issues of concern but did not exercise their opportunity.

Details of the submission is summarised at Section 3.0 of Part II of this report and the concerns raised are addressed as part of the Environmental Planning Assessment at Section 4.0.

The application is referred to Council's Development Applications Committee for determination due to Council Officers recommending approval of a Development Application that conflict with Council's adopted policies, where the conflict is considered to be more than minor.
Issues

i. Whether the contravention of Principal Development Standard 4.4 - Floor Space Ratio, under the Newcastle Local Environmental Plan 2012 is justified.

Conclusion

The proposed development has been assessed having regard to the relevant heads of consideration under Section 79C(1) of the Environmental Planning and Assessment Act 1979 and is considered to be acceptable subject to compliance with appropriate conditions.

Accordingly, it is recommended that the application be approved on the basis of the amended plans, subject to the recommended conditions of consent.

RECOMMENDATION

A. THAT the Development Applications Committee note the objection under Clause 4.6 Exceptions to Development Standards of Newcastle Local Environmental Plan 2012 (LEP), against the development standards at Clause 4.4 Floor Space Ratio, and considers the objection to be justified in the circumstances and to be consistent with the aims of the relevant NLEP 2012 clause; and

B. THAT DA2017/00005 for demolition and construction of a dwelling at 62 Fleming Street Wickham be approved and consent granted, subject to compliance with the conditions set out in the Draft Schedule of Conditions at Attachment B; and

C. THAT those persons who made submissions be advised of the Council's determination.

Political Donation / Gift Declaration

Under Section 147 of the Environmental Planning and Assessment Act 1979, the applicant, and any person related to this Development Application must report any political donation and/or gift to a Councillor and/or any gift to a Council employee within a two year period before the date of this application.

The applicant has answered NO to the following question on the application form: Have you, or are you aware of any person having a financial interest in the application, made a 'reportable donation' or 'gift' to a Councillor or Council employee within a two year period before the date of this application?

PART II

1.0 THE SUBJECT SITE
The subject property comprises Lot 16, DP1083033 and is a relatively flat, rectangular shaped parcel of land located on the southern side of Fleming Street. The allotment has a frontage of 10.06m, a depth of 19.5m and a total land area of 196m².

The site contains a garage that is located near the street frontage and a swimming pool positioned at the rear of the lot. The use of the lot has been ancillary to the residential use of the adjoining Lot 15, DP1083033, known as 60 Fleming Street.

Existing development on adjoining lands predominately comprise detached single storey brick, weatherboard and fibro clad dwellings of various styles and ages. Several more modern two and three-storey buildings also form part of the streetscape in the locality.

2.0 THE PROPOSAL

The applicant seeks consent for demolition of an existing single-storey double garage and erection of a three-storey, three-bedroom plus study dwelling house, along with the retention of an in-ground swimming pool on the subject site. The Gross Floor Area (as defined by Newcastle Local Environmental Plan 2012) of the proposed dwelling house equates to 172.43m².

In response to concerns raised by Council officers, the original proposal has been amended by reducing the width of the proposed driveway.

A copy of the amended plans is appended at Attachment A.

The various steps in the processing of the application to date are outlined in the Processing Chronology (refer to Attachment C).

3.0 PUBLIC NOTIFICATION

The application was publicly notified in accordance with Council's Public Notification policy for a period of 14 days and one submission was received in response.

The current amended plans have not been publicly re-notified due to the minor nature of the amendments.

The concerns raised by the objector in respect of the proposed development are summarised as follows:

a) Overshadowing;
b) Reduced ventilation and air flow;
c) Type of side boundary fencing; and
d) Lack of off-street car parking;

The objector's concerns are addressed under the relevant matters for consideration in the following section of this report.
4.0 ENVIRONMENTAL PLANNING ASSESSMENT

The application has been assessed having regard to the relevant matters for consideration under the provisions of Section 79C(1) of the Environmental Planning and Assessment Act 1979, as detailed hereunder.

4.1 Statutory Considerations

State Environmental Planning Policies (SEPP)

With respect to SEPP 71 (Coastal Protection), it is considered that the proposed development has suitably addressed the relevant matters of consideration and development controls for development within the coastal zone.

The proposed development is considered satisfactory having regard to draft State Environmental Planning Policy (Coastal Management) 2016.

A BASIX Certificate has been provided for the proposed development, meeting the requirements of SEPP (Building Sustainability Index: BASIX) 2004.

The proposed development is not contrary to the provisions of any relevant State Environmental Planning Policy (SEPP).

Newcastle Local Environment Plan 2012 (NLEP 2012)

The subject property is included within the R2 Low Density Residential zone under the provisions of NLEP 2012. The proposed development is permissible in this zone with Council's consent.

The proposed development is also considered to be consistent with the zone objectives.

The following summarises an assessment of the proposal against the provisions of NLEP 2012 that are primarily relevant to the proposed development:

Clause 4.3 - Height of Buildings

The maximum height of buildings for this allotment is 8.5m.

The height of the proposed development is 8.44m above existing ground. The proposed maximum height is considered to be satisfactory and compliant in this regard.

Clause 4.4 - Floor Space Ratio (FSR)

The maximum FSR for this site is 0.75:1.

The proposed development will result in a total FSR of 0.88:1, equating to an overall exceedance of 28m² above the prescribed maximum FSR for this locality.
The objectives of Clause 4.4 of NLEP 2012 are:

a) to provide an appropriate density of development consistent with the established centres hierarchy,
b) to ensure building density, bulk and scale makes a positive contribution towards the desired built form as identified by the established centres hierarchy.

The applicant has sought to vary the maximum FSR standard with respect to the proposed development as per the provisions of Clause 4.6 of NLEP 2012 (see below).

Clause 4.6 - Exceptions to Development Standards

Clause 4.6 of NLEP 2012 enables consent to be granted to a development even though the development would contravene a development standard.

The Objectives of this clause are:

a) to provide an appropriate degree of flexibility in applying certain development standards to a particular development;
b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

In assessing the proposal to vary maximum FSR against the provisions of clause 4.6, it is noted that:

1. Clause 4.4 is not expressly excluded from the operation of this clause; and

2. The applicant has submitted a written request seeking that Council vary the development standard, to demonstrate that:

   a) Compliance with the development standard is unreasonable in the circumstances of the case, and
   b) There are sufficient environmental planning grounds to justify contravening the development standard.

The applicant's submission in support of their request to support the variation of the FSR development standard makes the following points:

“compliance would be unreasonable as it would fetter the ability to erect a reasonable scale of development on the site given the existing site constraints. As a garage and pool, the existing arrangement is considered to result in the under-utilisation of the site. The proposal will allow for the site to be developed to its full potential whilst providing much needed family accommodation in Islington. Furthermore, there are sufficient environmental grounds to justify the
variation of the standard not having an impact on the amenity of neighbours in respect of shadowing, privacy, urban design outcomes etc.”.

**Departure from the standard**
In establishing that compliance with the relevant development standard is unreasonable, the following principles have been addressed:

i. The density of the proposed development is consistent with the existing dwellings in the area.

ii. The bulk and scale is consistent with the surrounding dwellings and will prevent the development from appearing out of place.

iii. There will be little impact on the surrounding dwellings with respect to overshading, loss of privacy or views.

**Summary**
The proposal demonstrates that the minor FSR variation is not adverse when considering the objectives of the zone, objectives of the FSR and existing built form within the area.

Officer's comments:

An assessment of the request has been undertaken and it is considered that:

a) The request adequately addresses the matters required to be demonstrated by Clause 4.6(3) of NLEP 2012; and

b) The proposed development will be in the public interest because it is consistent with the objectives of the FSR development standard and the objectives for development within the R2 Low Density Residential zone in which the development is proposed to be carried out; and

c) The Secretary's (i.e. of the Department of Planning & Environment) concurrence to the exception to the FSR development standard, as required by clause 4.6(4)(b) of NLEP 2012, is assumed, as per Department of Planning circular PS 08-003 of 9 May 2008; and

d) The proposed development is acceptable in terms of amenity impacts (primarily overshadowing and privacy);

The proposed variation will result in minimal adverse impact on neighbouring properties and the streetscape in terms of building bulk and scale.

The proposed exception to the FSR development standard of NLEP 2012 is considered to be an acceptable planning outcome and in this instance strict compliance would be unreasonable.

**Clause 5.5 - Coastal Development**

The proposed development is considered to be satisfactory having regard to the relevant objectives and assessment considerations for development within the coastal zone.
Clause 6.1 - Acid Sulphate soils

The site is affected by Class 3 Acid Sulphate Soils and the proposed development is considered satisfactory in this regard.

4.2 Any draft environmental planning instrument that is or has been placed on public exhibition

There is no exhibited draft environmental planning instrument relevant to the consideration of this application.

4.3 Merit Considerations

Relevant Strategic Policies

There are no relevant strategic policies that have a direct bearing on the consideration of the application.

4.4 Newcastle Development Control Plan

Section 3.02 - Single Dwellings and Ancillary Development

The following comments are made concerning the proposed development and the relevant provisions of Section 3.02 of the DCP:

Density - Floor Space Ratio (3.02.01)

The proposed development does not comply with the nominated maximum FSR for the site. Refer to section 4.1.2 of this report.

Height of Buildings (3.02.02)

The proposed development complies with the NLEP 2012 maximum height limit of 8.5m.

Street Frontage Appearance (3.02.03)

The proposed front setback is consistent with the prevailing front setback of neighbouring properties within Fleming Street. The proposed garage setback is consistent with a number of properties in the street and reflects the urban form of the area. Accordingly, the garage setback is considered acceptable in accordance with the relevant performance criteria of the DCP.

Side/Rear Setbacks (Building Envelope) (3.02.04)

The proposed development complies with the side setback criteria of this section. While there is a departure beyond the sides of the building envelope, it is noted that due to the lot width, building up to a side boundary is an option that could have been
pursued. Furthermore, the proposed departures merely involve the eaves of the roof and are considered to comply with the relevant performance criteria of the DCP.

The rear setback is consistent with the average setback of the two adjoining properties. Accordingly, it is considered to be acceptable.

*Landscaping (3.02.05)*

The site is currently landscaped and there are several new areas for potential further enhancement landscaping arising from this development. As such, it is considered that the proposal satisfactory meets the requirements of this section of the DCP.

*Private Open Space (3.02.06)*

The proposed private open space areas are considered satisfactory and meet the DCP’s requirements.

*Privacy (3.02.07)*

The proposal will not unduly impact on the privacy of surrounding properties and meet the DCP’s requirements.

*Solar Access (3.02.08)*

Given the north-south orientation of the allotment and the extent of the proposed development, additional overshadowing impacts will be insignificant. The proposal will not significantly overshadow north facing living area windows and principal areas of private open space of adjacent dwellings.

*View Sharing (3.02.09)*
The proposed development will have minimal impact on views from neighbouring properties and meet the DCP's requirements.

**Car Parking and Vehicular Access (3.02.10)**

The proposed off-street car parking and vehicular access arrangements are considered satisfactory and meet the DCP's requirements.

**Development within Heritage Conservation Areas (3.02.11)**

The proposed development is not located within a heritage conservation area.

**Ancillary Development (3.02.12)**

There is no ancillary development proposed.

**Traffic, Parking & Access**

Two on-site car parking spaces have been created within a proposed double garage fronting Fleming Street. The proposed development is considered satisfactory in this regard.

**Stormwater and Water Efficiency**

The proposed stormwater management plan is in accordance with the relevant aims and objectives of Section 7.06 of the DCP.

**Waste Management**

Demolition and waste management will be subject to conditions recommended to be included in any development consent to be issued.

4.5 **Impacts on the Natural and Built Environment**

The proposed development is considered to not have any undue adverse impact on the surrounding natural or built environment.

4.6 **Social and Economic Impacts in the Locality**

The proposed development is not likely to have any significant social or economic impacts in the locality.

4.7 **Suitability of the Site for the Development**

The site is not subject to any known risk or hazard that would render it unsuitable for the proposed development.

4.8 **Submissions made in accordance with the Act or Regulations**
This report has addressed the various concerns raised in the submission received in response to the Public Notification of the application. The following additional comments are made in respect of issues raised in submissions:

**Overshadowing to south facing living area window and bedroom window.**

Solar access impact on adjoining properties is considered to be satisfactory with respect to the relevant criteria of 3.02.08 Solar Access of Newcastle Development Control Plan '3.02 Single Dwellings and Ancillary Development'. South facing windows are not subject to overshadowing criteria.

*Reduced ventilation and air flow to south facing living area window and bedroom window as a result of the proposed development.*

It is considered that the proposal will not significantly impact existing airflow to adjoining properties.

The proposed boundary setbacks satisfactorily comply with Council planning guidelines and those provided for by the Building Code of Australia to permit adequate light and ventilation to habitable rooms.

*What is the height and type of fencing proposed between the two properties? Is the boundary fence going to be utilised as the ‘pool fence’? The fencing will also impact on overshadowing, ventilation and breezes.*

Revising the existing dividing fence is not part of this development proposal.

Notwithstanding the above, the proposal seeks to retain the existing swimming pool on site. Given new fencing will be required around the pool, the applicant will be obliged to comply with the requirements of the Swimming Pools Act 1992.

Such compliance may include upgrading of existing boundary fencing to comply. The provision of 1800mm high boundary fencing measured from the level of the existing pool coping is considered to not result in an adverse impact in respect of amenity of the occupants of adjoining premises.

*Off-street car parking for No.60 Fleming Street will be taken away to allow for the proposed dwelling.*

The proposed dwelling includes two on-site car parking spaces and this provision complies with Council's requirements.

**4.9 Public Interest**

**Sustainability**

The proposed development is considered to be satisfactory having regard to the principles of ecologically sustainable development.
A BASIX certificate has been submitted with the application confirming that the proposed development will meet sustainability requirements.

General

The proposed development does not raise any significant general public interest issues beyond matters already addressed in this report.

5.0 CONCLUSION

The proposal is acceptable against the relevant heads of considerations under section 79C of the *Environmental Planning and Assessment Act 1979* and is supported on the basis that the recommended conditions in Attachment B are included in any consent that is to be issued.

ATTACHMENTS


Attachment B: Draft Schedule of Conditions - 62 Fleming Street Wickham.

Attachment C: Processing Chronology - 62 Fleming Street Wickham.
DRAFT SCHEDULE OF CONDITIONS

Application No: DA2017/00005
Land: Lot 16 DP 1083033
Property Address: 62 Fleming Street Wickham NSW 2293
Proposed Development: Demolition of outbuilding and erection of three-storey dwelling house

SCHEDULE 1

REASONS FOR CONDITIONS

1. The conditions of this consent have been imposed in accordance with Section 80A of the Environmental Planning and Assessment Act 1979 (NSW). The conditions relate to any matter referred to in Section 79C(1) of relevance to the development the subject of the consent and are imposed to ensure that the development is undertaken in an orderly manner, with acceptable impacts on the natural and built environment.

APPROVED DOCUMENTATION

2. The development is to be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent:

<table>
<thead>
<tr>
<th>Plan No / Supporting Document</th>
<th>Reference / Version</th>
<th>Prepared by</th>
<th>Dated</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site Plan</td>
<td>DA01 Issue B</td>
<td>Peter Princi Architects</td>
<td>March 2017</td>
</tr>
<tr>
<td>Ground Floor Plan</td>
<td>DA02 Issue A</td>
<td>Peter Princi Architects</td>
<td>March 2017</td>
</tr>
<tr>
<td>First Floor Plan, Upper Floor Plan</td>
<td>DA03 Issue A</td>
<td>Peter Princi Architects</td>
<td>March 2017</td>
</tr>
<tr>
<td>South Elevation, North Elevation</td>
<td>DA04 Issue B</td>
<td>Peter Princi Architects</td>
<td>March 2017</td>
</tr>
<tr>
<td>East Elevation</td>
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<tr>
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<td>March 2017</td>
</tr>
<tr>
<td>Typical Section</td>
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<td>March 2017</td>
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<td>Shadow Diagram</td>
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<td>March 2017</td>
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<td>David R. Walpole Pty. Ltd.</td>
<td>22/12/2015</td>
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<tr>
<td>BASIX Certificate</td>
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<td>GRS Building Reports</td>
<td>21/12/2016</td>
</tr>
<tr>
<td>Arborist Report</td>
<td>n/a</td>
<td>Abacus Tree Services</td>
<td>29/03/2017</td>
</tr>
<tr>
<td>Statement of Environmental Effects</td>
<td>n/a</td>
<td>Peter Princi Architects</td>
<td>November 2016</td>
</tr>
</tbody>
</table>
In the event of any inconsistency between conditions of this development consent and the plans/supporting documents referred to above, the conditions of this development consent prevail.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

3. Roof water from the proposed new work is to be directed to the proposed water tank and being reticulated there from to any new toilet cisterns and cold water washing machine taps, with a mains water top up being installed to maintain between 10% and 15% of the tank capacity. Alternatively, an electronically activated mechanical valve device is to be installed to switch any new toilet cisterns and laundry taps to mains water when the tank falls below 10% capacity. The water tank and plumbing is to be installed in accordance with Australian Standard AS 3500, the relevant plumbing regulations and the requirements of the Hunter Water Corporation. Full details are to be included in documentation for a Construction Certificate application.

4. Overflows from the roof water tank and any additional discharge controls (if required) are to be directed to Council’s drainage system by means of an inter-allotment drainage line or underground pipe directly to the street gutter. Full details are to be included in documentation for a Construction Certificate application.

5. All new impervious surfaces, including driveways and paved areas are to be drained to the nominated discharge controls, full details are to be included in documentation for a Construction Certificate application.

6. The floor level of all proposed buildings or building additions is to be not below 2.5m Australian Height Datum and being indicated on plans for a Construction Certificate application. The finished floor levels are to be certified by a registered Surveyor prior to the placement of the floor material and a copy of the Surveyor’s Certificate is to be forwarded to the Principal Certifying Authority.

7. The whole of the proposed structure below known flood level (ie reduced level 2.5m Australian Height Datum) is to be constructed in materials and finishes that are resistant to damage from floodwaters/tidal waters. Any new machinery or equipment, electrical circuitry or fitting, storage unit or similar items likely to be damaged by floodwaters/tidal waters being installed above the said height or alternatively being of materials and functional capability resistant to the effects of floodwaters/tidal waters. Full details are to be included in documentation for a Construction Certificate application.

8. The existing swimming pool is to provided with an appropriate swimming pool safety barrier complying with AS 1926.1-2012 and in accordance with the Swimming Pool Act 1992 (NSW) and Regulations. Full details are to be included in the documentation for a Construction Certificate application.

CONDITIONS TO BE SATISFIED PRIOR TO THE COMMENCEMENT OF WORK AND DURING THE CONSTRUCTION PHASE

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

Each toilet is to:

a) Be a standard flushing toilet connected to a public sewer, or

b) Have an on-site effluent disposal system approved under the Local Government Act 1993 (NSW), or
c) Be a temporary chemical closet approved under the Local Government Act 1993 (NSW).

10. A Hazardous Substances Management Plan is to be prepared by a competent person for the building(s) or parts of the building(s) proposed to be demolished in accordance with Australian Standard 2601:2001 - The Demolition of Structures. A copy of the Hazardous Substances Management Plan is to be provided to Council (marked to Attention: Compliance Services) and the demolisher prior to commencement of work.

11. Demolition works are to be undertaken in accordance with Australian Standard 2601:2001 - The Demolition of Structures and the following requirements:

a) Demolition works shall be conducted in accordance with the submitted Hazardous Substances Management Plan and a copy of the Hazardous Substances Management Plan shall be kept on-site for the duration of the proposed development

b) The removal, handling and disposal of any asbestos material is to be undertaken only by an asbestos removal contractor who holds the appropriate class of Asbestos Licence, issued by the WorkCover Authority of NSW

c) A copy of all waste disposal receipts are to be kept on-site for the duration of the proposed development and made available to authorised Council Officers upon request

d) Seven working days’ notice in writing is to be given to Council and the owners/occupiers of neighbouring premises prior to the commencement of any demolition works. Such written notice is to include the date demolition will commence and details of the name, address, contact telephone number(s) and licence details (type of licences held and licence numbers) of any asbestos removal contractor and demolition contractor. Notification to owners/occupiers of neighbouring premises shall also include Council’s contact telephone number (49742000) and the WorkCover Authority of NSW telephone number (49212900) and

e) On sites where asbestos materials are to be removed, 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 position during asbestos removal works.

12. The demolisher is to ensure that all services (ie water, telecommunications, gas, electricity, sewerage etc), are disconnected in accordance with the relevant authority’s requirements prior to demolition.

13. Any waste containers used in association with the proposed demolition are to be located on the site where possible.

Note: Where this is not feasible, application must be made for Council’s approval to position the container on the adjacent public road in accordance with Council’s adopted Building Waste Container Policy.

14. The demolisher is to ensure that all demolition material is kept clear of the public footway and carriageway as well as adjoining premises.

15. Any demolition/waste building materials that are not suitable for recycling are to be disposed of at Council’s Summerhill Waste Management Facility or other approved site.

16. Waste management shall be implemented in accordance with the approved Waste Management Plan. At a minimum, the following measures shall be implemented during
the construction phase:

a) A waste container of at least one cubic metre capacity shall be provided, maintained and regularly serviced from the commencement of operations until the completion of the building for the reception and storage of waste generated by the construction of the building and associated waste.

b) The waste container is to be, at minimum, constructed with a 'star' picket (corners) and weed control mat (sides), or equivalent. The matting is to be securely tied to the pickets.

c) Appropriate provision is to be made to prevent windblown rubbish leaving the site and

d) Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.

Note: Fines may be issued for pollution/littering offences under the Protection of the Environment Operations Act 1997 (NSW).

17. A rigid and durable sign is to be erected on any site on which building work, subdivision work or demolition work is being carried out, before the commencement of the work:

a) showing the name, address and telephone number of the Principal Certifying Authority for building work and subdivision work, and

b) showing the name, address and telephone number of the Principal Contractor for any building work and also including a telephone number on which the Principal Contractor may be contacted at any time for business purposes, and

c) stating that unauthorised entry to the work site is prohibited, and

d) being erected in a prominent position that can 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.

18. All building work must be carried out in accordance with the provisions of the Building Code of Australia.

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

20. All excavations and backfilling are to be executed safely in accordance with appropriate professional standards and excavations are to be properly guarded and protected to prevent them from being dangerous to life and property.

21. If the soil conditions require it, retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil must be provided and adequate provision must be made for drainage.

22. All building materials, plant and equipment is to be placed on the site of the development so as to ensure that pedestrian and vehicular access in public places is not restricted and to prevent damage to the road reserve. The storage of building materials on Council reserves including the road reserve is not permitted.
23. A Registered Surveyor’s certificate detailing the setting out of the proposed building on the site, including the relationship of the set out building to property boundaries, is to be submitted to the Principal Certifying Authority before construction is commenced.

24. Certification is to be prepared by a Registered Surveyor and submitted to the Principal Certifying Authority at the stages of construction indicated:
   
a) On completion of ground floor construction, confirming that the floor levels are in accordance with the approved levels.

b) On completion of each subsequent floor level, confirming that the floor levels are in accordance with the approved levels.

c) When the roof has been completed, confirming that the building does not exceed the approved levels.

25. A separate application must be lodged and consent obtained from Council for all works within the road reserve pursuant to Section 138 Roads Act 1993 (NSW), before the commencement of works.

26. Any alteration to natural surface levels on the site is to be undertaken in such a manner as to ensure that there is no increase in surface water runoff to adjoining properties or that runoff is impounded on adjoining properties, as a result of the development.

27. Construction/demolition work that generates noise that is audible at residential premises is to be restricted to the following times:
   
   • Monday to Friday, 7:00 am to 6:00 pm and
   • Saturday, 8:00 am to 1:00 pm.

   No noise from construction/demolition work is to be generated on Sundays or public holidays.

28. Council’s ‘PREVENT POLLUTION’ sign is to be erected and maintained in a conspicuous location on or adjacent to the property boundary so it is clearly visible to the public or at other locations on the site as otherwise directed by Council for the duration of demolition and construction work.

   Note: Council’s ‘PREVENT POLLUTION’ sign can be obtained by presenting your development application receipt at Council’s Customer Enquiry Counter at 282 King Street Newcastle.

29. Erosion and sediment control measures are to be implemented prior to the commencement of works and maintained during the period of demolition and/or construction in accordance with the requirements of Managing Urban Stormwater: Soils and Construction 4th Edition - Vol. 1 (the ‘Blue Book’) published by Landco, 2004. Controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover.

30. Prior to the commencement of work, a 3m wide all weather vehicle access is to be provided from the kerb and gutter to the building under construction, to reduce the potential for soil erosion. Sand shall not be stockpiled on the all weather vehicle access.

31. All public trees that are required to be retained must be physically protected in accordance with the City of Newcastle Urban Forest Technical Manual ‘Section 8.0 Protection Measures’.

   The tree protection fencing must remain in place and maintained until all works have
been completed, with no waste materials, washouts, equipment or machinery to be stored within the fenced area.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE, A SUBDIVISION CERTIFICATE OR A STRATA CERTIFICATE

32. All commitments listed in the relevant BASIX certificate for the development are to be satisfactorily completed prior to the issue of an Occupation Certificate. Should there be any changes to the specifications of the dwelling that have implications for compliance with the approved certificate, except where restricted or excluded by any other condition of consent, an amended BASIX Certificate can be relied upon as having complied with this condition. A copy of any amended BASIX Certificate is to be provided to Council within fourteen days of receipt.

33. All public footways, footpaving, kerbs, gutters and road pavement damaged during the works are to be immediately repaired following the damage, to a satisfactory state that provides for safe use by pedestrians and vehicles. Full restoration of the damage is to be carried out to Council’s satisfaction prior to the completion of demolition work or prior to the issue of any occupation certificate in respect of development involving building work.

34. All works within the road reserve required by this consent are to be completed prior to the issue of a Final Occupation Certificate.

35. Any redundant existing vehicular crossing is to be removed at no cost to Council. The road reserve and kerb being restored to, Council’s satisfaction, to match the existing infrastructure. Works are to be completed prior to the issuing of a Final Occupation Certificate for the proposed development.

36. The water management measures as indicated on the submitted plans and Statement of Environmental Effects and/or as modified under the terms of this consent are to be implemented and the nominated fixtures and appliances are to be installed and operational prior to issue of an Occupation Certificate.

37. The premises are to be identified by the provision of house numbers on the building exterior and mailbox such that they are clearly visible from the road frontage.

The minimum numeral height shall be 75mm.

CONDITIONS TO BE SATISFIED DURING THE OPERATION AND USE THE DEVELOPMENT

38. All vehicles parking on the subject site are to be contained wholly within the property boundaries and are not to encroach on the adjacent public footway.

ADVISORY MATTERS

- Retaining walls not clearly noted on the approved plans or outside of the parameters of ‘exempt development’ as specified in State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (NSW) are to be subject to a separate development application. An application in this regard is to be approved prior to any works relating to the retaining wall taking place.

- An application is to be submitted to Council for the removal or pruning of any trees located more than three metres from the dwelling, wall measured from the centre of the trunk to the footings of the dwelling, excluding carports and pergolas.

- It is recommended that, prior to commencement of work, the free national community service ‘Dial before you Dig’ be contacted on 1100 or by fax on 1200 652 077 regarding the location of underground services in order to prevent injury, personal
liability and even death. Inquiries should provide the property details and the nearest cross street/road.

- Any necessary alterations to public utility installations are to be at the developer/demolisher’s expense and to the requirements of both Council and any other relevant authorities. Council and other service authorities should be contacted for specific requirements prior to the commencement of any works.

- Any approval for fences on side boundaries, common to other private properties, is independent of any consent or agreement which may be required of any adjoining owner under the provisions of the Dividing Fences Act 1991 (NSW).

- Prior to commencing any construction works, the following provisions of the Environmental Planning and Assessment Act 1979 (NSW) (the ‘Act’) are to be complied with:
  
a) A Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act

b) A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b) of the Act

c) Council is to be given at least two days’ notice of the date intended for commencement of building works, in accordance with Section 81A(2)(c) of the Act.

- Development applications are not assessed against the provisions of the Building Code of Australia. A Section 96 modification under the Environmental Planning and Assessment Act 1979 (NSW) will be required if design amendments that cause the proposal to be inconsistent with the development consent are necessary to comply with the provisions of the Building Code of Australia.

- Prior to the occupation or use of a new building, or occupation or use of an altered portion of, or an extension to an existing building, an Occupation Certificate is to be obtained from the Principal Certifying Authority appointed for the proposed development. An application for an Occupation Certificate must contain the information set out in Clause 149 of the Environmental Planning and Assessment Regulation 2000 (NSW).

- It is an offence under the provisions of the Protection of the Environment Operations Act 1997 (NSW) to act in a manner causing, or likely to cause, harm to the environment. Anyone allowing material to enter a waterway or leaving material where it can be washed off-site may be subject to a penalty infringement notice (‘on-the-spot fine’) or prosecution.

- Failure to comply with the conditions of consent constitutes a breach of the Environmental Planning and Assessment Act 1979 (NSW), which may be subject to a penalty infringement notice (‘on-the-spot fine’) or prosecution.

- For the purpose of applying the provisions of the Building Code of Australia for class 1, 2, 3, 4, 9a (health care) and 9c (aged care) buildings, it is advised that the proposed building is located in a Flood Hazard Area and the:
  
a) Defined Flood Level (DFL) is 2.2m Australian Height Datum (AHD)
b) Flood Hazard Level is 2.5m AHD (Freeboard is 500mm above DFL)
c) Maximum Flow Velocity of floodwaters for the Defined Flood Event is 0.11m/s

END OF CONDITIONS
## Attachment C

### PROCESSING CHRONOLOGY

**DA 2017/00005 – 62 Fleming Street Wickham**

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>23 December 2016</td>
<td>Application lodged</td>
</tr>
<tr>
<td>5 January 2017</td>
<td>Application notified</td>
</tr>
<tr>
<td>20 January 2017</td>
<td>Notification period closes, with one submission received</td>
</tr>
<tr>
<td>3 February 2017</td>
<td>Request for additional information sent to applicant</td>
</tr>
<tr>
<td>31 March 2017</td>
<td>Additional information received</td>
</tr>
<tr>
<td>6 April 2017</td>
<td>Amended site plan received</td>
</tr>
</tbody>
</table>
ITEM-13 DAC 15/08/17 - DA2016/01478 - 4 BEACH STREET NEWCASTLE EAST - DEMOLITION OF DWELLING, ERECTION OF THREE STOREY DWELLING AND ASSOCIATED SITE WORKS

APPLICANT: D & J Morris
OWNER: D & J A Morris
REPORT BY: PLANNING & REGULATORY
CONTACT: DIRECTOR PLANNING AND REGULATORY / MANAGER DEVELOPMENT AND BUILDING

PART I

PURPOSE

An application has been received seeking consent to demolish the existing dwelling, erection of three storey dwelling and associated site works at 4 Beach Street Newcastle.

A copy of the submitted plans for the proposed development is attached at Attachment A.

The proposed development was notified to neighbouring properties for 14 days in accordance with Council's Public Notification Policy and eleven submissions were received in response, with two submissions being received from the same address.

The objectors' concerns include demolition of the existing dwelling in the Newcastle East Heritage Conservation Area; bulk and scale; archaeological significance; impact on streetscape and amenity; overshadowing; impacts on view sharing; reduction of on-street car parking; proximity to property boundaries and privacy impacts generated by the proposed development.

Details of the submissions received are summarised at Section 3.0 of Part II of this report and the concerns raised are addressed as part of the Environmental Planning Assessment at Section 4.0.

The application has been referred to Council's Development Applications Committee for determination due to Council officers recommending approval of a Development Application that conflicts with Council's adopted policies, where the conflict is considered to be more than minor.
Issues

1. Whether the demolition of the existing cottage in the Newcastle East Heritage Conservation Area is justified.

2. Whether the contravention of Principal Development Standard of Clause 4.4 (Floor Space Ratio) (FSR) under the Newcastle Local Environmental Plan 2012 (NLEP2012) is justified.

3. Whether the proposal is an overdevelopment of the site with respect to the relevant single dwelling and heritage conservation area provisions of the Newcastle Development Control Plan 2012.

4. Whether the view impacts to and from adjoining development is reasonable.

Conclusion

The proposed development has been assessed having regard to the relevant heads of consideration under Section 79C(1) of the Environmental Planning and Assessment Act, 1979 (as amended) and is considered to be acceptable subject to compliance with appropriate conditions.

Accordingly, it is recommended that the application be approved on the basis of the amended plans, subject to the nominated conditions of consent.

RECOMMENDATION

A. THAT Council, as the consent authority, note the objection under clause 4.6 Exceptions to Development Standards of Newcastle Local Environmental Plan 2012, against the Principal Development Standard at Clause 4.4 Floor space Ratio, and Council considers the objection to be justified in the circumstances and is consistent with the aims of the relevant Clause of NLEP 2012; and

B. THAT DA2016/01478 to demolish the existing dwelling, erect a three-storey dwelling and associated site works at 4 Beach Street Newcastle be approved and consent granted, subject to compliance with the conditions set out in the Draft Schedule of Conditions appended at Attachment B; and

C. THAT those persons who made submissions be advised of Council's determination.

Political Donation / Gift Declaration

Under Section 147 of the Environmental Planning and Assessment Act 1979, the applicant, and any person related to this Development Application must report any political donation and/or gift to a Councillor and/or any gift to a Council employee within a two year period before the date of this application.
The applicant has answered **NO** to the following question on the application form: *Have you, or are you aware of any person having a financial interest in the application, made a 'reportable political donation' or 'gift' to a Councillor or Council employee within a two year period before the date of this application?*

**PART II**

**1.0 THE SUBJECT SITE**

The subject site is formally known as Lot 9, Section A, DP 2370 and positioned towards the eastern end of Beach Street in Newcastle East.

With dual frontage to both Fort Drive and Beach Streets, the site is generally rectangular in shape and has front and rear dimensions of 6.705m (north and south), and side boundary dimensions of 22.590m (east and west). The overall site area totals 151.5m² and its natural surface levels fall moderately in an easterly direction down to towards Beach Street.

The site is currently occupied by a single storey cottage and has provision for off-street parking from Fort Drive. Surrounding development predominantly comprises low density residential housing to the east and west.

The subject allotment is adjacent to Fort Scratchley, is located in the Newcastle East Heritage Conservation Area and is located in a sensitive coastal location in accordance with the State Environmental Planning Policy 71 (Coastal Protection).

**2.0 THE PROPOSAL**

The applicant seeks consent for the demolition of the existing dwelling, erection of three storey dwelling and associated site works.

In response to concerns raised by Council officers and objectors, the original proposal has been amended as follows:

I. A request to vary the floor space ratio development standard has been submitted by the applicant.

II. The Beach Street elevation has been modified to interpret the positive attributes of infill development in a Heritage Conservation Area, including amending the bulk, scale, massing and form.

III. Reallocation of the proposed vehicular accommodation in Beach Street, resulting in the removal of only one on-street car parking space.

IV. The architectural plans have been corrected of discrepancies.

A copy of the submitted plans is appended at Attachment A.

The various steps in the processing of the application to date are outlined in the Processing Chronology (refer to Attachment C).
3.0 PUBLIC NOTIFICATION

The application was publicly notified for a period of 14 days in accordance with Council’s Public Notification Policy. Eleven submissions have been received, with two submissions being received from the same address. On the 18 July 2017, the application was subject to Public Voice where five presenters spoke, including 3 objectors, and the applicant and architect.

The concerns raised by the objectors in their submissions and at Public Voice in respect of the proposed development are summarised as follows:

a) Statutory and Policy Issues:
   i. Floor space ratio exceedance
   ii. Demolition of an existing dwelling in the Newcastle East Heritage Conservation Area
   iii. Suitability of the replacement dwelling in the Newcastle East Heritage Conservation Area
   iv. Archaeological significance
   v. Building height
   vi. Height of the western boundary wall
   vii. Setbacks to property boundaries
   viii. Inaccuracies in the submitted documentation

b) Amenity Issues:
   i. Visual amenity impacts
   ii. Streetscape setting and appearance
   iii. Privacy impacts
   iv. Impact on breezes
   v. Access to light
   vi. Reduction in on-street car parking
   vii. Removal of hazardous materials during demolition
   viii. Location of the air-conditioning system

c) Design and Aesthetic Issues:
   i. Bulk and scale
   ii. Overshadowing
   iii. View sharing
   iv. Character of the Newcastle East Heritage Conservation Area

The objectors' concerns are addressed under the relevant matters for consideration in the following section of this report.

4.0 ENVIRONMENTAL PLANNING ASSESSMENT
The application has been assessed having regard to the relevant matters for consideration under the provisions of Section 79C(1) of the Environmental Planning and Assessment Act 1979, as detailed hereunder.

4.1 Statutory Considerations

State Environmental Planning Policies (SEPP)

With respect to SEPP 71 (Coastal Protection), it is considered the proposed development has suitably addressed the relevant matters of consideration and development controls for development within the coastal zone.

A BASIX Certificate has been provided for the proposed development, meeting the requirements of SEPP (Building Sustainability Index: BASIX) 2004.

The proposed development is not contrary to the provisions of any relevant State Environmental Planning Policy (SEPP).

Newcastle Local Environment Plan (NLEP) 2012

The subject property is included within the R3 Medium Density Residential zone under the provisions of NLEP 2012. The proposed development is permissible in this zone with Council's consent.

The proposed development is also consistent with the zone objectives.

The following summarises an assessment of the proposal against the Principal Development Standards within NLEP 2012:

Clause 4.3 (Height of Buildings)

The maximum height of buildings for this allotment is 10m. The height of the proposed development is 10m above existing ground level when measured to the highest point of the proposed development, being compliant in this regard.

Clause 4.4 - Floor Space Ratio (FSR)

The maximum FSR for this site is 1:1. The proposed development has an assessed FSR of 1.49:1, which equates to an exceedance of 73.9m² in gross floor area.

The objectives of Clause 4.4 of NLEP 2012 are:

a) to provide an appropriate density of development consistent with the established centres hierarchy,

b) to ensure building density, bulk and scale makes a positive contribution towards the desired built form as identified by the established centres hierarchy.
The applicant has sought to vary the FSR development standard with respect to the proposed development, as per the provisions of Clause 4.6 of NLEP 2012 (see below).

**Clause 4.6 (Exceptions to Development Standards)**

Clause 4.6 of NLEP 2012 enables consent to be granted to a development even though the development would contravene a development standard.

The Objectives of this clause are:

1. to provide an appropriate degree of flexibility in applying certain development standards to a particular development;
2. to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

In assessing the proposal to vary maximum FSR against the provisions of clause 4.6, it is noted that:

1. Clause 4.4 is not expressly excluded from the operation of this clause; and
2. The applicant has prepared a written request requesting Council vary the development standard and demonstrating that:
   
   (a) Compliance with the development standard is unreasonable in the circumstances of the case, and
   
   (b) There are sufficient environmental planning grounds to justify contravening the development standard.

In support of the variation, the applicant has submitted a written request that seeks to vary the Principal Development Standard (Clause 4.4) in accordance with Clause 4.6 of NLEP 2012, for the proposed dwelling to exceed the maximum FSR for the site.

The applicant's submission in support of their request to allow the contravention of the development standard relating to FSR makes the following points:

1. **Consistency with the objectives of the FSR standard in the LEP**

   With respect to the first objective, the proposal does not result in a net increase in density, as the proposal replaces an existing single storey dwelling with a new 3 storey dwelling. As such, the proposed dwelling’s impact on existing and planned infrastructure will be equivalent to the existing dwelling. The proposal, therefore, is not in conflict with the established centres hierarchy which is best outlined under Newcastle City Council’s “Local Planning Strategy” 2015. The Strategy underpins the Newcastle Local Environmental Plan 2012 “providing a land use planning platform to move towards a smarter, more liveable and sustainable Newcastle”.

   In regards to the second objective, the proposal is entirely compliant with the maximum 10 metre height limit prescribed under the Newcastle LEP 2012. The surrounding development consists of 2 and 3 storey, brick and weatherboard terrace style dwellings. The Statement of Heritage Significance for Newcastle East
Conservation Area contained within the Newcastle Development Control Plan (DCP) 2012 states: “The residential area (of Newcastle East) is significant for its consistent streetscapes of two and three storey terrace housing dating from the mid-19th through to early 20th centuries and its housing for workers”.

Existing buildings directly adjacent the site include:

- No’s 1-6 Ocean Terrace – 2 storey
- No 2 Beach Street – 3 storey
- No. 5 Fort Drive – 2 storey
- No. 7 Fort Drive – 3 storey
- No. 9 Fort Drive – 2 storey
- No. 12 Fort Drive – 3 storey

The existing building is the only dwelling within the immediate area that is single storey in height, and as such is considered uncharacteristic for the streetscape and local context. The proposed development has been designed as a 3-storey terrace house to compliment the consistent scale of the streetscape and prevailing typology of neighbouring buildings that are contributory to the heritage conservation area.

More specifically, the proposed development has been thoughtfully designed to reflect the relative scale of the components of the neighbouring buildings.

When viewed from the north (Fort Street), the bulk of the building has been located adjacent the eastern boundary to complement the proportioning of the 3 storey terrace immediately adjoining to the east at No. 2 Beach Street. The proposed development then reduces in height and is setback from the western boundary to compliment the scale of the 2 storey terrace house located at No. 5 Fort Drive…

Likewise when viewed from the south (Beach Street), the proposed southern elevation has been modified to be more vertical and fine grain in expression with greater use of high quality zinc cladding material. The zinc cladding is a roof like material that will assist in making the dwelling more compatible with the traditional housing in the street, albeit in a contemporary style.

2. Consistency with the objectives of the R3 Medium Density Residential zone

The proposed development is consistent with the zone objectives, demonstrated by the following points:

a. The dwelling has been designed to accommodate the expectations and day to day needs of the intended residents (or in the words of the LEP zone objectives ‘community’) within a medium density residential environment;

b. The proposal is entirely consistent with the scale and height of the surrounding residential dwellings and compatible with the character of the locality…; and

c. There will be no significant adverse impact on the amenity of adjoining and surrounding development…

In regards to increased population levels, the proposal does not result in a net increase in density, as the proposal simply replaces an existing single storey dwelling with a new 3 storey dwelling.

3. Consistency with state and regional planning polices

The proposed FSR variation ensures the orderly and economic use of land as envisaged by the Environmental Planning and Assessment Act, 1979.
The proposed FSR allows for achievement of an appropriate increase in building envelope to a site that is easily accessible to the major town centre with a full range of shops, recreational facilities and services, public transport and employment.

The provision of high quality residential housing in close proximity to public transport and established services and recreation areas is consistent with State Government Urban Consolidation Policy, which is reflected in Newcastle Council's Local Planning Strategy 2015.

4. The variation allows a better planning outcome

The proposal will replace a dilapidated dwelling with low aesthetic quality and amenity with a new architecturally designed 3 bedroom house that has superior amenity and aesthetic value, particularly when viewed from Fort Street.

The current building was one of the first 3 dwellings constructed on the northern side of Beach Street, as evidenced in a photo from Fort Scratchley dated 1903. The cottage has been degraded over a long period of time by successive renovations and additions with the use of low quality materials and finishes and the use of hazardous substances including lead based paints, asbestos products and fibres.

The existing dwelling is now inconsistent with the streetscape in terms of character, style, scale, form and typology. Although the original architectural style of this building would have been “Victorian”, the modifications to the building fabric over the last 100 years has left it with a very indeterminate character. Any decoration consistent with dwellings of this era has been removed, reducing the heritage value of this building in the streetscape and conservation area.

Furthermore, when viewed from Fort Street, the existing dwelling has external toilets and washroom facilities that are clearly inconsistent within the current streetscape.

The proposed development has been designed as a 3-storey terrace house to compliment and be consistent with the scale of the Fort Street streetscape and prevailing terrace typology of neighbouring buildings that are contributory to the heritage conservation area.

Reducing the floor space so that it would be compliant with the 1:1 FSR, would diminish the aesthetic appearance of the proposed dwelling and make it incongruent in the streetscape and as discussed below, would not make any significant gain the amenity of adjoining and surrounding development.

5. There are sufficient environmental grounds to permit the variation

The proposed development has sufficient environmental grounds to permit the variation in FSR, measured by way of solar access, natural light and ventilation, views and privacy.

In regards to solar access, the majority of overshadowing falls to the south over Beach Street. The sunlight available to northern facing living areas of adjoining dwellings (namely No. 2 Beach Street and No. 5 Fort Drive) will be unaffected by this proposal.

Furthermore, sunlight available to ground level private open space on the adjoining dwellings at the winter solstice will not be detrimentally affected by this proposal as they are already in full shade due to their own existing improvements on their respective sites…

In regards to views, there will be no loss of ocean and district views currently enjoyed by the immediately adjoining neighbours. Both No. 2 Beach Street and No. 5 Fort Drive have unobstructed views from their northern elevations and the proposal will not compromise those views. Amendments have also been made to reduce the impact of the garage structure fronting Beach Street to address views for No. 5 Fort Drive as
well as the streetscape. In terms of overlooking / loss of privacy, the proposed eastern elevation of the dwelling features no windows or balconies facing onto No. 2 Beach Street. Whilst on the western elevation, only 2 narrow vertical windows and 3 highlight windows set behind vertical blades are to be provided, negating any opportunity for overlooking into No. 5 Fort Drive...

In regards to side setbacks, Section 3.02.04 of the Newcastle DCP 2012 states that “buildings on lots with a width less than 8m can be built to both side boundaries”. This is on the provision that if the wall of any adjoining building is not of masonry construction is setback from its own side property boundary by more than 900mm.

The western elevation of the eastern adjoining dwelling (No. 2 Beach Street) is of masonry construction and features small windows that serve non-habitable rooms (such as bathrooms). As such, the proposed zero setback from this common boundary is acceptable and will not have any detrimental impact on that neighbour in terms of natural ventilation and daylight access.

The eastern wall of the western adjoining property (No. 5 Fort Drive) contains several windows facing onto the subject site. To protect these windows, the proposal provides a 1000mm setback on the top most floor to ensure that the windows along the eastern elevation of this property receive sufficient ventilation / breezes and daylight access…

6. The variation is in the public interest

The FSR variation is considered to be in the public interest, given the proposal replaces a dilapidated dwelling with low aesthetic quality and amenity with a residential dwelling demonstrating design excellence and high level of internal amenity.

The proposal makes efficient use of the site which is accessible to public transport, employment, recreational parks / beaches and general services.

The appropriate bulk and scale along Beach Street and Fort Street and lack of external amenity impacts further demonstrates that the proposal and its associated FSR are in the public interest.

Conclusion

For the reasons mentioned above, compliance with the FSR development standard is unreasonable in this instance. The Clause 4.6 variation is forwarded to Council in support of the 1.49:1 FSR with the development proposal at No. 4 Beach Street, Newcastle East and is requested to be determined favourably by Council.’ (Andrew Rees, dated 23/05/2017)

Officer’s comments:

An assessment of the request has been undertaken and it is considered that:

a) The request adequately addresses the matters required to be demonstrated by Clause 4.6(3) of NLEP 2012;

b) The proposed development will be in the public interest because it is consistent with the objectives of the Principal Development Standard and
the objectives for development within the R3 Medium Density Residential zone in which the development is proposed to be carried out;

c) The Secretary's (i.e. of the Department of Planning & Environment) concurrence to the exception to the Floor Space Ratio Development Standard, as required by clause 4.6(4)(b) of NLEP 2012, is assumed, as per Department of Planning Circular PS 08-003 of 9 May 2008;

d) While the numerical variation appears significant as detailed in the discussion above, the inclusion of an additional gross floor area of 73.9m2 above the maximum FSR for the site is considered to be acceptable in the context of adjoining two and three-storey residences to the northern side of Beach Street Newcastle East, and within the R3 Medium Density Residential zone.

The proposed exception to the FSR Principal Development Standard of NLEP 2012 is considered to be an acceptable planning outcome and in this instance strict compliance would be considered unreasonable.

Clause 5.5 (Coastal Development)

The proposed development is considered satisfactory having regard to the relevant objectives for development within the coastal zone.

Clause 5.10 (Heritage Conservation)

A Statement of Heritage Impact has been submitted for the proposed development.

The proposed development is located within the Newcastle East Heritage Conservation Area. The proposed development seeks demolition of the existing timber framed weatherboard-clad cottage with asbestos sheet roofing, and erection of a three-storey replacement dwelling.

Refer to comments beneath in 4.3 regarding suitability of demolishing the existing cottage and erection of an infill dwelling.

The proposed development is considered satisfactory in accordance with the relevant objectives of this section.

Clause 6.1 (Acid Sulphate Soils)

The site is affected by Class 5 Acid Sulphate Soils and the proposed development is considered satisfactory in this regard.

4.2 Merit Considerations

Relevant Strategic Policies
Given the proposed extent of numerical exceedance to the FSR Principal Development Standard, consideration has been given to the historical application of the prescribed development densities for this location with the Newcastle Local Government Area.

The original densities for this locality were identified within the now superseded Development Control Plan (DCP) 57- City East Urban Design Guidelines. This DCP was prepared in the 1990’s and formally adopted in August 2000.

In 2008, as part of the State Governments ‘growth centres’ initiatives, a new City Centre LEP and DCP was introduced. This included new Building Heights and FSR’s, however City East was not included in the review at that time.

Similarly in 2012, the Newcastle Urban Renewal Strategy also reviewed building heights and FSRs in the City Centre, but was more focussed on the mall area and City West. There were no revisions or changes incorporated to the subject locality at that time.

In 2012, when Council converted to the Standard Instrument Local Environmental Plan format, the existing density controls were simply rolled over into NLEP 2012.

Notwithstanding the above, there are no relevant strategic policies that preclude consideration of a merit assessment of a variation to the FSR Principal Development Standards under NLEP 2012.

4.3 Newcastle Development Control Plan

Section 3.02 (Single Dwellings and Ancillary Development)

The following comments are made concerning the proposed development and the relevant provisions of Section 3.02:

a) Street frontage appearance (3.02.03)

Due to site constraints, the applicant has proposed performance based solutions for the setback of the garage from Fort Drive. The proposed garage is proposed at 2.75m from the front boundary of the allotment.

With reference to the existing streetscape, it has been assessed the proposed development will compliment and harmonise with the positive elements of existing development in Fort Drive. With consideration given to the setbacks of garages at No. 2 and No. 12 Beach Street, it has been assessed the proposed setback of the subject garage will be compatible with the existing and intended local streetscape.

Due to the width of the proposed garage (one car space only), it has been assessed that the development will not tend to dominate Fort Drive streetscape. As an infill development in the context of the Newcastle East Heritage Conservation Area, it has
been suitably demonstrated by the applicant that the proposed development will comfortably relate to the character and amenity of development within the immediate vicinity.

With the reduced setback of the garage to the front boundary, an advisory condition is recommended for inclusion in any development consent to be issued advising that parking is not permitted over Council’s verge.

b) Side/Rear Setbacks (building envelope) (3.02.04)

Due to site constraints, the applicant has proposed performance based solutions for the setback of the development from the side and rear boundaries of the allotment, including the building envelope stipulated by this section:

i. Eastern wall (side boundary) – boundary wall construction and building envelope;
ii. Western wall (side boundary) – boundary wall construction and building envelope; and
iii. Southern wall (rear boundary) – garage and dwelling setback.

With consideration given to the existing streetscape and the established building typology within the immediate vicinity, it has been assessed that the proposed infill development will not detrimentally impact the built form or visual amenity of the area. Given the prevailing site constraints, it is also considered that the proposed development will not be out of character in its location and has suitably responded to the attributes of the site, with its bulk, massing and scale being sympathetic in the context of adjoining development. It is further considered that the proposed development will not adversely impact on the amenity of adjoining development with respect to solar access, privacy or coastal breezes.

c) Landscaping (3.02.05)

The applicant has proposed a performance based solution for landscaping. Landscaping of approximately 11.5% (17.5m²) of the site area has been provided to the proposed development - this landscaping area has included landscaping widths that are less than 1.5m.

Given the prevailing site constraints, it has been assessed that the proposed development will provide for a suitable and useable area of both landscaped and open space areas to the occupants and that the overall percentage of soft landscaping to be established on site will not detrimentally impact the amenity of the area.

d) View Sharing (3.02.09)

The proposed development has been designed having suitable regard to view sharing with neighbouring properties, and incorporate architectural attributes of sympathetic form, treatment and roofscape design to enhance view sharing opportunities.
In support of the proposal, and in particular the issue of view affectation, the applicants have submitted a detailed view analysis report which is attached at Attachment D. This analysis examines the likely impact having regards to the NSW Land & Environment Court, being Tenacity Consulting -v- Warringah Council (2004).

The planning principle for assessing view impacts established in the above case have been applied in this assessment and the four steps of the planning principle are stated and commented on as follows:

i. ‘The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (eg of the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, eg a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.’

Comment:
It is acknowledged that the proposed development will impact views from existing development at No. 2 Beach Street, No. 5 Fort Drive and No. 1A Beach Street, including land and water views. It has been assessed the predominant views that will be impacted by the proposed development include views to Fort Scratchley, Newcastle Harbour, Cowrie Hole, Signal Hill and coastal views (predominantly to the south-east and north-east across the subject allotment from No. 5 Fort Drive). It is considered 'whole' views, that being an interface between land and water will be impacted by the proposed development.

ii. ‘The second step is to consider from what part of the property the views are obtained. For example the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.’

Comment:
It has been assessed that the occupiers of No. 5 Fort Drive currently enjoy coastal views which will be impacted by the proposed development. No.5 Fort Drive is positioned directly to the west of the subject site, and the views enjoyed are over and across the side boundary of the subject land. It is also assessed that both sitting and standing views will be impacted.

In accordance with the Courts interpretation, is considered that any expectations that these views should be retained would be unrealistic.

It has been assessed that iconic city views (including Newcastle Harbour and foreshore) are currently enjoyed from No. 2 Beach Street, which is located to the east of the subject allotment. It is considered that existing views are obtained through the subject land and across the side boundary of the allotment. The expectation that no side views will be affected from No. 2 Beach Street is also
considered unrealistic in this instance. It has been assessed that both sitting and standing views will be impacted.

It has also been assessed that views to Signal Hill are presently obtained from No. 1A Beach Street, which is located to the south of the subject allotment. These existing views are obtained over the subject land, through front and rear boundaries. The expectation that no views will be affected from No. 1A Beach Street is also considered unrealistic in this instance. It has been assessed that both sitting and standing views will be impacted.

iii. ‘The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.’

Comment:
Views that will be impacted are predominantly obtained from:

i. No. 5 Fort Drive – bedroom and enclosed deck to the north; bedrooms to the east and an elevated outdoor terrace to the south.
ii. No. 2 Beach Street – living areas, bedrooms and associated decks to the north.
iii. No. 1A Beach Street – bedroom and enclosed deck to the north.

The view analysis report has appropriately demonstrated how view sharing will be achieved to adjoining properties.

As a result of the proposed development, the report identifies that the greatest impact to view loss will be north-eastern and south-eastern views of No. 5 Fort Drive, including coastal views and views to the Cowrie Hole. It has been assessed that the iconic city views will predominantly remain to No. 5 Fort Drive. It is considered that No. 5 Fort Drive could sustain up to a severe impact with respect to loss of coastal views.

Given the location and planning of development to No 2 Beach Street, it has been assessed that available coastal views to the north-east and south-east will remain unaffected by the proposed development. City views may be impacted by the proposed development. It is considered No. 2 Beach could sustain a moderate impact with respect to loss of city views.

It has been assessed that available coastal views to the south-east of No. 1A Beach Street will remain unaffected by the proposed development. Views to Signal Hill will be impacted by the proposed development. Given the location of views to be
impacted is over the subject allotment, it is considered No. 1A Beach Street could sustain a moderate impact to views.

iv. ‘The fourth step is to assess the reasonableness of the proposed development that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.’

Comment:
Given site constraints and the R3 Medium Density Residential zoning of the subject allotment, it has been assessed the new dwelling generally complies with Council’s relevant objectives and performance requirements. As noted above, the applicant has proposed performance based solutions to Council’s front, side and rear setback provisions (including building envelope). It is considered that full compliance with the relevant side and rear setback Acceptable Solutions of Section 3.02 (Single Dwelling and Ancillary Development) would have a negligible impact on the quality of views to adjoining neighbours at No. 1A and No. 2 Beach Street. It is also considered that full compliance with the relevant front and rear setback Acceptable Solutions of Section 3.02 (Single Dwelling and Ancillary Development) would have a negligible impact on the quality of views to the adjoining neighbour at No. 1A Beach Street.

It is considered that a development that fully complies with the relevant front and rear setback Acceptable Solutions of Section 3.02 (Single Dwelling and Ancillary Development) may moderately improve view sharing to No. 5 Fort Drive and No. 2 Beach Street. However, given prevailing site constraints and the limited scope for alternative building forms on the subject allotment, it is considered a more skilful or modest design would be unlikely to realise the lands full development potential, and the resultant building would be significantly smaller and more modest compared with their neighbours.

The location of views to be affected for No. 5 Fort Drive and No. 2 Beach Street is across side boundaries. Having regard to the planning principal, the expectation to retain views across side boundaries is considered unrealistic in this instance. While it is considered that there will be impact on the adjoining neighbours to coastal and city views, it has been assessed the application has proposed a form and massing which has sought to enhance view sharing opportunities.

The proposed development is considered reasonable having regard for established principles for assessing view impacts and the provisions of Section 3.02.09.

e) Car parking and vehicular access (3.02.10)
The applicant has proposed a performance based solution for the proposed driveway setback, given the location of the existing crossover to Fort Drive. The proposed development is considered satisfactory in this regard.

f) **Section 5.01 (Soil Management)**

The application has suitably addressed the relevant objectives of soil management. A relevant condition will be included in any development consent to be issued, regarding development in close proximity to the allotment boundary / adjoining development.

g) **Section 5.04 (Aboriginal Heritage)**

It has been assessed that the proposed excavation for the new dwelling is unlikely to affect archaeological relics. A relevant condition will be included in any development consent to be issued, to address any instance of relics being uncovered.

h) **Section 5.05 (Heritage items)**

The proposed development has been assessed having regard to the provisions of Section 5.05.06, with respect to development in the vicinity of heritage items.

A Statement of Heritage Impact has been submitted by the applicant, and it is considered that the heritage significance of the adjoining state heritage item (I480 – Fort Scratchley group) and local heritage items (Item No. I482 – Boatmans Terrace and Item No. I485 – Coal Monument) will not be adversely impacted given the building form, proportion, setback and materiality of the proposed development.

i) **Section 5.06 (Archaeological Management)**

In accordance with the Newcastle Archaeological Management Plan (1997), the allotment is considered to be within the study area but has not been nominated on the inventory.

The following comments are noted from the Statement of Heritage Impact:

‘The site is believed to have never been built on prior to 1899 as it was part of the sandhills. Once the area was consolidated by the mines, the area was subdivided and sold off as single allotments. Archaeology is not expected to be encountered on this site.’ (p.25)

A relevant advisory condition will be included in any development consent to be issued in this regard. The proposed development is considered satisfactory in accordance with this section.

j) **Section 5.07 (Heritage Conservation Areas)**

The proposed development is located within the Newcastle East Heritage Conservation Area. The proposal seeks demolition of the existing timber framed
weatherboard-clad cottage with asbestos sheet roofing, and erection of a three-storey infill dwelling.

Case law established in the NSW Land and Environment Court (Helou -v- Strathfield Municipal Council [2006] NSWLEC 66) has been applied in this assessment to determine suitability of demolishing the existing cottage and erection of a replacement dwelling. Questions established in this judgement are included beneath with comment.

It is noted that in the case law, the question of demolition was concerned with a ‘contributory’ item, not a ‘neutral’ item. The subject building is a 'neutral' building in the Newcastle East Heritage Conservation Area, in accordance with Council’s Review of Heritage Conservation Areas (Final Report – June 2016).

This assessment notes that Council’s definition of ‘neutral’, in accordance with the Review, is as follows:

‘Neutral buildings do not contribute or detract from the significant character of the heritage conservation area or streetscape. They include buildings that are associated with an area’s historic development but may have been altered, or their intactness reduced over time. Neutral buildings may also be new sympathetic development or infill that sits well within a streetscape. It is preferable to keep such buildings and restore elements to increase the contribution of the buildings to the streetscape.’ (p.7)

1. What is the heritage significance of the conservation area?

Comment:
It is considered the significance of the conservation area is suitably defined in Council’s DCP:

‘The Newcastle East Heritage Conservation Area is highly significant as a historic landscape that provides a record of the interaction between the natural environment, including the harbour and the sea, and human settlement. It contains important evidence of Aboriginal life in Newcastle East, uncovered during excavations at the Convict Lumber Yard (CLY) and historical archaeological sites. This evidence allows archaeologist to understand the human and environmental history of the precinct. Throughout its European history the area has been shaped by different activities including being the second penal settlement on the mainland after Sydney (from 1801), the site of the processing and shipping of cedar and coal (CLY), having an important coastal defence installation (Fort Scratchley Historic site), the Nobbys lighthouse and breakwater important to the story of shipping, through to the generation of electricity. The residential area is significant for its consistent streetscapes of two and three storey terrace housing dating from the mid-19th through to early 20th centuries and its housing for workers. There are also examples of single storey detached houses. The social history of Newcastle East is derived from it being the site of early conservation battles in the 1970s, between developers and conservationist and there are rows of public housing
that make this place a community and home for many. It is also an important
place of recreation at facilities like the Ocean Baths, Nobby’s Beach, and
Foreshore Park.’ (Statement of Heritage Significance for Newcastle East
Conservation Area)

2. What contribution does the individual building make to the significance of the
conservation area?

Comment:
This report acknowledges that the existing cottage has been subject to significant
change over many years.

In concurring with comments provided in the Statement of Heritage Impact, it is
considered the original building would have contributed to the character of the area –
given the unsympathetic alterations and additions, and the lack of maintenance to
the existing cottage in close proximity to the harsh coastal environment, it is
considered the existing building currently provides little significance to the Newcastle
East Heritage Conservation Area. The assessment also notes that the only original
contributory elements of the existing cottage visible to the public are the original
timber barge boards.

3. Is the building structurally unsafe?

Comment:
With reference to the professional engineer’s report (Ambai Consultants, dated 10
February 2017), the following comments are noted:

i. ‘The current structure would not be considered to be imminent of failure or
collapse under normal circumstances, however the structure has
structural inadequacies in relation to both past and current versions of
Australian Standards which could be hazardous in a number of
circumstances including but not limited to wind, storm and earthquake
events.’ (p.3)

ii. ‘…the building contains numerous structural issues where demolishing
and rebuilding is required.’ (p.4)

iii. ‘The existing structure a present is inadequate to support additional
loadings from extensions and additional floors over. Supporting additional
floors on the existing building structure is unsuitable and would require up
ggrading of all framing and footing elements.

Whilst it is possible to maintain sections of the existing and build new
elements in, around, under and over, in this day and age of finances and
construction safe practices, demolish and rebuild would likely be the most
efficient methodology.’ (p.4)

Whilst it has not been demonstrated the existing building is structurally unsafe, it has
been suitably established by the professional engineer that the extent of works
required to make the building fit-for-purpose would be comprehensive and would require substantial demolition of the existing dwelling.

4. If the building is or can be rendered structurally safe, is there any scope for extending or altering it to achieve the development aspirations of the applicant in a way that would have a lesser effect on the integrity of the conservation area than demolition?

Comment:
Submitted documentation from the Engineer (Ambai Consultants) and Architect (Shaddock Architects) has provided options for Council's consideration concerning options for the retention of the existing dwelling. As nominated by the structural engineer, minor works may be completed to the existing dwelling to make the building fit for purpose. When considering the development aspirations of the applicant, it is considered significant alterations would be required in the instance that the existing cottage was to remain. This would include the 'up grading of all framing and footing elements' (Ambai Consultants, p.4). It is therefore considered that substantial rectification works would be required to render the existing building fit for purpose.

In reviewing the submitted documentation from the Architect, and the options submitted in the Design Analysis Report for retention of the existing cottage, it has been assessed that the existing building cannot be suitably altered to achieve the development aspirations of the owners. It is noted that once proposed rectification works are completed, the fabric of the existing building would be so significantly altered that any remaining aesthetic contribution individual elements provide to the significance of the heritage conservation area would be removed. In concurring with comments by the Architect, it is considered the existing dwelling will lose its context and become somewhat irrelevant in the Beach Street streetscape.

With reference to this concentration of buildings (the northern side of Beach Street and the southern side of Fort Drive), this assessment notes that substantial redevelopment has occurred over the past decade, which has rendered previously contributory development non-contributory. With respect to the question of 'reasonable expectation for the use' of the site, site constraints and the R3 Medium Density Residential zone, this assessment does not consider it unreasonable that the owners should be able to redevelop this allotment – given the existing streetscape is defined by two and three storey residences.

5. Are these costs so high that they impose an unacceptable burden on the owner of the building? Is the cost of altering or extending or incorporating the contributory building into a development of the site (that is within the reasonable expectations for the use of the site under the applicable statutes and controls) so unreasonable that demolition should be permitted?

Comment:
The following comments are noted from the Architect (27 February 2017):
'We note the alternative design options presented in the Design Analysis Report were not disregarded based on cost. Each design has fundamental issues in terms of fulfilment of the client brief, structure, spatial planning, heritage and compliance with planning requirements. For this reason, a cost analysis (to address Question 5 of the Planning Principle) is considered redundant as it has been comprehensively proven that there is no scope to extend or alter to achieve the development aspirations of the applicant (Question 4 of the Planning Principle).'

The following comments have also been provided in the Statement of Heritage Impact:

'Ve note the alternative design options presented in the Design Analysis Report were not disregarded based on cost. Each design has fundamental issues in terms of fulfilment of the client brief, structure, spatial planning, heritage and compliance with planning requirements. For this reason, a cost analysis (to address Question 5 of the Planning Principle) is considered redundant as it has been comprehensively proven that there is no scope to extend or alter to achieve the development aspirations of the applicant (Question 4 of the Planning Principle).'

The following comments have also been provided in the Statement of Heritage Impact:

'The costs are considered high given the building has no surviving heritage detail, requiring reconstruction work to "create" a new heritage look for an aesthetic solution. This is not an acceptable solution on heritage terms as it creates a pastiche of heritage detail rather than a copy of existing available detail.'

This assessment considers information provided by the Architect in the Design Analysis Report addresses this question. It is also noted that in contrast to the planning principle, the existing dwelling has been assessed as being 'neutral' in significance – the existing development neither contributes nor detracts from the significance of the Newcastle East Heritage Conservation Area.

6. Is the replacement of such quality that it will fit into the conservation area?

Comment:

In accordance with justification provided in the Heritage Impact Statement, it has been assessed the proposed replacement dwelling will suitably fit into the heritage conservation area. The proposed scale, form, proportions, setbacks and materials of the infill dwelling have been designed to respect the important aspects of amenity and character within the area.

It is considered that the proposed development will also be suitably differentiated from contributory development, in accordance with the 'Design in Context' guidelines (Office of Environment and Heritage, 2005). In this regard it is considered a pastiche infill response would have a more detrimental impact on the conservation area than the proposed development. It has been assessed the proposed replacement dwelling has suitable regard to the principles of infill development in a heritage conservation area, in accordance with the relevant objectives of Section 5.07.

It has been assessed the proposed replacement, infill dwelling, as amended, suitably complies with the relevant objectives of Section 5.07.07.

Having regard Council’s relevant heritage provisions, it has been suitably demonstrated by the applicant that demolition of the existing neutral building can be considered by Council in this instance. Having regard to the reasonable use of the allotment, the proposed development has been designed in accordance with infill development principles. Having regard to the existing streetscapes of Beach Street
and Fort Drive, it is considered the proposed development will not detrimentally impact the heritage significance of the Newcastle East Heritage Conservation Area.

**k) Section 7.03 (Traffic, Parking & Access)**

Provision has been made for two on-site car parking spaces for the proposed development – one onsite car parking space will remain to Fort Drive, and one onsite car parking space is proposed to be created to Beach Street.

It is considered the crossover and driveway to Beach Street can be achieved to Council requirements, and subject to relevant conditions of consent.

In accordance with the objectives of Section 5.07 (Heritage Conservation Areas), it is considered a two-car garage to either Fort Drive or Beach Street may adversely impact on the significance of the Newcastle East Heritage Conservation Area. Whilst the proposed development results in the loss of one onsite car parking space to Beach Street, it is considered provision of two onsite car parking spaces addresses the relevant aims and objectives of Section 7.03.

**l) Section 7.06 (Stormwater and water efficiency)**

Stormwater will drain to Council’s infrastructure via the street gutter. A rainwater tank (minimum 4000L) has been provided for rainwater reuse purposes. In accordance with the submitted stormwater management plan, the proposed development is considered satisfactory in accordance with the relevant aims and objectives of Section 7.06.

**m) Section 7.08 (Waste Management)**

Demolition and waste management will be subject to conditions to be included in any development consent to be issued.

**n) Section 8.00 (Public Participation)**

The proposal has been notified in accordance with Council’s Public Notification Policy. Eleven submissions were received in response, with two submissions being received from the same address.

See Section 4.2.6 of this report for further information relating to the content of the submission.

**4.4 Impacts on the Natural and Built Environment**

The proposed development is considered to not have any undue adverse impact on the surrounding natural or built environment.

**4.5 Social and Economic Impacts in the Locality**
The proposed development is not likely to have any significant social or economic impacts in the locality.

4.6 Suitability of the Site for the Development

The site may be subject to landslide risk, due to coastal zone risks. A landslide risk assessment prepared by a geotechnical engineer has been submitted by the applicant and has demonstrated that the proposed development is satisfactory in respect of landslide risk.

The site is not subject to any other known risk or hazard that would render it unsuitable for the proposed development.

4.7 Submissions made in accordance with the Act or Regulations

This report has addressed various concerns raised in the submissions received in response to the Public Notification and during Public Voice of the application, with the exception of the following additional matters which are noted beneath with comment:

a) Inaccuracies in the submitted documentation

Comment:
Amended plans have been submitted to Council, and it is considered inaccuracies have been addressed in the amended documentation.

b) Privacy

Comment:
Given the location of living areas, private open space, offset glazing and screening, it has been assessed that the proposed development will not unreasonably overlook living room windows or the private open space of neighbouring dwellings. As such, it is assessed that the proposal is satisfactory, in accordance with the relevant objectives and performance criteria of Section 3.02.07 (Privacy) of the DCP.

c) Impact on breezes

Comment:
As the proposed development is located wholly within the property boundaries, and complies with the performance criteria of Section 3.02.04, it is considered adjoining development will not adversely impacted by loss of breezes, in accordance with the relevant objectives of Section 3.02.

d) Access to light

Comment:
It is not considered the proposed development will adversely impact available light to public areas and adjoining residential development, in accordance with the relevant objectives of Section 3.02.
e) Removal of hazardous materials during demolition

Comment:
Any development consent to be issued will contain standard conditions concerning the removal of hazardous materials, in accordance with the relevant statutory provisions and standards.

f) Location of the air-conditioning system

Comment:
In accordance with the response by the Architect, the air-conditioning system will be located within the courtyard area. The proposed development is considered satisfactory in this regard.

g) Bulk and scale

Comment:
The bulk and scale of the proposed development is considered to be consistent and comparable to existing single dwelling residential developments in Beach Street / Fort Drive and the surrounding area, in accordance with the relevant objectives and performance criteria of Council's single dwelling provisions (Section 3.02).

h) Solar access

Comment:
Given the orientation of the allotment, it has been assessed that the proposed development will not significantly overshadow living rooms and the principal area of private open space of adjoining dwellings, in accordance with the relevant objectives and performance criteria of Section 3.02.08 (Solar Access) of the DCP.

4.8 Public Interest

Sustainability

The proposed development is considered to be satisfactory having regard to the principles of ecologically sustainable development.

A BASIX certificate has been submitted with the application confirming that the proposed development will meet sustainability requirements.

General

The proposed development does not raise any significant general public interest issues beyond matters already addressed in this report.
5.0 CONCLUSION

The proposal is acceptable against the relevant heads of considerations under section 79C of the *Environmental Planning and Assessment Act 1979* and is supported on the basis that the recommended conditions in Attachment B are included in any consent that is to be issued.

ATTACHMENTS

**Attachment A:** Submitted plans as amended - 4 Beach Street Newcastle East - Under Separate Cover

**Attachment B:** Draft Schedule of Conditions - 4 Beach Street Newcastle East

**Attachment C:** Processing Chronology - 4 Beach Street Newcastle East

**Attachment D:** View Analysis Report (Shaddock Architects) - 4 Beach Street Newcastle East

Attachment A - Plans submitted under separate cover
DRAFT SCHEDULE OF CONDITIONS

Application No: DA2016/01478
Land: Lot 9 Sec A DP 2370
Property Address: 4 Beach Street Newcastle East NSW 2300
Proposed Development: Demolition of dwelling, erection of three storey dwelling and associated site works

SCHEDULE 1

REASONS FOR CONDITIONS

1. The conditions of this consent have been imposed in accordance with Section 80A of the Environmental Planning and Assessment Act 1979 (NSW). The conditions relate to any matter referred to in Section 79C(1) of relevance to the development the subject of the consent and are imposed to ensure that the development is undertaken in an orderly manner, with acceptable impacts on the natural and built environment.

APPROVED DOCUMENTATION

2. The development is to be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent.

<table>
<thead>
<tr>
<th>Plan No / Supporting Document</th>
<th>Reference / Version</th>
<th>Prepared by</th>
<th>Dated</th>
</tr>
</thead>
<tbody>
<tr>
<td>Existing and Site Analysis Plan</td>
<td>1007 A01 Revision 1</td>
<td>Shaddock Architects</td>
<td>12/12/2016</td>
</tr>
<tr>
<td>Floor Plans</td>
<td>1007 A02 Revision 4</td>
<td>Shaddock Architects</td>
<td>16/05/2017</td>
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<tr>
<td>Streetscape Elevations</td>
<td>1007 A03 Revision 4</td>
<td>Shaddock Architects</td>
<td>16/05/2017</td>
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<tr>
<td>Elevations and Section</td>
<td>1007 A04 Revision 4</td>
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<td>16/05/2017</td>
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<tr>
<td>Schedule of Materials</td>
<td>1007 A07 Revision 1</td>
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<td>12/12/2016</td>
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<tr>
<td>Stormwater Management Plan</td>
<td>4874 Revision B</td>
<td>Land Development Solutions</td>
<td>20/12/2016</td>
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<td>1007FSR Revision 3</td>
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<tr>
<td>Statement of Environmental Effects</td>
<td></td>
<td>Shaddock Architects</td>
<td>December 2016</td>
</tr>
<tr>
<td>Clause 4.6 Objection -</td>
<td>-</td>
<td>Andrew Rees</td>
<td>23/05/2017</td>
</tr>
</tbody>
</table>
In the event of any inconsistency between conditions of this development consent and the plans/supporting documents referred to above, the conditions of this development consent prevail.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

3. All proposed driveways, parking bays, loading bays and vehicular turning areas are to be constructed with a basecourse of adequate depth to suit design traffic, being sealed with either bitumen seal, asphaltic concrete, concrete or interlocking pavers and being properly maintained. Full details are to be included in documentation for a Construction Certificate application.

4. Roof water from the proposed new work is to be directed to the proposed water tank and being reticulated there from to any new toilet cisterns and cold water washing machine taps, with a mains water top up being installed to maintain between 10% and 15% of the tank capacity. Alternatively, an electronically activated mechanical valve device is to be installed to switch any new toilet cisterns and laundry taps to mains water when the tank falls below 10% capacity. The water tank and plumbing is to be installed in accordance with Australian Standard AS 3500, the relevant plumbing regulations and the requirements of the Hunter Water Corporation. Full details are to be included in documentation for a Construction Certificate application.

5. All stormwater runoff from the proposed development being managed in accordance with the requirements of Section 7.06 ‘Stormwater’ of Newcastle Development Control Plan 2012, the associated Technical Manual the latest issue of AS 3500.3 and the approved Stormwater Management Plan. Full details are to be included in documentation for a Construction Certificate application.

6. All new impervious surfaces, including driveways and paved areas are to be drained to the nominated discharge controls, full details are to be included in documentation for a Construction Certificate application.

7. The applicant is to comply with the requirements of the Hunter Water Corporation in respect of any building or structure proposed to be erected over any services or drain under the Corporation’s control. Details addressing any requirements of the Hunter Water Corporation are to be included in documentation for a Construction Certificate.
application.

8. The construction or erection of appropriate swimming pool safety fences and gates and all associated work is to be carried out in accordance with the Swimming Pool Act 1992 (NSW) and Regulations. Full details are to be included in the documentation for a Construction Certificate application.

9. The swimming pool/spa water recirculation and filtration system installation shall comply with Australian Standard 1926.3:2010 - Swimming pool safety - Water recirculation systems. Full details are to be included in the documentation for a Construction Certificate application.

10. Vehicular crossings are to be constructed across the road reserve, in accordance with the following criteria:
   a) Constructed in accordance with Council’s A1300 - Driveway Crossings Standard Design Details.
   b) The driveway crossing within the road reserve on Fort Drive shall be 3 metres wide.
   c) The driveway crossing within the road reserve on Beach Street shall be 2.5 metres wide.
   d) Letterboxes, landscaping and any other obstructions to visibility should be kept clear of or limited in height to 1.2 metre, in the 2 metre by 2.5 metre splay within the property boundary each side of the driveway entrance.
   e) The proposed driveway shall be a minimum of 3 metres clear of the trunk of any tree within the public reserve.
   f) The proposed driveway shall be a minimum of 750mm clear of the centre of any pole or obstruction within the public reserve and 1 metre clear of any drainage pit.

These works are not approved until consent under Section 138 of the Roads Act 1993 (NSW) has been granted by Council. An application under Section 138 must be applied for and approved before the issue of a Construction Certificate.

11. Any proposed work within the public road reserve, including driveway works, tree removal, reinstatement of a kerb or installation of drainage, is to be the subject of the separate approval of Council prior to commencement.

A separate application must be lodged and consent obtained from Council for all works within the road reserve pursuant to Section 138 of the Roads Act 1993 (NSW), before the issue of a Construction Certificate.

12. Existing parking in Beach Street being modified to accommodate 3 spaces as shown on the approved Ground Floor Plan. Works to include:
   a) Existing line marking being removed
   b) New line marking being provided for 3 car parking spaces to relevant Australian Standards
   c) Existing parking sign being relocated from the eastern to the western side of the proposed driveway crossing.

These works are not approved until consent under Section 138 of the Roads Act 1993 (NSW) has been granted by Council. An application under Section 138 must be applied for and approved before the issue of a Construction Certificate.

13. Prior to the release of any construction certificate, the proposed front fence to Fort Drive and all associated side fencing in front of the building line of the dwelling to Fort Drive is to have a maximum height of 1.2m from ground level (existing), in accordance with Section 3.02.12 (Ancillary Development) of the Newcastle Development Control Plan 2012. Full details are to be included in the documentation for a Construction Certificate application.
14. An archival record of the building and yard area is to be made that is consistent with the NSW Office of Environment & Heritage Guidelines for Undertaking Archival recordings. Such documentation and photographs are to be submitted to Council for inclusion in the City Library collection prior to the issue of the Construction Certificate.

Confirmation that the records have been submitted to Council shall be provided to the Principal Certifying Authority prior to the issue of a Construction Certificate.

Note: The documentation shall include a summary report detailing the Development Application number, project description, date and authorship of the photographic record, method of documentation and any limitations of the photographic record. Written confirmation is to be included in the documentation, issued with the authority of the applicant, owner(s) and the photographer (as required), that the City of Newcastle is granted a perpetual non-exclusive licence to make use of the copyright in all images supplied, including the right to make copies available to third parties as though they were Council images. The signatures of applicant, owner(s) and the photographer (as required) must be included.

The photographic record is to include negatives of all images. Digital based recording is to be submitted on CD or DVD with images saved as JPEG, TIFF or PDF files.

15. Recommendations contained in the approved Geotechnical Investigation Report shall be complied with throughout the course of excavation and building works. Full details are to be included in the documentation for a Construction Certificate application.

CONDITIONS TO BE SATISFIED PRIOR TO THE COMMENCEMENT OF WORK AND DURING THE CONSTRUCTION PHASE

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

Each toilet is to:

a) Be a standard flushing toilet connected to a public sewer, or

b) Have an on-site effluent disposal system approved under the Local Government Act 1993 (NSW), or

c) Be a temporary chemical closet approved under the Local Government Act 1993 (NSW).

17. A Hazardous Substances Management Plan is to be prepared by a competent person for the building(s) or parts of the building(s) proposed to be demolished in accordance with Australian Standard 2801.2001 - The Demolition of Structures. A copy of the Hazardous Substances Management Plan is to be provided to Council (marked to Attention: Compliance Services) and the demolition prior to commencement of work.

18. The demolition works are to be undertaken in accordance with Australian Standard 2801.2001 - The Demolition of Structures and the following requirements:

a) Demolition works shall be conducted in accordance with the submitted Hazardous Substances Management Plan and a copy of the Hazardous Substances Management Plan shall be kept on-site for the duration of the proposed development

b) The removal, handling and disposal of any asbestos material is to be undertaken only by an asbestos removal contractor who holds the appropriate class of Asbestos Licence, issued by the WorkCover Authority of NSW

c) A copy of all waste disposal receipts are to be kept on-site for the duration of the
proposed development and made available to authorised Council Officers upon request

d) Seven working days’ notice in writing is to be given to Council and the owners/occupiers of neighbouring premises prior to the commencement of any demolition works. Such written notice is to include the date demolition will commence and details of the name, address, contact telephone number(s) and licence details (type of licences held and licence numbers) of any asbestos removal contractor and demolition contractor. Notification to owners/occupiers of neighbouring premises shall also include Council’s contact telephone number (49742000) and the Workcover Authority of NSW telephone number (49212900) and

e) On sites where asbestos materials are to be removed, 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 position during asbestos removal works.

19. The demolisher is to ensure that all services (i.e. water, telecommunications, gas, electricity, sewerage etc), are disconnected in accordance with the relevant authority’s requirements prior to demolition.

20. The demolisher is to ensure that all demolition material is kept clear of the public footway and carriageway as well as adjoining premises.

21. Any demolition/waste building materials that are not suitable for recycling are to be disposed of at Council’s Summerhill Waste Management Facility or other approved site.

22. Waste management shall be implemented in accordance with the approved Waste Management Plan. At a minimum, the following measures shall be implemented during the construction phase:

a) A waste container of at least one cubic metre capacity shall be provided, maintained and regularly serviced from the commencement of operations until the completion of the building for the reception and storage of waste generated by the construction of the building and associated waste

b) The waste container is to be, at minimum, constructed with a ‘star’ picket (corners) and weed control mat (sides), or equivalent. The matting is to be securely tied to the pickets

c) Appropriate provision is to be made to prevent windblown rubbish leaving the site and

d) Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.

Note: Fines may be issued for pollution/littering offences under the Protection of the Environment Operations Act 1997 (NSW).

23. A rigid and durable sign is to be erected on any site on which building work, subdivision work or demolition work is being carried out, before the commencement of the work:

a) showing the name, address and telephone number of the Principal Certifying Authority for building work and subdivision work, and

b) showing the name, address and telephone number of the Principal Contractor for any building work and also including a telephone number on which the Principal Contractor may be contacted at any time for business purposes, and

c) stating that unauthorised entry to the work site is prohibited, and
d) being erected in a prominent position that can 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.

24. All building work must be carried out in accordance with the provisions of the Building Code of Australia.

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

26. All excavations and backfilling are to be executed safely in accordance with appropriate professional standards and excavations are to be properly guarded and protected to prevent them from being dangerous to life and property.

27. If the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person’s own expense:

a) Protect and support the adjoining premises from possible damage from the excavation, and

b) Where necessary, underpin the adjoining premises to prevent any such damage.

The above requirements do not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to the requirements not applying.

28. All building materials, plant and equipment is to be placed on the site of the development so as to ensure that pedestrian and vehicular access in public places is not restricted and to prevent damage to the road reserve. The storage of building materials on Council reserves including the road reserve is not permitted.

29. A Registered Surveyor’s certificate detailing the setting out of the proposed building on the site, including the relationship of the set out building to property boundaries, is to be submitted to the Principal Certifying Authority before construction is commenced.

30. Certification is to be prepared by a Registered Surveyor and submitted to the Principal Certifying Authority at the stages of construction indicated:

a) On completion of ground floor construction, confirming that the floor levels are in accordance with the approved levels.

b) On completion of each subsequent floor level, confirming that the floor levels are in accordance with the approved levels.

c) When the roof has been completed, confirming that the building does not exceed the approved levels.

31. Any alteration to natural surface levels on the site is to be undertaken in such a manner as to ensure that there is no increase in surface water runoff to adjoining properties or that runoff is impounded on adjoining properties, as a result of the development.

32. The swimming pool surrounds and/or paving is to be constructed in a manner so as to ensure water from the pool overflow does not discharge onto neighbouring properties. All backwash/pool waste water is to be piped/drained to the sewer of Hunter Water
Corporation in accordance with the requirements of Hunter Water Corporation.

33. Pool plant and equipment is to be sited or enclosed in a sound absorbing enclosure to minimise any potential offensive noise impacts to adjoining neighbours as defined under the Protection of the Environment Operations Act 1997 (NSW).

34. Construction/demolition work that generates noise that is audible at residential premises is to be restricted to the following times:
   - Monday to Friday, 7:00 am to 6:00 pm and
   - Saturday, 8:00 am to 1:00 pm.

No noise from construction/demolition work is to be generated on Sundays or public holidays.

35. Council’s ‘PREVENT POLLUTION’ sign is to be erected and maintained in a conspicuous location on or adjacent to the property boundary so it is clearly visible to the public or at other locations on the site as otherwise directed by Council for the duration of demolition and construction work.

Note: Council’s ‘PREVENT POLLUTION’ sign can be obtained by presenting your development application receipt at Council’s Customer Enquiry Counter at 282 King Street Newcastle.

36. Any excavated material to be removed from the site is to be assessed, classified, transported and disposed of in accordance with the Department of Environment and Climate Change’s (DECC) ‘Waste Classification Guidelines Part 1: Classifying Waste’.

37. Any fill material imported into the site is to be Virgin Excavated Natural Material or material subject to a Resource Recovery Order that is permitted to be used as a fill material under the conditions of the associated Resource Recovery Exemption, in accordance with the provisions of the Protection of the Environment Operations Act 1997 and the Protection of the Environment (Waste) Regulation 2014.

38. Erosion and sediment control measures are to be implemented prior to the commencement of works and maintained during the period of demolition and/or construction in accordance with the requirements of Managing Urban Stormwater: Soils and Construction 4th Edition - Vol. 1 (the ‘Blue Book’) published by Landcom, 2004. Controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover.

39. Prior to the commencement of work, a 3m wide all weather vehicle access is to be provided from the kerb and gutter to the building under construction, to reduce the potential for soil erosion. Sand shall not be stockpiled on the all weather vehicle access.

40. Where the proposed development involves the destruction or disturbance of any existing survey monuments, those monuments affected are to be relocated at no cost to Council by a Surveyor registered under the Surveying and Spatial Information Act 2002 (NSW).

41. All public trees that are required to be retained must be physically protected in accordance with the City of Newcastle Urban Forest Technical Manual ‘Section 8.0 Protection Measures’.

The tree protection fencing must remain in place and maintained until all works have been completed, with no waste materials, washouts, equipment or machinery to be stored within the fenced area.

42. All downpipes discharging to the rainwater tanks are to have pre-storage insect, debris and vermin control (e.g. a rainwater head being leaf screened and vermin and insect
proof) to minimise the contamination of captured roof water. A first flush device is to be provided for the inlet to the tank and a backflow prevention device is to be installed in the tank overflow outlet before connecting to the stormwater drainage system. If the roof downpipes are charged to the rainwater tank, all pipes are to be chemically welded and the stormwater system is to be designed such that the system is capable of being flushed in the event of pipe blockage (e.g. capped relief access points at the lowest level of stormwater drainage).

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE, A SUBDIVISION CERTIFICATE OR A STRATA CERTIFICATE

43. All commitments listed in the relevant BASIX certificate for the development are to be satisfactorily completed prior to the issue of an Occupation Certificate. Should there be any changes to the specifications of the dwelling that have implications for compliance with the approved certificate, except where restricted or excluded by any other condition of consent, an amended BASIX Certificate can be relied upon as having complied with this condition. A copy of any amended BASIX Certificate is to be provided to Council within fourteen days of receipt.

44. All public footways, footpaving, kerbs, gutters and road pavement damaged during the works are to be immediately repaired following the damage, to a satisfactory state that provides for safe use by pedestrians and vehicles. Full restoration of the damage is to be carried out to Council’s satisfaction prior to the completion of demolition work or prior to the issue of any occupation certificate in respect of development involving building work.

45. All works within the road reserve required by this consent are to be completed prior to the issue of a Final Occupation Certificate.

46. Any redundant existing vehicular crossing and layback are to be removed at no cost to Council. The road reserve and kerb being restored to Council's satisfaction, to match the existing infrastructure. Works are to be completed prior to the issuing of a Final Occupation Certificate for the proposed development. Layback is to be removed and replaced with kerb and gutter - see 'Council's A1200 - Standard Extruded Kerb and Gutter Profiles'.

Note: A separate approval from Council must be obtained for all works within the public road reserve pursuant to Section 138 of the Roads Act 1993 (NSW). For further information contact Council's Works Depot on 4974 6000 to request a Road Opening Approval. A fee will be payable in this regard.

47. The water management measures as indicated on the submitted plans and Statement of Environmental Effects and/or as modified under the terms of this consent are to be implemented and the nominated fixtures and appliances are to be installed and operational prior to issue of an Occupation Certificate.

48. The premises are to be identified by the provision of house numbers on the building exterior and mailbox such that they are clearly visible from the road frontage.

The minimum numeral height shall be 75mm.

CONDITIONS TO BE SATISFIED DURING THE OPERATION AND USE THE DEVELOPMENT

49. All vehicles parking on the subject site are to be contained wholly within the property boundaries and are not to encroach on the adjacent public footway.

ADVISORY MATTERS
• Retaining walls not clearly noted on the approved plans or outside of the parameters of exempt development as specified in State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (NSW) are to be subject to a separate development application. An application in this regard is to be approved prior to any works relating to the retaining wall taking place.

• An application is to be submitted to Council for the removal or pruning of any trees located more than three metres from the dwelling, wall measured from the centre of the trunk to the footings of the dwelling, excluding carports and pergolas.

• It is recommended that, prior to commencement of work, the free national community service ‘Dial before you Dig’ be contacted on 1100 or by fax on 1200 652 077 regarding the location of underground services in order to prevent injury, personal liability and even death. Inquiries should provide the property details and the nearest cross street/road.

• Any necessary alterations to public utility installations are to be at the developer/demolisher’s expense and to the requirements of both Council and any other relevant authorities. Council and other service authorities should be contacted for specific requirements prior to the commencement of any works.

• Any approval for fences on side boundaries, common to other private properties, is independent of any consent or agreement which may be required of any adjoining owner under the provisions of the Dividing Fences Act 1991 (NSW).

• Prior to commencing any construction works, the following provisions of the Environmental Planning and Assessment Act 1979 (NSW) (the ‘Act’) are to be complied with:
  a) A Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act
  b) A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b) of the Act and
  c) Council is to be given at least two days’ notice of the date intended for commencement of building works, in accordance with Section 81A(2)(c) of the Act.

• Development applications are not assessed against the provisions of the Building Code of Australia. A Section 96 modification under the Environmental Planning and Assessment Act 1979 (NSW) will be required if design amendments that cause the proposal to be inconsistent with the development consent are necessary to comply with the provisions of the Building Code of Australia.

• Prior to the occupation or use of a new building, or occupation or use of an altered portion of, or an extension to an existing building, an Occupation Certificate is to be obtained from the Principal Certifying Authority appointed for the proposed development. An application for an Occupation Certificate must contain the information set out in Clause 149 of the Environmental Planning and Assessment Regulation 2000 (NSW).

• It is an offence under the provisions of the Protection of the Environment Operations Act 1997 (NSW) to act in a manner causing, or likely to cause, harm to the environment. Anyone allowing material to enter a waterway or leaving material where it can be washed off-site may be subject to a penalty infringement notice (‘on-the-spot fine’) or prosecution.

• Failure to comply with the conditions of consent constitutes a breach of the
Environmental Planning and Assessment Act 1979 (NSW), which may be subject to a penalty infringement notice (‘on-the-spot fine’) or prosecution.

- The owner of the premises on which a swimming pool/spa is situated must ensure that the pool details are entered into the State Swimming Pool Register. The register is accessible at [www.swimmingpoolregister.nsw.gov.au](http://www.swimmingpoolregister.nsw.gov.au).

- Should any relics be uncovered during the construction phase, works on site must stop immediately and the NSW Heritage Council be advised in accordance with the requirements of the Heritage Act 1977.

END OF CONDITIONS
<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
</tr>
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<tbody>
<tr>
<td>22 December 2016</td>
<td>Application lodged with Council.</td>
</tr>
<tr>
<td>16 January 2017</td>
<td>Application notified as advertised development. Eleven submissions</td>
</tr>
<tr>
<td></td>
<td>were received in response to the notification period.</td>
</tr>
<tr>
<td>17 January 2017</td>
<td>Preliminary request for additional information issued by the assessing officer.</td>
</tr>
<tr>
<td>7 February 2017</td>
<td>Internal memo sent to all Councillors regarding the proposed development.</td>
</tr>
<tr>
<td>24 March 2017</td>
<td>Additional information received from applicant.</td>
</tr>
<tr>
<td>3 April 2017</td>
<td>Request for additional information issued by the assessing officer.</td>
</tr>
<tr>
<td>26 April 2017</td>
<td>Additional information received from applicant.</td>
</tr>
<tr>
<td>10 May 2017</td>
<td>Request for additional information issued by the assessing officer.</td>
</tr>
<tr>
<td>26 May 2017</td>
<td>Additional information received from applicant.</td>
</tr>
<tr>
<td>18 July 2017</td>
<td>Application proceeded to Public Voice.</td>
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VIEW ANALYSIS REPORT

New Dwelling House

at
LOT 9, SECTION A, DP 2370
4 BEACH STREET
NEWCASTLE EAST, NSW 2300

for
JO MORRIS

REVISION 1
PROJECT 1007
FEBRUARY 2017
1.0: INTRODUCTION

The proposed development has been designed to sympathetic address and accommodate
neighbouring properties while taking advantage of the site’s development potential as outlined in
Newcastle City Council’s planning legislation.

Newcastle City Council Development Control Plan Section 3.02.12 View Sharing states:

Performance Criteria
1. Development is designed to allow view sharing with neighbouring properties.
2. Design plans identify existing views and demonstrate how view sharing is achieved.
3. Important public views and vistas are to be enhanced by the form and treatment of buildings
   including roof scapes.

Acceptable Solutions
1. The building height does not exceed 5m or if the building is over 5m adjoining properties do
   not have views or vistas to water, city skyline and iconic views obscured by the proposed
   development.

This report analyses the potential effect of the proposed development on the current views of three
neighbouring dwellings that currently have views towards and across the development site:

- 2 Beach Street (neighbouring dwelling to the east)
- 5 Fort Drive (neighbouring dwelling to the west)
- 1a Beach Street (dwelling across Beach St to the south)

In assessing the impact of ‘reasonable sharing of views’ the 4-Step Assessment established in the Land &
Environment Judgement of Tenancy Consulting v Waringah (2004) NSWLEC 140 has been utilised as
follows:

Step 1: Assessment of views to be affected
The first step is the assessment of views to be affected. Water views are valued more highly than land
views. Iconic views (e.g., the Opera House, the Harbour Bridge or North Head) are valued more highly
than views without icons. Whole views are valued more highly than partial views, e.g., a water view in
which the interface between land and water is visible is more valuable than one in which it is obscured.

Step 2: Consider from what part of the property the views are obtained
The second step is to consider from what part of the property the views are obtained. For example, the
protection of views across side boundaries is more difficult than the protection of views from front and
rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be
relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side
views and sitting views is often unrealistic.

Step 3: Assess the extent of the impact
The third step is to assess the extent of the impact. This should be done for the whole of the property, not
just for the view that is affected. The impact on views from living areas is more significant than from
bedrooms or service areas (though views from kitchens are highly valued because people spend so much
time in them). The impact may be assessed quantitatively, but in many cases this can be meaningless.
For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.

Step 4: Assess the reasonableness of the proposal that is causing the impact
The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.
2.0: VIEW ANALYSIS – No. 2 BEACH STREET

No. 2 Beach St is a three-storey single dwelling located directly east of the proposed development.

Step 1: Assessment of views to be affected
The dwelling is orientated north-south. It receives unobstructed views north to Fort Scratchley, Newcastle Harbour and Nobbies Beach; and south to the Cowrie Hole and Newcastle Beach. Views from the dwelling are shown in Figures 1, 2 & 3.

Step 2: Consider from what part of the property the views are obtained
The northern views are obtained from the loungeroom and main bedroom, the southern views are obtained by secondary bedrooms.

Step 3: Assess the extent of the impact
The proposed development will have no effect on the primary views of this dwelling. The main impact will be to the peripheral western view as shown in Figure 3. This is considered negligible as it will not block, diminish, or detract from the primary ‘iconic’ views of Fort Scratchley and Newcastle Harbour. Refer to View Diagram 1 & 2.

Step 4: Assess the reasonableness of the proposal that is causing the impact
The proposal has a front setback generally equal to the dwelling in question to ensure impacts on views are minimised. The proposal is in full compliance with height and setback controls as outlined in Newcastle LEP & DCP 2012. The proposal is equal in scale with the existing terrace housing of the streetscape.

FIGURE 1 – View from 2 Beach St Looking South-East
FIGURE 2 – View from 2 Beach St Looking North-East

FIGURE 3 – View from 2 Beach St Looking North-West
VIEW DIAGRAM 2
PROPOSED
No. 2 BEACH ST
3.0: VIEW ANALYSIS - No.5 FORT DRIVE

5 Fort Drive is a two-storey single dwelling located directly west of the proposed development.

Step 1: Assessment of views to be affected
The dwelling is orientated north-south. It receives unobstructed views north to Fort Scratchley, Newcastle Harbour and Boatman’s Row; and partial southern views towards the Cowrie Hole. The dwelling also has upper-storey bedroom windows facing east towards the development site. Views from the dwelling are shown in Figures 4, 5, 6 & 7.

Step 2: Consider from what part of the property the views are obtained
The northern views are obtained from the main bedroom and enclosed deck, the southern views are obtained from an upper floor outdoor terrace. Eastern views across the development site are obtained from bedrooms.

Step 3: Assess the extent of the impact
The dwelling will retain all ‘iconic’ northern views to Boatman’s Row, Newcastle Harbour and Fort Scratchley. An east facing window from the north facing enclosed veranda (Figure 4) provides additional views to the north-east, across the development site towards the ocean. This view will not be blocked, but will be moderately effected by the proposed development as shown in View Diagram 3 & 4. It should be emphasised that this view is only available due to the low scale of the current building onsite (which is considered out of scale and character with the terrace housing that makes up the streetscape).

Upper storey windows on the side boundary (eastern façade) currently overlook the unoccupied portion of the development site towards the three-storey wall of No. 2 Beach Street (Figure 5). Views can only be obtained from these windows when looking at an obscure angle. These windows are from bedrooms and are considered unrealistic to preserve.

To the south, the existing dwelling receives partially obstructed views towards the Cowrie Hole from its second-storey veranda (Figure 6 & 7). The northern most periphery of this view is partially affected by the roof of the existing dwelling that’s is proposed to be demolished. The new dwelling has been designed to maintain this existing view corridor and will have only a minor effect on the views to the Cowrie Hole as demonstrated in View Diagram 3 & 4.

Step 4: Assess the reasonableness of the proposal that is causing the impact
The proposal has a front setback generally equal to No. 4 Beach Street to ensure impacts on views are minimised. The proposal is in full compliance with height and setback controls as outlined in Newcastle LEP & DCP 2012. The proposal is equal in scale with the existing terrace housing of the streetscape.
FIGURE 4 – View from 5 Fort Drive Looking North-East

FIGURE 6 – View from 5 Fort Drive Looking South-East

FIGURE 7 – View from 5 Fort Drive Looking South-East
VIEW DIAGRAM 4
PROPOSED
No. 5 FORT DRIVE
4.0: VIEW ANALYSIS – No.1a BEACH STREET

1a Beach Street is a three-storey single dwelling located directly south of the proposed development.

Step 1: Assessment of views to be affected
The dwelling is orientated north-south. It receives partial views north, across the development site, towards Signal Hill but not of Fort Scratchley (Figure 8). To the south, the dwelling receives unobstructed ocean views over the Cowrie Hole and Newcastle Baths (Figure 9).

Step 2: Consider from what part of the property the views are obtained
The northern views are obtained from the main bedroom and enclosed deck, the southern views are obtained from an upper floor outdoor terrace and living room.

Step 3: Assess the extent of the impact
The low scale of the existing dwelling on the development site allows for partially obscured northern views to Signal Hill from both 1a Beach St and the neighbouring terraces to its west (Figure 8). The proposed dwelling will block this northern view. The benefit of this view to the bedrooms of these buildings is considered minor, as visual constraints from the neighbouring dwellings and the local topography ensures that the proposal does not block water, the city skyline or an ‘iconic’ views.

The predominant views for this existing dwelling towards the south east will be completely unaffected by this proposal.

Step 4: Assess the reasonableness of the proposal that is causing the impact
The proposal is in full compliance with height and setback controls as outlined in Newcastle LEP & DCP 2012. The proposal is equal in scale with the existing terrace housing of the streetscape.
FIGURE 8 – View from 1a Beach St Looking North. Note: Red indicates Ocean Terraces, Green indicates 2 Beach St, Yellow indicates 4 Beach St.

FIGURE 9 – View from 1a Beach St Looking South-East
VIEW DIAGRAM 6
PROPOSED
No. 1a BEACH ST
5.0: CONCLUSION

The proposed development has been designed to sympathetically address and accommodate neighbouring properties while taking advantage of the site's development potential as outlined in Newcastle City Council's planning legislation.

We consider the development allows for the 'reasonable sharing of views' in accordance with the 4-Step Assessment established in the Land & Environment Judgement of Tenacity Consulting v Waringah (2004) NSWLEC 140, as follows:

Step 1: Assessment of views to be affected
The development site is in an area of high scenic value, with local dwellings benefiting from expansive view of local landmarks including Fort Scratchley, Newcastle Harbour, Nobby's Beach, Cowrie Hole, Newcastle Baths and the Tasman Sea. The proposed development does not block nor significantly interfere with, any iconic views from adjacent dwellings as demonstrated in View Diagrams 1-6.

Step 2: Consider from what part of the property the views are obtained
Refer to Step 3 below:

Step 3: Assess the extent of the impact
The proposed development does not block any views from living areas, nor restrict any iconic views. The development will affect bedrooms views; however, we consider the expectation to retain bedroom views on a side boundary to be unrealistic in accordance with the findings of this judgement. A qualitative assessment determines any view loss from neighbouring properties to be negligible to minor.

Step 4: Assess the reasonableness of the proposal that is causing the impact
The proposal has a front setback generally equal to its neighbouring dwellings to ensure impacts on views are minimised. The proposal is in full compliance with height and setback controls as outlined in Newcastle LEP & DCP 2012. The proposal is equal in scale with the existing terrace housing of the streetscape.
ITEM-14 DAC 15/08/17 - DA2016/01341 - 20 DENISON STREET NEWCASTLE WEST - DEMOLITION OF BUILDING, ERECTION OF 15 STOREY MIXED USE DEVELOPMENT WITH 3 RETAIL/COMMERCIAL TENANCIES, 58 RESIDENTIAL UNITS, 109 PARKING BAYS, ASSOCIATED SITE WORKS AND SIGNAGE

APPLICANT: EJE ARCHITECTS
OWNER: NEWCASTLE DIAMOND PTY LTD
REPORT BY: PLANNING AND REGULATORY
CONTACT: DIRECTOR PLANNING AND REGULATORY / MANAGER DEVELOPMENT AND BUILDING

PART I

PURPOSE

The purpose of the report is to present a development application to the Development Applications Committee for determination, due to the cost of works being greater than $10 million. The value of works proposed is $14,090,909.

An application has been received seeking consent for demolition of the existing building and construction of a 15-storey mixed use development. The proposed building consists of three retail/commercial tenancies at ground level, level 1 and level 2 and 58 residential apartments above (levels 3 to 14), 109 car parking spaces, associated site works and building identification signage.

A copy of the submitted plans for the proposed development is attached (refer to Attachment A).

The proposed development has been notified in accordance with Council’s Public Notification policy and two submissions were received in response. The objectors’ concerns include:

1. Impact on the future development of adjoining lands.
2. Damage to adjoining properties and/or injuries to persons during construction that are within adjoining properties should be the responsibility
of the developer. Compensation should also be paid to the relevant properties.

3. Disruption to adjoining properties and businesses, which should be compensated by the developer.

4. No workers should enter any adjoining properties.

5. The proposed building is surrounded by three storey buildings and is unsightly.

6. Street parking is increasingly difficult and this will be impacted further by this development and the construction works.

Details of the submissions received are summarised at Section 3.0 of Part II of this report and the concerns raised are addressed as part of the Environmental Planning Assessment at Section 4.0.

The Urban Design Consultative Group considered the proposal on several occasions, prior to lodgement of the development application and during the assessment of the application. The proposal has been amended during the assessment process in response to concerns raised by Council officers and the Urban Design Consultative Group. The main issues or variations to the relevant requirements are summarised below:

Issues

Compliance with relevant provisions of SEPP 65 - Residential Apartment Design Guide (ADG), in particular:

a) Variations to the required separation distances, as detailed within the ADG table provided within Section 4 of this report.

b) Variation to the deep soil zone requirement of 7%, as detailed within the ADG table provided within Section 4 of this report.

Compliance with relevant provisions of Newcastle Development Control Plan 2012, in particular:

a) Street Wall height - a variation to the required street wall height of 16m (proposed 10m) is proposed as part of the development. A variation to the required setback above street wall height of 6m (proposed 3.95m) is also proposed.

b) Building depth and bulk – a variation to the required building depth and bulk is proposed. The residential tower has an area less than 900m² and has a depth of approximately 25-26m, which is higher than the maximum depth requirement of 18 metres.
c) Building separation – a building separation distance of 24 metres (between sites) is required for parts of the building that are over 45 metres in height. The proposal seeks a variation at 45 metres and above, proposing side and rear boundaries setbacks varying from 7.1m to a maximum of 12.6m (the required setback is 12m).

Conclusion

The proposed development has been assessed having regard to the relevant heads of consideration under Section 79C(1) of the Environmental Planning and Assessment Act 1979 (as amended) NSW and is considered to be acceptable subject to compliance with appropriate conditions as nominated in this report.

RECOMMENDATION

A. THAT the application to demolish the existing building and construct a mixed use development, consisting of commercial/retail premises, 58 residential apartments and associated site works be approved, subject to compliance with the conditions set out in the Draft Schedule of Conditions (refer to Attachment B); and

B. THAT those persons who made submissions be advised of Council's determination.

Political Donation / Gift Declaration

Under Section 147 of the Environmental Planning and Assessment Act 1979, the applicant, and any person related to this Development Application must report any political donation and/or gift to a Councillor and/or any gift to a Council employee within a two year period before the date of this application.

The applicant has answered NO to the following question on the application form: Have you, or are you aware of any person having a financial interest in the application, made a 'reportable donation' or 'gift' to a Councillor or Council employee within a two year period before the date of this application?

PART II

1.0 THE SUBJECT SITE

The property is formally described as lot 45, DP 632876, and known as No.20 Denison Street Newcastle West. The site has a total area of 1,636m² and is generally flat, almost square in shape with a frontage of approximately 40 metres to Denison Street and side boundaries of approximately 40.8 metres.

Currently standing at the rear of the site is an existing single-storey building encompassing three separate commercial tenancies. The front of the site consists of large areas of open and undercover car parking. The site is completely covered in
hardstand areas. Two existing vehicular entrances are provided from the east and west ends of the Denison Street frontage.

The existing development on adjoining lands includes a range of smaller scale commercial shop fronts and light industrial developments, all with a zero setbacks from the street boundary. Many of the nearby properties do not have off-street car parking available.

Denison Street is a single lane road with 90-degree on-street car parking on both sides, which would likely service many of the smaller commercial and industrial tenancies within the immediate area.

This part of the CBD is beginning to experience redevelopment pressures with an increase in applications for mixed-use developments with residential components. This is primarily due to the close relative proximity to the Newcastle CBD, transport infrastructure and local employment.

2.0 THE PROPOSAL

The proposal involves the demolition of the existing commercial building, open and undercover parking, and the removal of existing concrete slabs across the site. At the completion of demolition works it is proposed to construct a 15-storey mixed use development consisting of three retail/commercial tenancies on ground floor, levels 1 and 2, and 58 residential apartments over the remaining 12 floors. A total of 109 car parking spaces are provided on-site for the development.

Details of the development per level are included in the Table 1 below:

Table 1: Development components

<table>
<thead>
<tr>
<th>Level</th>
<th>Components</th>
</tr>
</thead>
<tbody>
<tr>
<td>Basement</td>
<td>• Car parking - 44 spaces</td>
</tr>
<tr>
<td></td>
<td>• Motorcycle parking - 9 spaces</td>
</tr>
<tr>
<td></td>
<td>• Storage facilities</td>
</tr>
<tr>
<td></td>
<td>• Services</td>
</tr>
<tr>
<td></td>
<td>• Car wash bay</td>
</tr>
<tr>
<td>Ground Floor</td>
<td>• Retail space 348m²</td>
</tr>
<tr>
<td></td>
<td>• Car parking - 17 spaces</td>
</tr>
<tr>
<td></td>
<td>• Accessible car parking - 2 spaces</td>
</tr>
<tr>
<td></td>
<td>• Services</td>
</tr>
<tr>
<td>Level 1</td>
<td>• Commercial space - 571m²</td>
</tr>
<tr>
<td></td>
<td>• Car parking - 17 spaces</td>
</tr>
<tr>
<td></td>
<td>• Bicycle parking - 11 spaces</td>
</tr>
<tr>
<td></td>
<td>• Storage facilities</td>
</tr>
<tr>
<td></td>
<td>• Services</td>
</tr>
<tr>
<td>Level 2</td>
<td>• Commercial space - 264m²</td>
</tr>
<tr>
<td></td>
<td>• Common room - 89m² with kitchen and bathroom</td>
</tr>
</tbody>
</table>
A number of changes were made to the originally submitted application plans in response to the advice of the Urban Design Consultative Group and suggestions from Council officers. These include:

i. Increase in side boundary setbacks and separation of the proposal from the existing low scale residential development on the western side.

ii. Changes to entrances and foyer spaces, ensuring some separation for the different uses - retail/commercial and residential apartments.

iii. Changes to glazing and privacy screens treatments within the building to assist with visual and acoustic privacy and solar access.

iv. Provision of revised landscaping treatments and reconfiguration of space on the rooftop common area.

v. Clearer building identification and signage forming part of the integral design of the building.

vi. Changes to building colours, materials and finishes and additional visual treatments to blank masonry walls on the boundary, to add visual interest in the interim until such time as the adjoining properties redevelop.

The changes are further discussed within 4.0 Environmental Planning Assessment of this report.
The various steps in the processing of the application to date are outlined in the Processing Chronology (refer to Attachment C).

3.0 PUBLIC NOTIFICATION

The original application was publicly exhibited in accordance with Council's Public Notification policy for a period of 14 days and two submissions were received in response (one of which was received after the closing of the exhibition period).

Those persons who made submissions were also offered the opportunity for Public Voice. That opportunity was not exercised.

The concerns raised by the objectors in respect to the original proposal are summarised in Part I of this report and further details are provided under the relevant matters for consideration in the following section of this report.

4.0 ENVIRONMENTAL PLANNING ASSESSMENT

The application has been assessed having regard to the relevant matters for consideration under the provisions of Section 79C(1) of the Environmental Planning and Assessment Act 1979, as detailed hereunder.

4.1 Statutory Considerations

State Environmental Planning Policies (SEPPs)

State Environmental Planning Policy No 55 - Remediation of Land (SEPP 55)

SEPP 55 requires that where land is contaminated, Council must be satisfied that the land is suitable in its contaminated state or will be suitable after remediation for the purpose for which the development is proposed.

A Preliminary Site Assessment was carried out and it was revealed that a detailed assessment would be required to characterise the site’s soils and groundwater, along with investigating the presence of underground petroleum storage systems (UPSS). As a result, the applicant submitted a Detailed Site Investigation (DSI) to delineate contamination at the subject site.

The DSI revealed (following sampling and ground penetrating radar) the presence of four disused UPSS’s at the subject site along with heavy metal hot spot contamination areas. The DSI recommended a Remedial Action Plan (RAP) be prepared to remediate the site to make it suitable for the intended land use. The RAP was also to incorporate further sampling of the heavy metal hotspot areas along with further sampling following demolition of the existing buildings to delineate the extent of the contamination.

A Remediation Action Plan (RAP) was submitted with the application, addressing the contamination at the subject site. The RAP states "The remediation goals for this
RAP are consistent with NSW EPA, SEPP 55 guidelines and Councils contaminated land policy". The RAP outlines the preferred remediation option to address the contamination on site, whereby the applicant has chosen to excavate and dispose of all contaminated material including the Underground Petroleum Storage Systems (UPSS) from the subject site. The contaminated material will be removed and disposed of to a licensed facility and the site will be validated upon completion.

Council’s Regulatory Services Unit has recommended that a number of conditions be imposed on any consent granted regarding the remediation of the site (refer to Attachment B).

It is considered that the land will be suitable for residential development after remediation of the site has been completed.

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

A BASIX Certificate was lodged with the application, demonstrating that the development has achieved the required water and energy reduction targets, as required by the SEPP.

A condition has been included in the Draft Schedule of Conditions (refer to Attachment B).

State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development

The SEPP requires that Council consider the design quality of the proposed development when evaluated in accordance with the design quality principles and the Apartment Design Guide (ADG).

A SEPP 65 Statement has been submitted with the application, addressing the design quality principles. Council's Urban Design Consultative Group (UDCG) has considered the proposal on two occasions, with their assessment of the proposal summarised in the following Table 2 below:

Table 2: Design Quality Principals Summary

<table>
<thead>
<tr>
<th>1. Context and Neighbourhood Character</th>
<th>Applicant's Response:</th>
</tr>
</thead>
<tbody>
<tr>
<td>UDCG comments: 15.12.2015</td>
<td>Noted</td>
</tr>
<tr>
<td>The site is located in a quiet section of Denison street between Hunter Street to the north, and King Street to the south. The street is very wide and has mature street trees. Because of the restriction of traffic movements in the street to left in, left out at its King Street end, the street has relatively few traffic movements compared to the surrounding busy roads. This, in combination with the trees and the street width, provides a good basis for developing a pleasant pedestrian environment at street level. The area is designated a Heritage Conservation Area, although there are no listed items in immediate</td>
<td>Officer's comments:</td>
</tr>
<tr>
<td></td>
<td>Noted</td>
</tr>
</tbody>
</table>
proximity to the site.

The site is almost square in shape, and is orientated so that the front of the proposed building faces almost due south. It formerly accommodated the Co-op Store’s petrol outlet. The surrounding sites are generally smaller in area than the subject site, and are geometrically less favourable to siting a large rectilinear building. Multiple site amalgamations would be required for any of the adjacent sites to accommodate a tall residential block. Next door to the site to its west is a three-storey residential strata development, constructed upon the former “Steggles” produce store site. This low-scale residential development is approximately ten years old, and has a two-storey boundary wall along most of the length of the common boundary, which in a number of locations forms the eastern side of a series of small courtyards to the residences.

The architects outlined their assessment of likely future development potential for the surrounding sites, and it was agreed by the Group that if several sites to the east were amalgamated, this would potentially provide sufficient area to accommodate a relatively tall (but slender) tower. Sites to the north and to the immediate west are much less likely to produce a development of comparable scale. The further removed sites towards the corner of Tudor and Parry Streets to the west (now containing a car dealership and a tyre outlet) if amalgamated, also offer potential for a taller development.

UDCG comments: 15.03.2017

The building podium has been “pulled away” from the western boundary, and the driveway located to this side of the development. The proposed driveway is covered by a landscaped roof for approximately two-thirds of its width closest to the boundary, and is then open adjacent to the pedestrian entry to the building. While this provides a significantly improved visual interface with the low-scale residential unit adjacent, the Group suggested that acoustic impacts on the neighbouring residents needed to be considered by the applicant’s acoustic consultant, whose advice should inform any additional measures needed to reduce vehicle noise from this area.

While of a very different scale to current surrounding development, the proposal was considered to be appropriate to the likely future context, providing the podium sides were treated to reduce their visual impact, which will be quite evident until such time any future development occurs.

Applicant's Response:
Additional acoustic advice was provided addressing the potential noise concerns raised by the Group.

Additional visual treatments to the podium sides were added in response to the Group's advice.

Officer's Comments:
The additional acoustic advice and the environmental assessment undertaken on potential noise impacts was
considered acceptable subject to recommended conditions being imposed on any consent granted by Council.

Additional horizontal and vertical treatments to the masonry walls up to the podium level have been included to the east, north and west elevations to provide some visual relief to these walls.

2. Built Form and Scale

**UDCG comments: 15.12.2015**

It was recommended that the commercial areas on Levels 1 and 2 have their own discrete pedestrian entrances from the street, preferably with attractive stair access. Access to the commercial spaces should not be solely from the car parks. It is also desirable to separate residential and commercial parking areas.

**UDCG comments: 15.03.2017**

The Group considered the overall built form to be broadly appropriate, and had responded positively to the Group's previous comments in respect to side boundary setbacks, but noted that some additional design development is needed to be undertaken in regard to some aspects of the building.

The shared pedestrian entry from the street to the lift lobby is not welcoming in its current form, and the lift lobby is under-scaled and somewhat obscured. The Group reiterated the desirability of easy stair access to and between the commercial spaces.

The lift lobby on level 2 is insufficient in its width and the plan does not indicate where door access is to be obtained to the commercial space. It is in any case preferable, that the residential and commercial spaces and lobby areas were to be separate. It is also preferable that the residential car park on this level should not be accessible to commercial area tenants/occupants.

The finishes outlined by the architects were generally supported by the Group, with a combination of terracotta segmented panelling and applied composite sheeting making up the bulk of the facade, with functional and potentially attractive metal screening

**Applicant's Response:**

The ground floor foyer has been redesigned to incorporate a stair linking the ground and level 1, and the foyer size has been enlarged. A planter box element under the stair and a green wall has been added to improve the amenity of the space.

Added glazing will improve natural light in the foyer and assist the green wall and planter.

The new stair will help to separate the residential and commercial users of the building, as the stair will direct commercial staff and customers directly to the first floor, without the need to travel into the lift area.

The entrance to the retail area on the ground floor has been enhanced which will increase the interest on the façade and also allows an area for planting to break-up the areas of glass facade.

The lift lobbies on levels 1 and 2 have been increased in size, and the entry point for the commercial tenancies have
proposed to corner decks. Further detail was requested in respect to the appearance of the materials, and some further design refinements were identified as being required.

As part of this design development process, apartments need to be individually considered on a case-by-case basis for solar and wind impacts, with appropriate screening and shelter provided.

More elevated corner balconies need to be considered for wind impacts, and clear glass balustrades should be limited to not more than one third of the overall balustrade area for all apartments. West facing glazing should be protected from the summer sun.

An updated finishes schedule drawing has been provided, that has further developed the finishes and identifies specific materials and colours.

Balconies on the apartments have been reviewed and screens have been adjusted where necessary. Generally fixed screens have been provided to the west for sun control, and sliding screens to the north and east to allow residents the flexibility to adjust the screens as required for sunshade and privacy, yet not block views if that is the preference.

The balustrades are generally solid, with steel framing and lightweight pre-finished cladding. Clear glass balustrades are only incorporated on balconies where either fixed or sliding screens are provided (in which case the fixed screens provide privacy, and the sliding can be adjusted as required for privacy).

<table>
<thead>
<tr>
<th>3. Density</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>UDCG comments: 15.03.2017</strong></td>
</tr>
<tr>
<td>The density of the proposal is considered acceptable.</td>
</tr>
<tr>
<td><strong>Applicant's Response:</strong></td>
</tr>
<tr>
<td>Noted</td>
</tr>
<tr>
<td><strong>Officer's Comments:</strong></td>
</tr>
<tr>
<td>The density of the proposed development is considered acceptable and complies with relevant provisions of Council's LEP 2012.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>4. Sustainability</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>UDCG comments: 15.03.2017</strong></td>
</tr>
<tr>
<td>The Group was not advised of any sustainability measures above the mandatory requirements (BASIX)</td>
</tr>
<tr>
<td><strong>Applicant's Response:</strong></td>
</tr>
<tr>
<td>The requirements of the BASIX Certificate will be complied with.</td>
</tr>
</tbody>
</table>
The Group noted that there was a considerable area of glazing proposed in a large proportion of apartments, and while sun-shading is proposed in a number of exposed areas, there will inevitably be substantially more heat gained in summer and lost in winter through glazing than through solid walling. Provision of low-e glass should be a priority, possibly in addition to a reduction in some areas of glazing, where this does not contribute positively to views, light or aspect.

Officer’s Comments:
As elsewhere discussed, some refinements to the building facade, material finishes and screening (fixed and operable) has achieved a better outcome in terms of solar access, visual and acoustic privacy and protection from the elements.

Note that significant areas of glazing within the proposal are screened.

The revised landscaping plan has also included more appropriate plantings, which will assist not only visually but also environmentally and with residential amenity.

5. Landscape

UDCG comments: 15.12.2015
A notional apron of landscaping is indicated in the preliminary plans at the perimeter of the podium. While the strategy of pushing back from the side boundaries of any decks or accessible hard paved areas adjoining the level 3 dwellings is supported, further design resolution will be required, including a means of access for regularly maintaining the common landscaped areas identified (these perimeter landscaped “buffer” spaces should not be included as part of the private open space, which can also contain some smaller areas of planting.)

It was suggested that the floor level at level 3 be raised to permit extensive areas of soil to support soft landscaping, with a similar finished level to the internal floors. This would avoid the need to contain vegetation in walled “beds”. Deeper soil for larger shrubs and trees can be mounded rather than solely relying upon raised retaining walls to contain deep soil.

It was noted that the street trees in this section of Denison Street are attractive, and should be retained. Opportunities should be explored for small areas of complementary landscaping or possibly some green walls, at ground level.

UDCG comments: 15.03.2017
The Group noted that previously identified areas of

Applicant’s Response:
Revised Landscaping drawings have been prepared, including revisions to the foyer, podium level and rooftop to address the UDCG’s comments, as outlined below:

- Ground Floor: Landscaping to Denison Street frontage added.
- Level 3 podium: Areas of planting increased and larger plant species introduced, including Japanese Maple (Acer Palmatum) ‘Ariadne’.
- Garden beds, though walled are to be mounded to allow deeper soil depth as required for the plant species. It is considered not necessary to raise the floor level to achieve the soil depth.
concern remained unaddressed in respect to landscape. The podium and rooftop planting areas do not define or create attractive spaces and should be reconsidered in terms of the spaces defined by suitably scaled landscaping.

At podium level, it was considered essential that a substantial surrounding “skirt” of more substantially scaled landscaping should be provided, with appropriate perimeter access for body-corporate managed maintenance. This area should only be accessible for maintenance. This increase in landscape area will involve a corresponding reduction in the extent of hard paving, and an increase in the scale of large shrubs and trees.

Planters should be mounded or terraced such that high-walled beds are avoided, and any vertical “steps” in the landscaping are limited to not more than 0.5m. If podium level apartments are to be provided with additional landscaped areas for their private use, these should be clearly identified and separated from the commonly maintained areas.

The rooftop community garden beds are supported as a concept, but the spaces created between the beds are regimented and do not define attractive spaces.

More extensive decorative landscaping should be used in addition to vegetable / herb gardens, to create several semi-private areas that different small groups might comfortably use simultaneously, without feeling that they imposing on each other.

Shading by a pergola structures and the provision of some screening from strong winds would make the spaces more usable and attractive.

The species lists should be revised and larger species that are of an appropriate scale to the building provided.

<table>
<thead>
<tr>
<th>Rooftop: this area has been redesigned to incorporate larger areas of planting; larger species trees, and a variety of separate areas for different resident uses have been created.</th>
</tr>
</thead>
<tbody>
<tr>
<td>The rooftop planting and layout has been extensively re-designed, to address the UDCG’s concerns, and the size of planter areas and species selections on the Podium level have been adjusted to address the UDCG’s comments.</td>
</tr>
<tr>
<td>Note that perimeter access to maintain planter beds can be provided; this will be detailed at the Construction Certificate stage.</td>
</tr>
<tr>
<td>Garden beds, whilst walled are to be mounded as well to allow deeper soil depth as required for the plant species.</td>
</tr>
<tr>
<td>On the rooftop, regimented spaces in the earlier design have been replaced by a more informal layout that incorporates a variety of different areas on the rooftop, allowing different groups to use the area simultaneously. Larger planting species have been introduced, including Frangipani and Coastal Banksia.</td>
</tr>
<tr>
<td>The up stand element of the stair wall and proposed shade sails will provide screening from strong winds.</td>
</tr>
</tbody>
</table>

### 6. Amenity

<table>
<thead>
<tr>
<th>UDCG comments: 15.12.2015</th>
</tr>
</thead>
<tbody>
<tr>
<td>It was noted that corner located balconies, especially those on higher floors, are problematic in respect to prevailing winds. In addition to some fixed and solid protection from the elements, opportunities should be</td>
</tr>
<tr>
<td>Applicant's Response:</td>
</tr>
<tr>
<td>Balconies on the apartments have been reviewed and screens have been adjusted</td>
</tr>
</tbody>
</table>
offered to residents wherever possible to use adjustable screens or louvers to provide protection from summer sun when needed, and from strong winds. Clear glazed balustrades are discouraged by the ADG and it was strongly recommended by the Group that areas of solid balustrading should be provided to every balcony, and where any limited areas of glazing are incorporated in balcony balustrades, that these are above a solid upstand.

**UDCG comments: 15.03.2017**

The amenity of the apartments was considered to be in most instances potentially quite good, and the large corner screen elements have good potential to reduce adverse wind impacts on corner balconies.

The amenity of apartments can be further enhanced by some careful design development / refinement, considering the amenity of each individual apartment and its balcony – particularly in respect to solar access, heat loads and wind protection. The setting back of the podium element from the town-house development to the west has improved the previously identified amenity concerns in respect to overlooking. It was recommended, as the driveway was proposed to be partially open to the sky, that the acoustic consultant advises on minimising vehicle engine and car tyre noise impacts on the neighbouring residences.

**Officer’s Comments:**

Design changes and refinements have been achieved as previously discussed.

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### 7. Safety

**UDCG Comments: 15.12.2015**

The entry corridor from the street to the lift lobby is currently long and indirect. This should be revised to provide better visual surveillance of the area and a more pleasant and useable foyer.

Residential and commercial car parks should be separated if possible.

**UDCG comments: 15.03.2017**

Concerns remain in respect to the deep pedestrian entry at street level, which are exacerbated by the lift lobby being rather small and partially obscured.

Uninvited access can be obtained at this level, quite deep into the building, and potential conflicts arise from shared commercial and residential access.

Further consideration of after-hours access and security arrangements appears also to be warranted. Consideration needs to be given as to how windows will where necessary.

Generally fixed screens have been provided to the west for sun control, and sliding screens to the north and east to allow residents the flexibility to adjust the screens as required for sunshade and privacy, yet not block views if that is the preference.

Note that balustrades are generally solid (with steel framing and lightweight pre-finished cladding). A condition of consent has been included to ensure that all balcony glass is opaque.

**Officer’s Comments:**

Design changes and refinements have been achieved as previously discussed.

---

**Applicant’s Response:**

The ground floor foyer has been redesigned to incorporate a stair linking the ground and level 1, and the foyer size has been enlarged. A planter box element under the stair and a green wall has been added to improve the amenity of the space. Added glazing will improve natural light in the foyer and assist the green wall and planter.

**Officer’s Comments:**

Design changes and refinements have been achieved as previously discussed.
safely be cleaned on a regular basis.

8. Housing Diversity and Social Interaction

UDCG Comments: 15.12.2015
The proposed housing mix was considered to be very appropriate. Potential for good resident interaction is offered by the communal areas on level 3, and these areas should be supplemented by a more welcoming and more useable entry foyer, and other areas where residents might casually interact – such as the car wash area.

It will be important that the communal area on level 3 is not seriously impacted in relation to privacy and sunlight by future development on adjoining or nearby sites. Modelling is required to demonstrate whether or not this could be the case, and if it appears likely then this facility might be better located at the rooftop of the tower, as is being done on a number of other new developments.

UDCG Comments: 15.03.2017
The common area on level 3 and the proposed rooftop common area are positive inclusions, subject to undertaking the improvements identified under the landscape heading above, and resolution of common residential and commercial foyer and lobby / access issues. As mentioned elsewhere, the entry lobby should be more generous in size.

Applicant's Response:
Noted, comments about foyer and landscaping are addressed in previous items above.

Officer's Comments:
Design changes and refinements have been achieved as previously discussed.

9. Aesthetics

UDCG Comments: 15.03.2017
The Group was of the view that the building form and the materials described had good potential for achieving a positive aesthetic outcome, particularly if some further design refinements are undertaken.

The commercial areas facing Denison Street are presently somewhat understated and uniform in their street presentation, and some additional layering of the facade and provision of some carefully placed solid elements would add some visual interest. Signage placement for the commercial areas should also be integrated with the design. Placement of infrastructure, such as substation kiosks and fire booster connections, should be detailed and their visual impact minimised.

The podium of the building will be exposed in many locations where it will be of a larger scale than existing neighbouring development. The inclusion of some deep texturing in this facade, and some variation in the tone or

Applicant's Response:
The Denison Street Commercial facade has been amended, and the following included:

- Vertical blades in front of the level 1 and 2 commercial tenancies have been added to break up the line of glazing on the face.
- Building signage and building name has been added.
- A recessed retail entry and planting has been added at ground level.
possibly the coloration should be provided to maintain a more pleasant interface.

The Group queried whether the expression of the “punctured” appearance of bedroom windows would be improved by their being “tied together” vertically with a darker toned finish on the surrounding panels, or by sun shading that continues between the pairs of windows. Either alternative would create a more linear expression, rather than small punctured elements.

| Officer's Comments: |
| A darker toned finish on the cladding, to tie them together vertically, has linked the bedroom windows. On lower levels (13 - 8) sunscreens have been added in lieu of the vertical colour differentiation to add interest and variety of the facade. |

Officer's Comments:
Design changes and refinements have been achieved as previously discussed.

Concluding comments

UDCG Comments: 15.03.2017
The Group considered many of the more challenging site planning and design issues that arose in the pre-DA proposal had been well addressed in the subject proposal. However, there remain a number of matters, most of which had been identified in the Pre-DA submission, that need to be resolved prior to the proposal gaining support for approval.

These issues are outlined in detail under the headings above, and go to access, landscaping, amenity and aesthetics, all of which can be addressed by design refinement. The application is supported subject to the resolution of the above outstanding issues to the satisfaction of Council.

Applicant's Response:
Noted and recommendations made by the Group have been discussed under each relevant heading.

Officer's Comments:
The current revised proposal is considered to have adequately addressed the key areas of concern raised by the Group in respect to access, landscaping, amenity and aesthetics and the development is considered overall to be an appropriate response to the site and its surroundings within the context of growth and site redevelopment within this city centre location.
A SEPP 65 Apartment Design Guide compliance table was submitted by the applicant in support of the application and comments have been provided within the below table in response to the relevant key criteria within the Guide.

The proposal is considered adequate having regard to the principles of SEPP 65, the comments received from the UDCG and the design criteria in the Apartment Design Guide. These key design controls are summarized below in Table 3:

Table 3: SEPP 65 Key Controls

<table>
<thead>
<tr>
<th>Key Control 1: Separation Distances</th>
<th>Proposed Design</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Note:</strong></td>
<td>The Urban Design Consultative Group in considering the application has advised Council to consider a more flexible interpretation of separation distances.</td>
</tr>
<tr>
<td>When applying separation to buildings on adjoining sites, apply half the minimum separation distance measured to the boundary. This distributes the building separation equally between sites.</td>
<td>Zero setbacks:</td>
</tr>
<tr>
<td>Therefore, the minimum separation distances for buildings are (side and rear setbacks):</td>
<td>The Apartment Design Guide suggests zero setbacks are only supported where simultaneously resulting in blank boundary walls. This position is also consistent with Councils DCP 2012 requirements and is reflected in the proposal.</td>
</tr>
<tr>
<td>Up to 4 storeys / up to 12 metres:</td>
<td>Northern elevation - Ground Floor, Level 1, Level 2 &amp; Level 3 Plans:</td>
</tr>
<tr>
<td>• 6 metres between habitable rooms / balconies</td>
<td>• GL - Built to boundary</td>
</tr>
<tr>
<td>• 3 metres between non-habitable rooms</td>
<td>• L1 - Built to boundary</td>
</tr>
<tr>
<td>5 to 8 storeys / approx. 25 metres:</td>
<td>• L2 - Partially built to boundary and common room setback is approximately 10m</td>
</tr>
<tr>
<td>• 9 metres between habitable rooms / balconies</td>
<td>• L3 - Proposed setback generally 10.777m (requirement 6m)</td>
</tr>
<tr>
<td>• 6m between habitable and non-habitable rooms</td>
<td>Eastern elevation:</td>
</tr>
<tr>
<td>• 4.5m between non-habitable rooms</td>
<td>• GL - Built to boundary</td>
</tr>
<tr>
<td>9 storeys and over: (over 25 metres:</td>
<td>• L1 - Built to boundary</td>
</tr>
<tr>
<td>• 12 metres between habitable rooms / balconies</td>
<td>• L2 - Built to boundary</td>
</tr>
<tr>
<td>• 9m between habitable and non-habitable rooms</td>
<td>• L3 - Proposed setbacks range from 5.998m, 8.043m &amp; 9.375m (requirement 6m)</td>
</tr>
<tr>
<td>• 6m between non-habitable rooms</td>
<td>Western elevation:</td>
</tr>
<tr>
<td><strong>Zero setbacks:</strong></td>
<td>• GL - Built to boundary</td>
</tr>
<tr>
<td>L1</td>
<td>Proposed setbacks range from 4.235m up to 7.807m</td>
</tr>
<tr>
<td>------------------</td>
<td>-----------------------------------------------</td>
</tr>
<tr>
<td>L2</td>
<td>Proposed setbacks range from 4.235m, 4.360m, 7.807m and 8.998m</td>
</tr>
<tr>
<td>L3</td>
<td>Setbacks range from 7.101m, 7.8m and 9m (requirement 6m)</td>
</tr>
</tbody>
</table>

**Northern elevation - Levels 4 - 7 Plan:**
- Proposed setback generally 10.77m (requirement 9m)

**Eastern elevation:**
- Proposed setback generally 9m (requirement 9m)
- Is a minor variation of partial decks as low as 6m)

**Western elevation:**
- Proposed setback generally 9m (requirement 9m)
- Is a minor variation of partial decks and waste area as low as 7.1m

**Northern elevation - Levels 8 - 14 Plan:**
- Proposed setback generally 10.77m (requirement 12m).

**Eastern elevation:**
- Proposed setback generally 12m (requirement 12m).
- Is minor variation of partial deck and building element as low as 10.5m

**Western elevation:**
- Proposed setback ranges from 7.1m, 7.9m and 8.5m (requirement 12m)
No building separation necessary where building types incorporate blank party walls. Typically this occurs along a main street or at podium levels within centres.

Complies - The podium levels (up to Level 3) have zero setbacks, housing commercial/retail premises and car parking.

Western elevation - building setback 4.23m to 7.80m at Level 1 to reduce impact on neighbouring apartments.

### Key Control 2: Size of Units

<table>
<thead>
<tr>
<th>Design Criteria</th>
<th>Proposed Design</th>
</tr>
</thead>
<tbody>
<tr>
<td>Apartments are required to have the following minimum internal areas:</td>
<td>Complies</td>
</tr>
<tr>
<td>- 1-Bedroom / minimum 50m² internal area</td>
<td>• Minimum 1-bedroom area is 51m²</td>
</tr>
<tr>
<td>- 2-bedroom / minimum 70m² internal area</td>
<td>• Minimum 2-bedroom area is 75m²</td>
</tr>
<tr>
<td>- 3-Bedroom / minimum 90m² internal area</td>
<td>• Minimum 3-bedroom area is 97m²</td>
</tr>
</tbody>
</table>

Note: The minimum internal areas include only one bathroom. Additional bathrooms increase the minimum internal area by 5m² each.

Those units that have two bathrooms have provided the additional 5m² as required.

### Key Control 3: Unit Configuration

<table>
<thead>
<tr>
<th>Rule of Thumb</th>
<th>Proposed Design</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provide primary balconies for all apartments with a minimum depth of:</td>
<td>Complies</td>
</tr>
<tr>
<td>- 2m for 1 to 2-bedroom</td>
<td>All balconies are over the minimum requirements.</td>
</tr>
<tr>
<td>- 2.4m for 3-bedrooms</td>
<td></td>
</tr>
</tbody>
</table>

Measured from finished floor level to finished ceiling level, minimum ceiling heights are:

- 2.7m for habitable rooms
- 2.4m for non-habitable rooms
- 3.3m for ground and first floor if located in mixed use areas

Complies

A 3m floor-to-floor height will allow compliance with this requirement.

Ground and first floor level commercial/retail and commercial is minimum 3.5m.

Second floor level commercial is minimum 3m.

Habitable room depths are limited to a...| All units comply apart from the 1-bedroom...
maximum of 2.5 x the ceiling height. Therefore all residential floors are 3m ceiling height (ie. maximum depth is 7.5m).

<table>
<thead>
<tr>
<th>Maximum depth requirement</th>
<th>Units located within the central area of the tower. These are considered only a minor exceedance to the maximum depth requirement.</th>
</tr>
</thead>
</table>

Master bedrooms have a minimum area of 10m² and other bedrooms 9m² (excluding wardrobes).

<table>
<thead>
<tr>
<th>Minimum areas</th>
<th>Some are marginally below the minimum width of 3m as wardrobe within this minimum.</th>
</tr>
</thead>
</table>

Bedrooms have a minimum dimension of 3m (excluding wardrobe space).

<table>
<thead>
<tr>
<th>Minimum width</th>
<th>Some are marginally below the minimum width of 3m as wardrobe within this minimum.</th>
</tr>
</thead>
</table>

The back of a kitchen should be no more than 8m from a window.

<table>
<thead>
<tr>
<th>Minimum width</th>
<th>Some are marginally below the minimum width of 3m as wardrobe within this minimum.</th>
</tr>
</thead>
</table>

Every habitable room must have a window in an external wall with a total minimum glass area of not less than 10% of the floor area of the room. Daylight and air may not be borrowed from other rooms.

<table>
<thead>
<tr>
<th>Minimum glass area</th>
<th>Some are marginally below the minimum width of 3m as wardrobe within this minimum.</th>
</tr>
</thead>
</table>

**Key Control 4: Solar Access**

<table>
<thead>
<tr>
<th>Design Criteria</th>
<th>Proposed Design</th>
</tr>
</thead>
<tbody>
<tr>
<td>Living rooms and private open spaces of at least 70% of apartments in a building receive a minimum of 2 hours direct sunlight between 9am and 3pm at mid-winter in the Sydney Metropolitan Area an in the Newcastle and Wollongong local government areas.</td>
<td>Complies 91% of units meet this requirement. Refer solar access diagrams.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Proposed Design</th>
<th>Complies</th>
</tr>
</thead>
</table>

A maximum of 15% of apartments in a building receive no direct sunlight between 9am and 3pm at mid-winter.

<table>
<thead>
<tr>
<th>Proposed Design</th>
<th>Complies</th>
</tr>
</thead>
</table>

**Key Control 5: Storage**

<table>
<thead>
<tr>
<th>Design Criteria</th>
<th>Proposed Design</th>
</tr>
</thead>
<tbody>
<tr>
<td>In addition to storage in kitchens, bathrooms and bedrooms, the following storage is provided:</td>
<td>Complies</td>
</tr>
</tbody>
</table>

- 1-bedroom apartment - 6m²
- 2-bedroom apartment - 8m²
### Key Control 6: Natural Ventilation

<table>
<thead>
<tr>
<th>Design Criteria</th>
<th>Proposed Design</th>
</tr>
</thead>
<tbody>
<tr>
<td>At least 60% of apartments are naturally cross-ventilated.</td>
<td>Complies</td>
</tr>
</tbody>
</table>

- The small building footprint, predominance of corner units, and stepped facades of units enables all units to achieve cross ventilation.

| Overall depth of a crossover or cross-through apartment does not exceed 18m, measured glass line to glass line. | Not Applicable |

### Key Control 7: Private Open Space

<table>
<thead>
<tr>
<th>Design Criteria</th>
<th>Proposed Design</th>
</tr>
</thead>
</table>
| • 1-bedroom apartments 8m² with minimum 2m depth  
• 2-bedroom apartments 10m² with minimum 2m depth  
• 3-bedroom apartments 12m² with minimum 2.4m depth | Complies |

- Note: One unit (803) has two balconies - 1 of 11m² with depth of 2.9m and 1 of 5m² with a depth of 1.4m.

### Key Control 8: Communal and Public Open Space

<table>
<thead>
<tr>
<th>Design Criteria</th>
<th>Proposed Design</th>
</tr>
</thead>
<tbody>
<tr>
<td>Communal open space 25% of the site.</td>
<td>Complies</td>
</tr>
</tbody>
</table>

- Developments achieve a minimum of 50% direct sunlight to the principal usable part of the communal open space for a minimum of 2 hours between 9am and 3pm on 21 June (mid-winter).

- Roof top landscaping, level 1 landscaping and landscaped area off the common room provide greater than 25% open space.
### Key Control 9: Deep Soil Zones

<table>
<thead>
<tr>
<th>Design Criteria</th>
<th>Proposed Design</th>
</tr>
</thead>
<tbody>
<tr>
<td>Deep soil zones are to meet the following minimum requirement - sites greater than 1,500m².</td>
<td>Doesn't comply with the 15% deep soil zone due to the inner city location and site constraints.</td>
</tr>
<tr>
<td>• 7% of site area with minimum dimension 6m.</td>
<td>Site area of 1,636m² = 114.52m² required (equates to 7% of site area).</td>
</tr>
<tr>
<td>If possible some site could provide where possible:</td>
<td>Note: The SEPP acknowledges that deep soil zones may not be possible on some sites, due to their CBD location, and the fact that there is non-residential uses at ground floor level. Both of these conditions apply to this site.</td>
</tr>
<tr>
<td>• 15% of the site as deep</td>
<td>Extensive alternative planting is provided on level 1, level 3 and the rooftop.</td>
</tr>
</tbody>
</table>

Achieving the design criteria may not be possible on some sites including where:

- The location and building typology have limited or no space for deep soil at ground level (eg. CBD, constrained sites, high-density areas, or in centres).
- There is 100% site coverage or non-residential uses at ground floor level.

Where a proposal does not achieve deep soil requirements, acceptable stormwater management should be achieved and alternative forms of planting provided such as on structure.

### Key Control 10: Common Circulation Spaces

<table>
<thead>
<tr>
<th>Design Criteria</th>
<th>Proposed Design</th>
</tr>
</thead>
<tbody>
<tr>
<td>The maximum number of apartments off a circulation core to a single level is eight.</td>
<td>Complies</td>
</tr>
<tr>
<td></td>
<td>Maximum is six for this proposal.</td>
</tr>
<tr>
<td>For buildings of 10 storeys and over, the maximum number of apartments sharing a single lift is 40.</td>
<td>Complies</td>
</tr>
<tr>
<td></td>
<td>The proposal includes 14 storeys and 58 residential apartments. Two lifts are proposed as part of this mixed use development.</td>
</tr>
</tbody>
</table>

Newcastle Local Environmental Plan 2012 (LEP)
Clause 2.3 - Zone objectives and land use table

The property is located within the 'B4 - Mixed Use' zone under the provisions of the LEP. The proposed development is categorised as a mixed-use development, which means a building or place comprising two or more different land uses and the proposal complies with this definition.

The proposal is also considered to be consistent with the zone objectives, which are as follows:

a) To provide a mixture of compatible land uses.

b) To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.

c) To support nearby or adjacent commercial centres without adversely impacting on the viability of those centres.

It is considered that the proposed development will successfully integrate commercial and residential uses on the site which is within the city centre location. The site is ideally located with respect to public transport and proximity to the Newcastle CBD. The proposal is considered to support the viability of the city centre through increased housing and employment opportunities within the area.

Clause 2.7 - Demolition Requires Development Consent

The existing structures located on site are to be demolished as part of this development application. The demolition of the existing single story building and car parking areas is considered acceptable and appropriate conditions are recommended to ensure demolition works and re-use and disposal of material is managed appropriately and in accordance with relevant requirements.

A number of conditions have been included in the Draft Schedule of Conditions (refer to Attachment B).

Clause 4.3 - Height of Buildings

The Height of Buildings Map provides for a maximum height limit of 60m.

<table>
<thead>
<tr>
<th>Height Requirement</th>
<th>Proposed Height</th>
<th>Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>60 metres</td>
<td>48 metres</td>
<td>Yes</td>
</tr>
</tbody>
</table>

Clause 4.4 - Floor Space Ratio

The Floor Space Ratio Map provides for a maximum FSR of 6:1.
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<table>
<thead>
<tr>
<th>FSR Requirement</th>
<th>Proposed FSR</th>
<th>Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>6:1</td>
<td>3.8:1</td>
<td>Yes</td>
</tr>
</tbody>
</table>

Clause 5.5 - Development within the Coastal Zone

The development is considered to be acceptable in this regard, as it will not affect public access to or along the coastal foreshore, it will not impact on the water quality of the harbour and it does not impede existing public views of the coastal foreshore.

Clause 5.10 - Heritage Conservation

The site is located within the Newcastle City Centre Heritage Conservation Area. However, the site is not a State or locally listed heritage item and is not an identified archaeological site.

In relation to the Conservation Area generally, its significance is interpreted as:

*The Newcastle City Centre Heritage Conservation Area is significant on many levels. The assemblage of commercial and civic buildings is a powerful reminder of the city's rich history and its many phases of development. The number of historic buildings surviving is quite remarkable for a city of this size, with a number of pre-1840s buildings surviving (Rose Cottage, c1830, Newcomen Club, 1830, Parts of James Fletcher Hospital). All of these are associated with the city's penal heritage. It is also known to be a city with a rich archaeological record of national significance, for its potential to yield information about the early convict settlement and early industrial activities. The city area is known to have been a place of contact between colonists and the indigenous population, who owned the land on the southern shores of the Hunter River. This evidence is available in historical accounts and in the archaeological record surviving beneath the modern city. The high numbers of commercial and civic buildings of the 19thc and 20th centuries gives the city a historic character which is notable and allows an understanding of the importance of the city as a place of commerce, governance and city building. The historical foundation of the city was the discovery and exploitation of coal with good shipping access via a safe and navigable harbour. The town's layout by Surveyor General Henry Dangar in 1828 is still visible in the city's streets, and is an element of historical value.*

While the subject site is not heritage listed, it is noted that there are a number of items of cultural heritage significance located in close proximity to the subject site. These include buildings and plantings comprising:

- a) Former Castlemaine Brewery (787 Hunter Street)
- b) Cambridge Hotel (791 Hunter Street)
- c) Former Newcastle Co-operative Store (854 Hunter Street)
- d) Birdwood Park (502 King Street)
- e) Fig Trees (Stewart Avenue)

In support of the proposed development, the applicant has submitted a Statement of Heritage Impact.
The proposal to demolish the existing building facing Denison Street is considered acceptable as the building is considered to have little cultural heritage significance and is generally in average condition.

The proposal is of a form, scale and massing that will generally dominate the surrounding streetscape, but this is primarily due to the fact that it will be the first of many possible future large new buildings in this precinct following changes to development controls and increased development activity in the western part of the CBD.

It is considered that the proposed development will be generally compatible with the desired future character of the immediate locality, and due to the impending developments to be completed surrounding the site, it is considered that from an urban design perspective the new building will sit reasonably comfortably within the established streetscape.

The external materials, colours and textures are reserved and while the building will be visually prominent, the proposed modern design will not unduly disrupt the building typology of the precinct.

It is considered that the demolition of the building on the site and the erection of the proposed building will not have a substantial impact on the heritage significance of the Newcastle City Centre Heritage Conservation Area. It is assessed that the proposal meets the objectives of the Heritage Conservation Area as expressed in both the Newcastle Local Environmental Plan 2012 and Development Control Plan 2012.

Appropriate conditions have been included in the Draft Schedule of Conditions (refer to Attachment B).

*Clause 6.1 - Acid Sulfate Soils*

The site is located within a mapped area identified as Class 4 acid sulfate soils which are characterised as:

> 'Class 4 - Works more than 2 metres below the natural ground surface. Works by which the watertable is likely to be lowered more than 2 metres below the natural ground surface.'

A Detailed Site Investigation & Preliminary Acid Sulfate Soils Assessment was submitted with the application, which considered relevant aspects of land contamination and acid sulfate soils, anticipated at the site at depths exceeding 1m below ground level.

The details of the occurrence and potential for treatment of any acid sulfate soils found during construction are included within the Detailed Site Investigation & Preliminary Acid Sulfate Soils Assessment.
The proposal is considered acceptable with respect to acid sulfate soils, provided recommended conditions are imposed on any consent granted, which includes the submission of a Site Management Strategy for dealing with any identifying potential for acid sulphate soils to be encountered and measures and techniques to be followed in the event that acid sulphate soils is encountered.

Clause 6.2 - Earthworks

The proposal is considered acceptable in the context of the earthworks associated with this proposal, adjoining properties and environmental considerations identified for this site.

Appropriate conditions have been included in the Draft Schedule of Conditions (refer to Attachment B).

Clause 7.4 Building Separation

This clause requires that 'a building must be erected so that the distance from the building to any other building is not less than 24 metres at 45 metres or higher above ground level. For the purposes of this clause, a separate tower or other raised part of the same building is taken to be a separate building.'

The proposed development, at a height of 48 metres is not less than 24 metres from any other nearby or adjoining building. At 45 metres high the setbacks for the proposal from the side and rear boundaries varies from 7.1m to a maximum of 12.6m. However, as there are no other buildings higher than three storeys in the immediate vicinity the development meets this requirement as there is a 24m separation provided between the existing buildings.

Clause 7.5 - Design excellence

The proposed development triggers this clause and Council cannot grant consent to this development unless the building exhibits 'design excellence'. In response to this requirement, it is noted that the proposal has been assessed under the principles of SEPP 65, as discussed elsewhere in this report.

Newcastle City Council’s Urban Design Consultative Group (UDCG) has reviewed the proposal on a number of occasions and are supportive of the application, as discussed under the comments on SEPP 65 of this report.

The development meets the design excellence criteria of the LEP and exhibits a high standard of architectural quality. The development will assist enhancing the quality and amenity of the public domain through street activation while not adversely impacting on any identified view corridors.

The design of the development has appropriately addressed cultural heritage issues and successfully managed streetscape constraints and circulation requirements. From an urban form perspective, the proposed building’s bulk, mass and articulation
sit comfortably within the streetscape. The proposal is acceptable having regard to environmental impacts and the principles of ecologically sustainable development.

The proposal does not generate a requirement to undertake an architectural design competition in accordance with this clause, as the height of the proposed building is not greater than 48m, and the site is not identified as a key site within the Newcastle City Centre.

**Section 94A Development Contribution Plan 2009**

The application attracts Section 94A Contributions pursuant to Council's Section 94A Development Contributions Plan 2009. The development is affected by Part B (City Centre) of the plan. A contribution of 2% of the cost of development would be payable to Council as determined in accordance with clause 25J of the Environmental Planning and Assessment Regulation 2000.

A condition requiring this contribution to be paid has been included in the Draft Schedule of Conditions (refer to Attachment B).

**Any draft environmental planning instrument that is or has been placed on public exhibition**

Draft State Environmental Planning Policy (Coastal Management) 2016 was exhibited between 11 November 2016 and 20 January 2017. If the draft SEPP is made it will supersede the coastal zone considerations of the Newcastle Local Environmental Plan 2012.

It is considered that the proposed development is satisfactory in respect of the provisions of Draft State Environmental Planning Policy (Coastal Management) 2016.

There is no other exhibited draft environmental planning instrument relevant to the application.

**4.2 Merit Considerations**

**Relevant Strategic Policies**

**Hunter Regional Plan 2036**

The Hunter Regional Plan 2036 was adopted in October 2016 as a plan for 20 years growth in the Hunter Region.

The site is on the edge of the Newcastle City Centre, which is identified as one of the key strategic centres in the Plan. The Plan contains a number of key directions and associated actions as part of the implementation of the Plan. The following directions relate to the proposed development:

a) Direction 3 - Revitalise Newcastle City Centre
b) Direction 21 - Create a compact settlement pattern  
c) Direction 22 - Promote housing diversity  
d) Direction 23 - Grow centres and renewal corridors

The proposal includes a variety of housing choice and provides an opportunity for renewal and growth that is close to existing centres, services and public transport. The site is included within the urban renewal corridor and is close to the proposed transit hub of Wickham and Hamilton.

The application has been referred to the City Strategy Group for advice in relation to the implications of any relevant strategic planning policies for the proposed development. The following advice has been received in response:

'Newcastle Urban Renewal Strategy

The site is within the Newcastle City Centre and the Newcastle Urban Renewal Strategy is relevant to the proposal. Generally, the proposed development is consistent with the guiding principles for urban renewal for the City Centre and mostly takes advantage of the initiatives that are in place under the planning framework to support this.

The site is within an area identified for higher scale redevelopment with 60 metre building height limits and 6:1 FSR. The proposal with a maximum building height of 48 metres and FSR of 3.98:1 is somewhat of an underdevelopment of the site. While possibly more difficult to achieve, consolidation of sites in this block would result in a higher density, more efficient use of this well located site. However, the proposed development is not considered to be a significant under development of the site and this is not a major concern for urban planning.

The variations to the DCP and SEPP 65 setbacks could be of concern if this results in neighbouring sites not being able to develop to maximum potential. Comments in the supporting documents and plans that "neighbouring properties to the west and north have limited potential to develop above 25m due to size and configurations, thus SEPP [65] setbacks to these orientations are not adhered to are a problem if, as stated, the proposed setbacks prevent these sites from redeveloping in the future.

Section 6.02.03 - Newcastle City Centre General Controls

The Newcastle City Centre section of the DCP has performance criteria that explain the planning outcomes to be achieved. Accompanying the performance criteria are acceptable solutions that illustrate the preferred way of complying with the corresponding performance criterion. There may be other ways of complying with performance criteria and it is up to the applicant to demonstrate how an alternative solution achieves this.

It is noted that the acceptable solutions are not adopted by the development in relation to street wall heights, building setbacks and building depth. The applicant should demonstrate how the proposal achieves the performance criteria particularly
in relation to responding to development potential on adjoining sites, allowing for ventilation, daylight access and privacy.

In addition, building depth and floor plate sizes relate to the desired urban form and skyline of the city centre. I expect that the Urban Design Consultative Group will address these design matters, so I will not provide further comment.

Overall there is no significant concern with the proposed development in terms of the type of development, scale and location.'

Consideration of the relevant provisions of the Newcastle Development control Plan 2012 appears below.

4.3 Newcastle Development Control Plan

The main planning requirements of relevance in the Newcastle Development Control Plan 2012 (DCP) are discussed in Table 4 below:

<table>
<thead>
<tr>
<th>DCP requirement</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Land use specific provisions</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Section 3.05 - Residential flat buildings</strong></td>
<td>Refer to SEPP 65 assessment above.</td>
</tr>
<tr>
<td><strong>Section 3.10 - Commercial Uses</strong></td>
<td>The proposal achieves reasonable street activation through inclusion of retail and commercial premises at street level and above with clear entry points and street surveillance on Denison Street.</td>
</tr>
<tr>
<td><strong>Risk minimisation provisions</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Section 4.01 - Flood Management</strong></td>
<td>The site is affected by flooding. The proposed building at ground floor level is set at 5.95m AHD and proposed car parking level at ground floor is set at 5.90m AHD. These levels are higher than the PMF level of 5.75m AHD. The risk to life hazard category is L2 and the risk to property is P1, which can be stated as being a low risk site. The development would be acceptable at 5.75m AHD.</td>
</tr>
<tr>
<td><strong>Section 4.03 - Mine subsidence</strong></td>
<td>The site is located within a proclaimed Mine Subsidence District and the Mine Subsidence Board (now known as Subsidence Advisory NSW) has forwarded their conditional approval.</td>
</tr>
<tr>
<td><strong>Section 4.04 - Safety and security</strong></td>
<td>The applicant has submitted a Crime Prevention Through Environmental Design (CPTED) statement addressing the key principles of this philosophy. The development allows for natural surveillance within the site and there is a clear delineation of private property vs public space.</td>
</tr>
</tbody>
</table>
There is clear vehicular access from Denison Street into the proposed development. Appropriate lighting and landscaping treatment has also been proposed with safety and security in mind.

<table>
<thead>
<tr>
<th>Section 4.05 - Social impact</th>
</tr>
</thead>
</table>
| The applicant has submitted a Social Impact Comment in support of the application. The report identified that whilst the development will place added pressure on community facilities and open space, opportunities exist to allocate funding from Section 94 contributions for improvements to the public domain and investment in open space provision. The report draws the following conclusions:  
  - Increase housing supply in the locality, which may assist with housing affordability.  
  - Significantly improved residential amenity by replacing a semi-industrial local scale use with a mixed-use development that will complement the neighbourhood.  
  - Generate economic benefits by creating employment opportunities during the construction, cleaning and maintenance phases. Overall, the development is likely to have a positive social impact by facilitating residential development that is consistent with the future vision for the area. |

<table>
<thead>
<tr>
<th>Environmental protection provisions</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Section 5.01 - Soil management</strong></td>
</tr>
<tr>
<td>A sediment and erosion management plan has been submitted with the application, with provisions to minimise sediments being removed from the site during the construction period. A condition is proposed to ensure that such measures are in place for the entire construction period.</td>
</tr>
</tbody>
</table>

| **Section 5.02 - Land contamination** |
| A detailed Site Investigation Contamination Assessment was undertaken to characterise the site soils and groundwater along with investigating the presence of underground petroleum storage systems (UPSS). A Remediation Action Plan (RAP) was also prepared addressing the contamination at the site. The RAP outlines the preferred remediation option to address the contamination on site whereby the applicant has chosen to excavate and dispose of all contaminated material including the Underground Petroleum Storage Systems from the subject site. The contaminated material will be removed and disposed of to a licensed facility whereby the site will be validated upon completion. Council’s Regulatory Services Unit in undertaking the environmental assessment of the application has supported the application subject to recommended conditions of consent. |

| **Section 5.03 - Tree management** |
| This clause is not applicable as no vegetation exists on, or is in close proximity to the site, which will be impacted upon. |
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### Section 5.4 - Aboriginal Heritage

The site is not listed for its cultural heritage significance in Schedule 5 Part 1 of the Newcastle Local Environmental Plan 2012. As discussed elsewhere in this report the development is considered acceptable in the context of Aboriginal Heritage.

### Section 5.5 - Heritage Items and 5.07 - Heritage Conservation Areas

The subject site is not listed for its cultural heritage significance in Schedule 5 Part 1 of Newcastle Local Environmental Plan 2012. However, the site is located within a Heritage Conservation Area and positioned in proximity to one listed heritage item. The site is not specifically listed in the Newcastle Archaeological Management Plan 1997 or Newcastle Local Environmental Plan 2012 as an 'Archaeological Site'.

### Section 5.6 - Archaeological Management

The site is not specifically listed in the Newcastle Archaeological Management Plan 1997 or Newcastle Local Environmental Plan 2012 as an 'Archaeological Site'.

### Locality specific provisions - Newcastle City Centre

#### 6.01.02 Character Areas – site located within West End

The site is located in the 'West End' character area of the city centre. The principles for this area directly relevant for this site and proposal include:

- **Building entries are inviting with activate frontages that allow visual permeability from the street to within the building.**
- **Development along the rail corridor, Cottage Creek, lanes and through-site links provide a building address to encourage activity, pedestrian and cycle way movement and improve safety.**
- **Heritage items and their settings are protected.**

The proposal is considered acceptable in the context of the site and surrounds and consistent with the envisaged future development identified for the Newcastle West End precinct. Other more specific controls are discussed below.

#### A1 - Street Wall Heights

The required street wall height for the site is 16 metres and development above the street wall height is setback a minimum 6.0 metres.

<table>
<thead>
<tr>
<th>DCP</th>
<th>Control</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Street Wall Height</td>
<td>16m</td>
<td>10m</td>
</tr>
<tr>
<td>Setback above 16m</td>
<td>6m</td>
<td>3.95m</td>
</tr>
</tbody>
</table>

The proposal sits below this 16m street wall height, proposing a height of approximately 10 m (3 levels of retail / commercial space) on the Denison Street boundary. Levels 4 to 15 are further setback approximately 3.95m. However, this does not achieve the minimum 6m setback above the 16m street wall height requirement. Therefore, a variation to the street wall height provisions is...
proposed as part of this development. Whilst the development does not achieve the 16m and 6m setback above, the proposal is considered appropriate within the context of the site and surrounding development and this section of Denison Street.

As stated within the Statement of Environmental Effects the variation to the setback standard of 6m for building above street wall height will not cause adverse privacy, overshadowing or view loss impacts and the design is considered to provide a well-articulated and appropriate treatment for this location. In addition with the site configuration and small street blocks, there are limited opportunities for street alignment at higher levels, as there are also limited opportunities for other high level buildings in the vicinity.

### A2 - Building Setbacks

The DCP requires a nil front setback for the street wall height. The proposal complies with this requirement as discussed above. The following setbacks are outlined for the commercial elements of this development below 14m.

<table>
<thead>
<tr>
<th>Setback</th>
<th>Control</th>
<th>Proposal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Front (street wall)</td>
<td>0m</td>
<td>0m</td>
</tr>
<tr>
<td>Front (street wall and 45m)</td>
<td>6m</td>
<td>3.95m</td>
</tr>
<tr>
<td>Above 45m</td>
<td>12m</td>
<td>3.95m</td>
</tr>
<tr>
<td>Side</td>
<td>0m</td>
<td>0m (up to 10m)</td>
</tr>
<tr>
<td>Rear</td>
<td>0m</td>
<td>0m (up to 10m)</td>
</tr>
</tbody>
</table>

Commercial / retail development is proposed on the first three levels (up to street wall height). The setbacks for the residential components (levels 4 to 14) are based on the Apartment Design Guide of SEPP 65 Residential Apartment Buildings.

### A3 - Building Separation

The subject site will not accommodate more than one building. Therefore, the provisions of this clause do not apply.

### A4 - Building Depth and Bulk

The following floor plates above street wall height in residential towers are shown below. The proposal includes commercial and retail below street wall height and residential above.

<table>
<thead>
<tr>
<th>Residential Tower</th>
<th>Permissible</th>
<th>Proposed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum GFA per floor</td>
<td>900m²</td>
<td>Between 356m² - 422m²</td>
</tr>
<tr>
<td>Maximum Depth</td>
<td>18m</td>
<td>Approximately 25 - 26m</td>
</tr>
</tbody>
</table>

The residential tower has an area less than 900m² and has a depth of approximately 25-26m, which is greater than the maximum 18m depth requirement within the DCP. The majority of apartments have balconies fronting the street or are setback from the boundary and therefore do not result in privacy impacts. Each apartment receives sufficient natural
ventilation and access to reasonable levels of natural light and therefore the variation to building depth are acceptable. The proposal is acceptable having regard to the nature of the proposal and the comments from UDCG.

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>A5 - Building Exteriors</td>
<td>The proposal adequately responds to the performance criteria of the DCP. The proposed materials and finishes have also been considered by the UDCG and further amended in response to the UDCG's advice. The development proposes the use of high quality and durable materials consistent with the industrial heritage feel of the area. The design utilises both vertical and horizontal articulation through the use of different materials, setbacks and balconies. The lift overrun has been incorporated into the garden roof design and is not visual from the street. The retail and residential entrances are clearly defined to Denison Street and the balconies and retail shop front contribute to passive surveillance over the street.</td>
</tr>
<tr>
<td>A6 - Heritage Buildings</td>
<td>The site is within a Heritage Conservation Area and heritage has been discussed elsewhere in this report. The proposal is considered to be acceptable within the context of the heritage conservation area in this location.</td>
</tr>
<tr>
<td>A7 - Awnings</td>
<td>An awning is proposed along the site frontage, which is considered acceptable in the context of the proposal and has been considered by Council's property area and will be conditioned accordingly.</td>
</tr>
<tr>
<td>A8 - Design of Parking Structures</td>
<td>Car parking provision is by way of basement and within level 1 to 3 above ground level. These areas have been integrated into the overall design and setback behind the retail and commercial frontages, to provide a reasonable presentation to Denison Street.</td>
</tr>
<tr>
<td>B1 - Access Network</td>
<td>The site is within proximity to the proposed Wickham Transport Interchange and pedestrian linkages. The proposal provides for additional pedestrian activity along Denison Street, with natural surveillance from the residential balconies above. The proposal provides for appropriate and clear building identification signage and achieves acceptable crime prevention principles including lighting and casual surveillance and clear entry points to the site. Sufficient storage areas are provided to accommodate adequate bicycle storage on-site for the development.</td>
</tr>
<tr>
<td>B2 - Views and Vistas</td>
<td>The site will sit well above the existing surrounding buildings until future transition of other sites achieve their development potential. However, the proposal is consistent with the likely scale and</td>
</tr>
</tbody>
</table>

density of development seen in this area into the future under Council's adopted strategies and planning controls as well as achieving an acceptable mixed-use development generally consistent with SEPP 65 - Residential Apartment Design provisions. The proposal is not considered to have a likely detrimental effect on the views and vistas within the general locality.

**B3 - Active Street Frontage**

The site is not located within an identified activity node whereby active street frontages are required or highly desired. However, the development has incorporated a number of measures including ground floor retail, frontage to Denison Street, glazed shop front to promote active frontages and passive surveillance.

**B4 - Addressing the street**

Both residential and retail entrances are located off Denison Street. Entrances are clearly defined and provide opportunities for passive surveillance over each other and the retail premises and commercial premises at night.

**B5 - Public Art**

The DCP requires that developments over 45m in height are to allocate 1% of the capital cost of the development towards public art.

A condition of consent requiring the allocation of 1% of the capital cost of the development towards public art is appropriate in this instance.

**B6 - Sun Access to Public Spaces**

The building will have no impact on sun access to any significant public spaces in the City Centre. The proposal is acceptable having regard to this section.

**Development provisions**

**Section 7.02 - Landscaping, Open Space and Visual Amenity**

The proposal is identified as a 'category 3' development. In this regard, a suitably qualified Landscape Architect has prepared the submitted landscape plan. The site is currently devoid of any landscaping. The proposal includes two levels with gardens and landscaping on the lower levels 1, 2 and 3 as well as a roof top garden area. These will improve the amenity of the site and area generally and will cater for substantial landscape elements not currently available on the site.

Street trees will be retained where possible or replacements planted in alternate locations.

The existing development has no landscaping or deep soil areas. The proposed mixed-use development therefore does not include any deep soil planting, but does include significant landscaped areas on Levels 1, 2, 3 and the rooftop.

A considerable portion of the site is landscaped if you take into account the agglomeration of landscaped areas over the various levels.

It is considered that the proposal is acceptable having regard to
the requirements of this section. It is noted that these requirements overlap with criteria elsewhere within the Newcastle DCP 2012 and SEPP 65.

<table>
<thead>
<tr>
<th>Section 7.03 - Traffic, parking and access</th>
</tr>
</thead>
<tbody>
<tr>
<td>A Traffic and Parking Assessment Report was submitted with the application.</td>
</tr>
<tr>
<td>As outlined within the internal Development Engineering assessment the following is advised.</td>
</tr>
</tbody>
</table>

**Traffic Generation**

The submitted traffic report has analysed the existing road network. The proposed development is likely to generate approx. 79 vehicle trip per hour (vtp/h) for AM and 67vtp/h for PM. The report states that the existing road network has capacity for the new development.

The traffic analysis indicates that the proposed development will not impact on traffic and will not affect the performance of the existing road network. Modelling and manual counting has been done for the nearby intersections and traffic signals and the report confirms that existing road network has capacity to sustain the proposed development and will not impact on traffic.

**Driveway Design**

Driveway access is provided via a new crossing from Denison St, which will mean that the existing driveway on the east of the site will be modified. The proposed driveway will be approx. 6m wide to allow for two vehicles to pass. The new driveway will also be used for garbage pick-up (small trucks only as height and manoeuvring is restricted) and access to commercial/retail and residential parking.

Adequate sightline is available for exiting vehicles. Signs and line markings will need to be provided to ensure that the driveway entry allows pedestrian right of way over the driveway and vehicular access is marked for clarity. Traffic safety will need to be considered such as provision of mirrors, humps and line marking to note the flow of vehicles with the car park. Pedestrian entry points will need to be clearly marked and sign posted.

The existing driveway on the west is to be removed which will create approximately 3-4 additional 90 degrees on street parking spaces along the Denison St frontage.

**Access**

Separate pedestrian access is provided from Denison Street for the residential and commercial/retail parts of the development.

The ground floor for the retail will need to be designed for Universal Access. The building can be designed with the principles of Universal Design.

**Off-Street Parking**

The parking rates are based on the Newcastle CBD rates and calculations are as follows:
Parking provided by the development as follows:

<table>
<thead>
<tr>
<th>Car Parking</th>
<th>Motor Cycle</th>
<th>Bicycles</th>
</tr>
</thead>
<tbody>
<tr>
<td>109 (includes 20 stacked parking)</td>
<td>9</td>
<td>11</td>
</tr>
</tbody>
</table>

Parking provision as per Council DCP 7.03

Residential rates:
- Small (1 Bedroom) - 0.6 spaces per dwelling (10 x 0.6 = 6 spaces)
- Medium (2 bedroom) - 0.9 spaces per dwelling (34 x 0.9 = 31 spaces)
- 3 Bedroom Unit - 1.4 spaces per dwelling (14 x 1.4 = 20 spaces)
- Visitor Spaces - 1 space per 3 dwelling and 1 spaces for every 5 thereafter (12 spaces)
- Motorbike spaces - 1 per 20 spaces
- Bicycle Spaces - 1 per unit and 1 space per 10 dwellings for visitors.

Commercial Rates:
- 1 Space per 60m2 GFA
- Bicycle - 1 space per 20 staff
- Motorbike - 1 space per 20 car spaces

<table>
<thead>
<tr>
<th>Car Parking</th>
<th>Motor Cycle</th>
<th>Bicycles</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residential</td>
<td></td>
<td></td>
</tr>
<tr>
<td>69 Spaces (includes 12 Visitor Spaces)</td>
<td>4 Spaces</td>
<td>58 Class 1 or 2 for Units plus 6 for visitors (Class 3)</td>
</tr>
<tr>
<td>Commercial/Retail</td>
<td></td>
<td></td>
</tr>
<tr>
<td>20 Spaces</td>
<td>1 Space</td>
<td>6 (Class 2)</td>
</tr>
<tr>
<td>Total</td>
<td>5 Spaces</td>
<td>70</td>
</tr>
</tbody>
</table>

The proposed development provides 20 additional car spaces and four motorbike parking spaces above the DCP requirement. Approximately three on-street car parking spaces have been created through removal of an existing driveway. However, the development has failed to provide adequate bicycle parking spaces for both the residential and commercial/retail. Notwithstanding, the parking rates, it is considered based on the availability of the off-street parking that each unit can be at least
provided with one parking space.

**Stacked (Tandem) Parking Management**

The application has not provided details of the distribution of the parking. As there are 20 stacked parking spaces, the management of these spaces will need to be managed properly to ensure the spaces remain functional.

**Alternative Transport and Cycling**

*Bicycle Use and Parking*

It is noted that Newcastle West area is becoming very popular in respect to bicycle orientated and alternative transport areas and is in very close proximity to the Foreshore Bicycle Network, which is a major bicycle track for recreational riders. Each of the new units will need to provide for a bicycle parking space within the property.

Based on the above, bicycle parking requirements will need to be fulfilled by the development and additional provision for bicycle parking will need to be provided on the footpath areas.

The Traffic Report indicates that storage areas have been provided which will be used for storage of bicycles. However this does not guarantee spaces for the new residents or the commercial/retail users.

<table>
<thead>
<tr>
<th><strong>Section 7.05 - Energy efficiency</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>The proposal is compliant with the provisions of BASIX and a report and certificate has been provided with the application.</td>
</tr>
<tr>
<td>As stated within the Statement of Environmental Effects, the development was designed with due consideration given to energy efficiency principles.</td>
</tr>
<tr>
<td>The development provides natural cross ventilation, with the majority of living areas and balconies either east, north or west facing and receive at least three hours of direct sunlight. The large windows and balconies provide opportunities for natural light in the main living areas.</td>
</tr>
<tr>
<td>The proposed commercial section uses the same energy efficient materials as the remainder of the building. Due to the south facing aspect the glazing will not result in unacceptable glare or impacts.</td>
</tr>
<tr>
<td>The proposed development is considered to be compliant with this section of the DCP.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Section 7.06 - Stormwater</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Stormwater Management and Reuse</td>
</tr>
<tr>
<td><em>Reuse and Detention</em></td>
</tr>
<tr>
<td>The proposed development has a roof terrace area and a number of open areas on different floors, thus there are minimum catchment area for stormwater harvesting and reuse. Based on the above, reuse of stormwater will not be possible and this means that the proposed development will be fully relying on main water supply.</td>
</tr>
<tr>
<td>The development is provided with an on-site detention (OSD) tank</td>
</tr>
</tbody>
</table>
within the basement with approx. 25.5m³ capacity. The OSD tank will cater for stormwater discharge from the basement and hard surface areas from the building including the terraces and open areas and will detain stormwater before discharge.

*Storm water Treatment*

The proposed OSD has been designed with a sand filter system, which will be the main treatment for stormwater. The filtered stormwater will be connected to a proposed pit within the basement with a pump, which will discharge to a proposed pit at the driveway. The pit at the driveway then connects to the kerb as the final point of discharge. It is noted that the kerb outlet point on the west of the driveway is located at a low point due to the uplifting of the road pavement by the street tree. There are a lot of services at this location and therefore the pit on the driveway will need to be located towards the east to avoid nuisance flows onto the street and to avoid the services. Furthermore, the pit with the pump system will need to be designed to act as a detention tank to ensure that the pump system can operate at nominated hours and to avoid nuisance flows on the street.

The majority of the proposed car parking areas are under cover. The last pit within the property can be designed with a sand filter system to allow for treatment of stormwater before it is discharged to the kerb.

The OSD and the pit on the driveway discharge are proposed to be via new kerb connections on the street.

The following are recommended to be included in conditions of consent:

- The pump system is to be designed as a detention and hours of operation for the pump to be set to allow for discharge during night periods.

- The pit with the pump to be designed to ensure noise impact is contained and does not create any nuisance.

- The pit on the east of the proposed driveway to be located on the west of the proposed driveway and kerb discharge to be located at the west. The pit is to be designed with a sand filter system to treat stormwater from the driveway area.

The principles of WSUD and the requirements of the DCP have been generally applied to the development. With minor changes to the design, the submitted stormwater plans and supporting documents have demonstrated that the development will not impact on any adjoining properties, is sustainable and can be maintained in the long term.

*Car Wash Proposal*
<table>
<thead>
<tr>
<th>Section 7.07 - Water efficiency</th>
<th>The residential component is BASIX compliant. The non-residential component of the development will provide appropriate water efficiency measures where possible.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 7.08 Waste management</td>
<td>A Waste Management Plan (inclusive of Site Waste Minimisation Management Plan) was included as part of the application. Details of demolition and construction waste materials and disposal are included in the Plan. Details of operational waste storage and disposal are included in the Plan. The proposal appears to have provided on-site storage facilities, however the point of collection is not clear. Furthermore, servicing will be either by private contractor or Council. It is not considered appropriate in this location and for this scale of development to permit kerb-side collection of bins. Therefore, conditions are recommended that require on-site collection and management of waste facilities. Further confirmation will be required in respect to servicing, either by private contractor or Council waste services.</td>
</tr>
<tr>
<td>Section 7.09 - Outdoor Advertising and Signage</td>
<td>The building name or address is provided as part of an integral design of the building, as recommended as part of the UDCG advice. Apart from the above building identification sign, no signage forms part of this application. As stated in the Statement of Environmental Effects, any future uses of the retail / commercial spaces will apply for any signage in accordance with Council requirements. A condition will be imposed as part of any consent.</td>
</tr>
<tr>
<td>Section 7.10 - Street Awnings &amp; Balconies</td>
<td>The proposal provides a street awning over the street along the frontage of the retail premises at ground level. It has been designed to be incorporated as part of the architectural design of the building. Some other structural elements to add interest to the building also project out over the footpath and these are consistent with this element. No balconies are proposed to extend over the footpath area on the street. Consideration has been given to these structures over the footpath and are considered acceptable subject to a condition being imposed requiring a Section 138 Roads Act approval.</td>
</tr>
<tr>
<td>Public participation</td>
<td>The application was notified for a period of 14 days. A total of two submissions were received, one during the exhibition period and one after the closing of the public exhibition period. Comments are provided in Section 4.7 below.</td>
</tr>
</tbody>
</table>
4.4 Impacts on the Natural and Built Environment

The site is located in the Newcastle City Centre in an area that is currently undergoing transformation. The design of the building has considered the context of the area, being located in a heritage conservation area. The contemporary design of the development is sympathetic to the existing buildings in the street and includes commercial spaces on the ground floor, which will assist with activating the street frontage.

The development will have positive social and economic benefits. It will facilitate employment within walking distance to public transport and local services, as well as providing employment during the construction period. The development also provides diversity in housing choice, which has a positive social impact as it allows access to housing for a variety of household types. In addition, the proposed units do not have any significant overshadowing or privacy impacts and will provide a suitable level of amenity for future occupants.

The development will have minimal impacts on the natural environment. The site does not contain any significant vegetation and will not impact on any natural ecosystems. Appropriate measures will be in place during the construction of the development to minimise any sediments leaving the site or entering the waterways during construction.

Acoustic Impacts

A theoretical acoustic assessment was submitted with the application. The acoustic assessment assessed noise from road traffic along with rail noise from the nearby interchange. The acoustic assessment demonstrated that internal noise levels can comply with AS/NZS2107-2000 and relevant guidelines.

The Acoustic Assessment also addresses mechanical ventilation; however there is no discussion surrounding the noise levels associated with any plant. Relevant conditions are included in the Draft Schedule of Conditions (refer to Attachment B) to ensure that the acoustic consultant carries out an assessment once the plant has been selected, so that any potential acoustic treatments can be incorporated into the design of the building to ensure compliance with the relevant noise criteria.

4.5 Social and Economic Impacts in the Locality

The proposal is likely to have positive social and economic benefits during and after construction. The proposed commercial components will provide for employment and day time activation while the residential component will provide additional night time and weekend activation within this part of the city centre.

The proposal is unlikely to have a significant adverse impact on the amenity of the adjoining premises or the neighbourhood generally and, accordingly, is not likely to detract from current market values. Indeed, the proposed development may well lead to an increase in the value of nearby properties as it could suggest redevelopment potential.
Social Impact comment was provided as part of the Statement of Environmental Effects to assess the potential social impact that may flow from the development of the mixed use development inclusive of commercial tenancies and residential apartments. The report identified that while the development will place added pressure on community facilities and open space, opportunities exist to allocate funding from Section 94A contributions for improvements to the public domain and investment in open space. The proposal was seen to provide positive social and economic benefits by way of:

a) Increased housing supply in the locality, which may assist with housing affordability.

b) Significantly improving residential amenity by replacing a semi-industrial local scale use with a mixed-use development that will complement the neighbourhood.

c) Generate economic benefits by creating employment opportunities during the construction phase of the development.

4.6 Suitability of the Site for the Development

The site is suitable for the proposed development as it is located within the Newcastle City Centre, which is well serviced by public transport and community facilities. The proposed commercial and residential uses are compatible with existing and future uses within this city centre area.

The constraints of the site include heritage, mine subsidence and flooding and these have been discussed previously in this report. The development has been designed giving due consideration to these identified site constraints and is considered appropriate on this site and within this location. The site is within a Mine Subsidence District and Subsidence Advisory NSW has granted conditional approval for the proposed development.

The site is not subject to any other known risk or hazard that would render it unsuitable for the proposed development.

Appropriate conditions have been included in the Draft Schedule of Conditions (refer to Attachment B).

4.7 Submissions made in accordance with the Act or Regulations

The application was notified in accordance with Council’s DCP for a period of 14 days. A total of two submissions were received, one of which was received after the closing of the notification period.

The key issues raised within the submissions have been discussed previously in this report. The following table provides a summary of the other issues raised and a response to these issues.

Table 5: Analysis of Submissions
<table>
<thead>
<tr>
<th>Issue</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Issue</strong></td>
<td>Ensure the development does not affect any future development of adjoining lands.</td>
</tr>
<tr>
<td><strong>Comment</strong></td>
<td>The proposal has considered the likely future potential of adjoining lands in the overall design of the development and given the location and development potential within this city centre area, it is considered an acceptable form of development.</td>
</tr>
<tr>
<td><strong>Issue</strong></td>
<td>Any damage to adjoining properties and/or injuries to persons during construction that are within adjoining properties should be the responsibility of the developer. Compensation should also be paid for same to the relevant properties.</td>
</tr>
<tr>
<td><strong>Comment</strong></td>
<td>The development does not propose any works outside of the subject site. Appropriate conditions have been included within the Draft Schedule of Conditions (refer to Attachment B), in respect to dilapidation reports and site surveys.</td>
</tr>
<tr>
<td><strong>Issue</strong></td>
<td>Any disruption to adjoining properties - businesses should be compensated by the developer.</td>
</tr>
<tr>
<td><strong>Comment</strong></td>
<td>This is a civil matter, as with any re-development of a site, while the aim is to minimise or avoid the potential for disruption, the environment will change during the demolition and construction phases of this development. Appropriate conditions have been included in the Draft Schedule of Conditions (refer to Attachment B) in relation to hours of works, demolition, construction and traffic management measures and all works to be contained within the site boundaries.</td>
</tr>
<tr>
<td><strong>Issue</strong></td>
<td>No workers should enter any adjoining properties.</td>
</tr>
<tr>
<td><strong>Comment</strong></td>
<td>While this is essentially a civil matter, no works have been approved outside of the subject site/property boundaries. A separate Section 138 Roads Act approval will be required for any works associated with access and the footpath area. Appropriate conditions have been included in the Draft Schedule of Conditions (refer to Attachment B).</td>
</tr>
<tr>
<td><strong>Issue</strong></td>
<td>Unsightly building surrounded by buildings at a maximum of three stories (inclusive of residential block in the immediate area).</td>
</tr>
<tr>
<td><strong>Comment</strong></td>
<td>The proposal is considered to be of appropriate density, bulk and scale for this location in line with potential height and density within the Newcastle City Centre. Initially, until other sites are redeveloped, it will be of a larger scale than those immediately surrounding the site. However, the mixed-use development is not considered out of character with the existing and future character of the area.</td>
</tr>
</tbody>
</table>
Issue
Street parking is increasingly difficult and this will be impacted further by this development and the construction.

Comment
The development has provided sufficient car parking on the site, compliant with relevant requirements.
Appropriate conditions have been included within the Draft Schedule of Conditions (refer to Attachment B).

All relevant matters raised in the submissions have been considered under the provisions of Section 79C of the Environmental Planning and Assessment Act and have been discussed in this report.

4.8 Public Interest

Sustainability
The site is located in a key position and development of the site would be a significant improvement to the existing streetscape and land use efficiency of such a site.

Given the nature of the proposal and the site context and location, it is considered unlikely that the site could be redeveloped for a reasonable end use by utilising existing buildings/structures on site. Therefore, the proposal to demolish existing buildings/structures and hardstand areas is considered acceptable in this instance.

The proposed development is considered to be satisfactory having regard to the principles of ecologically sustainable development. The proposal is consistent with Council's urban strategies, making more efficient use of the established infrastructure and services and provides additional housing stock within the city centre.

The proposed development will not result in the disturbance of any endangered flora or fauna habitat or otherwise adversely impact on the natural environment.

The development is in the public interest and it will allow for the orderly and economic development of the site. It will allow for additional retail and commercial space and the creation of residential accommodation in a range of apartment sizes.

The development will also create employment in an accessible location, which is well serviced by public transport now and into the future.

General
The proposed development does not raise any significant general public interest issues beyond matters already addressed in this report.

5.0 CONCLUSION
Subject to a number of relevant conditions as recommended in the attached Draft Schedule of Conditions (refer to Attachment B), the proposal is considered to be acceptable against the relevant heads of considerations under section 79C of the Environmental Planning and Assessment Act 1979.

ATTACHMENTS

Attachment A: Submitted plans - 20 Denison Street Newcastle West - Under Separate Cover

Attachment B: Draft Schedule of Conditions - 20 Denison Street Newcastle West

Attachment C: Processing Chronology - 20 Denison Street Newcastle West.

Attachment A - Submitted Plans - Under separate cover
DRAFT SCHEDULE OF CONDITIONS

Application No: DA2016/01341
Land: Lot 45 DP 632876
Property Address: 20 Denison Street Newcastle West NSW 2302
Proposed Development: Demolition and Construction of Mixed use development (15 storeys) - Retail/commercial tenancies (three) and Residential Apartments (58) above and associated site works and signage

SCHEDULE 1

REASONS FOR CONDITIONS

1. The conditions of this consent have been imposed in accordance with Section 80A of the Environmental Planning and Assessment Act 1979 (NSW). The conditions relate to any matter referred to in Section 79C(1) of relevance to the development the subject of the consent and are imposed to ensure that the development is undertaken in an orderly manner, with acceptable impacts on the natural and built environment.

APPROVED DOCUMENTATION

2. The development is to be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent.

<table>
<thead>
<tr>
<th>Plan No / Supporting Document</th>
<th>Reference / Version</th>
<th>Prepared by</th>
<th>Dated</th>
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<tr>
<td>Architectural Drawing List</td>
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<td>Job No.6381, Dw Ref. 6381-DET-25.01.16 Plan No.1</td>
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<td>Detailed Site Investigation &amp; Preliminary Acid Sulfate Soil Assessment</td>
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<td>Noise Impact Assessment Supplementary Information</td>
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<td>Barker Ryan Stewart</td>
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In the event of any inconsistency between conditions of this development consent and the plans/supporting documents referred to above, the conditions of this development consent prevail.
CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

3. A total monetary contribution of $310,000.00 is to be paid to Council, pursuant to Section 94A of the Environmental Planning and Assessment Act 1979, such contribution to be payable prior to the issue of a Construction Certificate in respect of the proposed development.

Note:

a) This condition is imposed in accordance with the provisions of The City of Newcastle S94A Development Contributions Plan 2009 (updated version operational from 15 March 2011). A copy of the plan may be inspected at Council’s Customer Enquiry Centre, ground floor of the City Administration Centre, 282 King Street Newcastle 8.30 am to 5.00 pm, excluding public holidays.

b) The City of Newcastle S94A Development Contributions Plan 2009 permits deferred or periodic payment of levies in certain circumstances. A formal modification of this condition will be required to enter into a deferred or periodic payment arrangement. Refer to the s94A Development Contributions Plan 2009.

c) The amount of contribution payable under this condition has been calculated on the basis of the current rate as at the date of consent and is based on the most recent quarterly Consumer Price Index (CPI) release made available by the Australian Bureau of Statistics (ABS). The CPI index rate is expected to rise at regular intervals and therefore the actual contribution payable is indexed and recalculated at the CPI rate applicable on the day of payment.

CPI quarterly figures are released by the ABS on a date after the indexation quarter and as a guide, these approximate dates are provided below. Indexation quarters from the ABS are as follows:

<table>
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<th>Indexation quarters</th>
<th>Approx release date</th>
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<tr>
<td>September</td>
<td>Late October</td>
</tr>
<tr>
<td>December</td>
<td>Late January</td>
</tr>
<tr>
<td>March</td>
<td>Late April</td>
</tr>
<tr>
<td>June</td>
<td>Late July</td>
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Any party intending to act on this consent should contact Council’s Customer Enquiry Centre for determination of the indexed amount of contribution on the date of payment.

4. Awnings and Balconies are to be designed in a manner that is consistent with Element 7.10 ‘Street Awnings and Balconies’ of the Newcastle Development Control Plan 2012. Under awning lighting is to be provided to the area’s Lighting category in accordance with AS1158. The design of the awning should allow for street tree planting. Full details are to be included in documentation for any Construction Certificate application. Note: A separate Section 138 application will be required for the awnings and balconies and additional fees are applicable.

5. A group type mailbox is to be provided at the street frontage in accordance with the requirements of Australia Post, clearly displaying individual unit numbers and the required house number. Full details are to be included in the documentation for a Construction Certificate application.

6. A public art feature is to be designed for the site. The public artwork is to have a minimum value of 1% of the capital cost of the development. This feature shall provide visual interest for pedestrians and interpret or reflect the local setting, landscape setting and/or cultural setting of the Newcastle area. The feature shall be
designed to ensure long-term durability and be resistant to vandalism. Details shall be approved by Council prior to the issue of the Construction Certificate, including details of the costs of such works. The applicant is advised to liaise with Council during the design stages.

7. A garbage chute is to be provided throughout the building with access provided at each residential level discharging to a central collection area at basement level. Details of the garbage chute are to be provided on the Construction Certificate documentation.

8. On-site parking accommodation is to be provided for a minimum of 109 car spaces (includes minimum 2 accessible car spaces & total of 12 visitor car spaces), 9 motorbikes and 70 bicycle spaces (58 for residents (Class 1 or 2) & 12 for commercial/retail & resident visitors (Class 3)) and such be set out generally in accordance with the minimum parking layout standards indicated in Element 7.03 ‘Traffic, Parking and Access’ of Council’s adopted Newcastle DCP 2012. Full details are to be included in documentation for a Construction Certificate application.

9. The car park is to be designed to comply with AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking and AS/NZS 2890.6:2009 - Parking facilities - Off-street parking for people with disabilities. Full details are to be included in documentation for a Construction Certificate application.

10. Opposing traffic flows on car park driveway and ramps are to be separated by the provision of an appropriate kerb or line markings. Full details are to be included in documentation for any Construction Certificate application.

11. All proposed driveways, parking bays, loading bays and vehicular turning areas are to be constructed with a base course of adequate depth to suit design traffic, being sealed with either bitumen seal, asphaltic concrete, concrete or interlocking pavers and being properly maintained. Full details are to be included in documentation for a Construction Certificate application.

12. Traffic management devices in the form of Stop and Give Way to pedestrian signs, line marking, sign indicating the height limit for vehicles and such is to be installed at the entry of the proposed driveway within the property. Safety mirrors are to be installed at bends and ramp areas and proposed car parking is to be line marked to indicate the traffic flow patterns and should include pedestrian movement considerations. Such devices are to be constructed in accordance with AS/NZS 2890.1:2004: Parking facilities - Off-street car parking. Full details are to be included in documentation for a Construction Certificate application.

13. Letterboxes, landscaping and any other obstructions to visibility are to be kept clear of or limited in height to 1.2m in the 2 metre by 2.5 metre splay within the property boundary each side of the driveway entrance in accordance with AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking. Full details are to be included in documentation for a Construction Certificate application.

14. Stormwater from the development is to be directed to the proposed underground On-Site Detention (OSD) tank (minimum size 25.5m³). The proposed basement pump out pit is to be designed as storage tanks to store stormwater run-off from the OSD tank and the basement car park. The pump out tank is to be sized to allow for the pump to be timed for operation between hours of 10pm and 6am to avoid any nuisance flows on the street. The plumbing is to be installed in accordance with Australian Standard AS 3500, the relevant plumbing regulations and the requirements of the Hunter Water Corporation. Noise from the pump is to be considered as part of the pump out tank design. Full details are to be included in documentation for any Construction Certificate application.

15. Overflows from the roof water tank and any additional discharge controls (if required)
are to be directed to Council’s drainage system by means of an inter-allotment drainage line or underground pipe directly to the street gutter. Full details are to be included in documentation for a Construction Certificate application.

16. All storm water runoff from the proposed development being managed in accordance with the requirements of Section 7.06 ‘Storm water’ of Newcastle Development Control Plan 2012, as indicated on the storm water management concept plans and Storm Water Management Report prepared by Lindsay Dynan Project No. 12660 Dwg No. DA03 & DA04 Rev A dated 18/08/2016. The proposed basement pump out pit is to be designed as a storage tank to store storm water run-off from the OSD tank and the basement car park. The pump out tank is to be sized to allow for the pump to be timed for operation between hours of 10pm and 6am to avoid any nuisance flows on the street. Full details are to be included in documentation for any Construction Certificate application.

17. All new impervious surfaces, including driveways and paved areas are to be drained to the nominated discharge controls. Full details are to be included in documentation for a Construction Certificate application.

18. The floor level of all proposed buildings or building additions is to be not below 5.75m Australian Height Datum and being indicated on plans for a Construction Certificate application. The finished floor levels are to be certified by a registered Surveyor prior to the placement of the floor material and a copy of the Surveyor’s Certificate is to be forwarded to the Principal Certifying Authority.

19. The whole of the proposed structure below 5.75m AHD is to be constructed in materials and finishes that are resistant to damage from floodwaters/tidal waters. Any new machinery or equipment, electrical fixtures (such as power points, light fittings and switches), storage units or similar items likely to be damaged by floodwaters/tidal waters being installed above the said height or alternatively being of materials and functional capability resistant to the effects of floodwaters/tidal waters. Full details are to be included in documentation for a Construction Certificate application.

20. All proposed planting and landscape elements indicated on the submitted landscape concept plan or otherwise required under the conditions of this consent are required to be detailed on a comprehensive landscape design plan and specification. The required comprehensive landscape design plan and specifications is to be in accordance with the provisions of Newcastle Development Control Plan 2012 and is to include details of the following:

i) cross sections through the site where appropriate

ii) proposed contours or spot levels

iii) botanical names

iv) quantities and container size of all proposed trees

v) shrubs and ground cover

vi) details of proposed soil preparation

vii) mulching and staking

viii) treatment of external surfaces and retaining walls where proposed

ix) drainage, location of taps and

x) appropriate maintenance periods.
The plan is to be prepared by a qualified landscape designer and be included in documentation for a Construction Certificate application.

21. The applicant is to comply with all requirements of the Hunter Water Corporation regarding the connection of water supply and sewerage services, including the payment of any required cash contribution towards necessary amplification of service mains in the locality as a result of the increased intensity of land use proposed. A copy of the Corporation’s compliance certificate (refer s50 Hunter Water Act 1991) is to be included in documentation for a Construction Certificate application.

22. Adequate facilities are to be provided in a screened location within the premises for the storage of garbage, discarded or returnable packaging or other forms of trade wastes and arrangements being made for regular removal and disposal of same. The required garbage facility is to be suitable for the accommodation of Council approved wheel type bins or bulk waste containers. Full details are to be included in documentation for a Construction Certificate application.

23. The design and construction of the proposed development is to be in accordance with the relevant requirements of Australian Standard 4674-2004 - Design, Construction and Fit-Out of Food Premises. Full details are to be included in the documentation for the Construction Certificate application.

The premises are to be constructed, including the installation of all equipment, fixtures and fittings, in accordance with the requirements of Australian Standard 4674:2004 - Design, construction and fit-out of food premises.

24. Erosion and sediment control measures are to be implemented prior to the commencement of works and be maintained during the period of construction in accordance with the details set out on an Erosion and Sediment Control Plan that is to be submitted for approval with the Construction Certificate application. Controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover.

25. The proposed lighting including car park lighting of the premises is to be designed, positioned, and installed, including appropriate shielding and orientation of the lighting fixture, as to not give rise to obtrusive light, interfere with traffic safety or detract from the amenity of surrounding properties in accordance with Australian Standard AS 4282: 1997 Control of the obtrusive effects of outdoor lighting. Full details are to be included in the documentation for a Construction Certificate application.

26. A dilapidation report prepared by a suitability qualified person shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate. The dilapidation report shall document and photograph the current structural condition of the adjoining buildings, infrastructure and roads.

27. A design verification statement from a qualified designer shall be submitted to the Certifying Authority. The statement shall confirm the Construction Certificate plans and specifications achieve or improve the design quality of the development for which consent is granted, having regard to the design quality principles set out in Part 2 of State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development.

Full details are to be included in the documentation for the first Construction Certificate for the residential flat development.

Note: ‘Qualified Designer’ means a person registered as an architect in accordance with the Architects Act 2003. This condition is imposed in accordance with Clauses 143A of the Environmental Planning and Assessment Regulation 2000.

28. A structural engineer is to determine the location and depth of the proposed On Site
Detention tank (25.5 KL) and certify that it will not adversely affect any building foundation footings or slabs when the tank is empty. Stormwater Management Plan is to be designed in accordance with current NDCP Section 7.06 Stormwater Management and The City of Newcastle’s Stormwater and Water Efficiency Technical Manual. Full details are to be included with documentation for a Construction Certificate.

All onsite stormwater retention/detention and water quality treatment systems are to be individually identified and sign posted in accordance with Council’s Stormwater and Water Efficiency for Development Technical Manual (Updated 2013). Full details are to be included in documentation for a Construction Certificate application.

29. The acoustic performance of all mechanical plant and equipment associated with the building being assessed by an appropriately qualified acoustic consultant prior to the issue of any required Construction Certificate. Appropriate acoustic treatment as recommended by the acoustic consultant is to be designed prior to the issue of a Construction Certificate.

30. Additional sampling is to be conducted in accordance with Section 6.2.3 of El Australia Pty Ltd Remediation Action Plan dated 24 January 2017.

31. Remediation being carried out in accordance with Section 5.3 of the submitted Remediation Action Plan (RAP) prepared by El Australia Pty Ltd dated 24 January 2017.

32. Any soils identified as exceeding the validation criteria during the remediation works (as specified by the RAP prepared by El Australia Pty Ltd dated 24 January 2017) are to be removed offsite prior to issue of the Construction Certificate.

33. Clear glass balustrades are to be limited to not more than one third of the overall balustrade area for all apartments, with all other balustrades to be finished in opaque materials. Full details are to be included in documentation for a Construction Certificate application.

CONDITIONS TO BE SATISFIED PRIOR TO THE COMMENCEMENT OF WORK AND DURING THE CONSTRUCTION PHASE

34. The developer is to design and construct the following Public Domain Plan Works within Denison Street at no cost to Council and in accordance with Council’s City Centre Public Domain Manual, guidelines and design specifications:

i. New footpath, new kerb and gutter and streetscape
ii. Design of new drainage connection to existing drainage
iii. Upgrade/install street lighting within 20m of the vicinity of the development to Ausgrid requirements and P2 lighting category as per City Centre Public Domain Technical Manual.
iv. Remove all redundant driveways, install new kerb and gutter and repair any road works.
v. Install any required parking and mandatory signage and new line markings for the on-street parking.
vi. Ensure that services within the footpath are coordinated with the relevant authority including adjustment of service pit levels and to construction the new driveway.
vii. Repair any damages caused during construction and ensure the survey mark is protected at all times.

In this regard the separate approval from Council must be obtained for all works within the public road reserve, pursuant to Section 138 of the Roads Act 1993, prior to any construction certificate for the ground floor slab. Engineering design plans and specifications for the works being undertaken in the public road reserve are required to
be prepared by a suitably qualified practising civil, hydraulic, geotechnical engineers with experience and competence in the related field and submitted to Council for approval with the Section 138 application.

Detailed public domain plans are to include civil, structural and hydraulic design details, survey, cross sections (footpath path being designed with 2.5% cross fall) and longitudinal sections.

Universal Design principles are to be applied to the development to allow for entries to be designed for universal access and levels to be adjusted within the site.

Note: An additional fee will be required by Council for the assessment of engineering plans submitted for the public road works. In this regard the developer is advised to confer with Council's Development and Building Services Section in order to confirm this.

Note: proposed driveway works can be submitted with this application.

35. A commercial/industrial type vehicular crossing is to be constructed across the road reserve, in accordance with the following criteria:
   a) Constructed in accordance with Council's A374 - Driveway Crossings Standard Design Details.
   b) Letterboxes, landscaping and any other obstructions to visibility should be kept clear of or limited in height to 1.2 metre, in the 2 metre by 2.5 metre splay within the property boundary each side of the driveway entrance.
   c) The proposed driveway shall be a minimum of 3 metres clear of the trunk of any tree within the public reserve.
   d) The proposed driveway shall be a minimum of 750mm clear of the centre of any pole or obstruction within the public reserve and 1 metre clear of any drainage pit.
   e) Driveway cross-fall is to be maximum of 2.5%.

These works are not approved until consent under Section 138 of the Roads Act 1993 (NSW) has been granted by Council. In this regard the separate approval from Council must be obtained for all works within the public road reserve, pursuant to Section 138 of the Roads Act 1993, prior to any construction certificate for the ground floor slab.

Note: an application for the proposed driveway can be processed with the required $138 application for the required public domain works.

36. Any proposed paving works within the public footway are to be in accordance with the requirements of Council's specifications and City Centre Public Domain Manual.

Note: It will be necessary for the Developer to notify water, telecommunications, gas and electricity authorities of the proposed paving works in order to enable the various authorities to carry out and complete any necessary repairs and/or amplification to their respective services before such works are commenced.

37. A separate application is to be lodged and consent obtained from Council for all works within the road reserve pursuant to Section 138 of the Roads Act 1993 (NSW).

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

Each toilet is to:
a) Be a standard flushing toilet connected to a public sewer, or

b) Have an on-site effluent disposal system approved under the *Local Government Act 1993* (NSW), or

c) Be a temporary chemical closet approved under the *Local Government Act 1993* (NSW).

39. Building demolition is to be planned and carried out in accordance with Australian Standard 2601:2001 - The Demolition of Structures.

40. A Hazardous Substances Management Plan is to be prepared by a competent person for the building(s) or parts of the building(s) proposed to be demolished in accordance with Australian Standard 2601:2001 - The Demolition of Structures. A copy of the Hazardous Substances Management Plan is to be provided to Council (marked to Attention: Compliance Services) and the demolition prior to commencement of work.

41. The demolition works are to be undertaken in accordance with Australian Standard 2601:2001 - The Demolition of Structures and the following requirements:

a) Demolition works shall be conducted in accordance with the submitted Hazardous Substances Management Plan and a copy of the Hazardous Substances Management Plan shall be kept on-site for the duration of the proposed development

b) The removal, handling and disposal of any asbestos material is to be undertaken only by an asbestos removal contractor who holds the appropriate class of Asbestos Licence, issued by the WorkCover Authority of NSW

c) A copy of all waste disposal receipts are to be kept on-site for the duration of the proposed development and made available to authorised Council Officers upon request

d) Seven working days' notice in writing is to be given to Council and the owners/occupiers of neighbouring premises prior to the commencement of any demolition works. Such written notice is to include the date demolition will commence and details of the name, address, contact telephone number(s) and licence details (type of licences held and licence numbers) of any asbestos removal contractor and demolition contractor. Notification to owners/occupiers of neighbouring premises shall also include Council's contact telephone number (49742000) and the Workcover Authority of NSW telephone number (49212900) and

e) On sites where asbestos materials are to be removed, 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 position during asbestos removal works.

42. If construction / demolition work is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or involves the need to enclose a public place, a hoarding or fence must be erected between the work site and the 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. Any such hoarding, fence or awning is to be removed when the work has been completed.

43. An application is to be made to and approved by Council for the erection of a hoarding or part closure of the footway prior to construction being commenced. Such overhead structure or protective fence shall comply with the *Work Health and Safety Act 2011* (NSW), *Work Health and Safety Regulation 2011* (NSW) and any relevant approved
industry code of practice. Notice of intention of commencement must be given to WorkCover New South Wales.

44. The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

45. A rigid and durable sign is to be erected on any site on which building work, subdivision work or demolition work is being carried out, before the commencement of the work:
   a) showing the name, address and telephone number of the Principal Certifying Authority for building work and subdivision work, and
   b) showing the name, address and telephone number of the Principal Contractor for any building work and also including a telephone number on which the Principal Contractor may be contacted at any time for business purposes, and
   c) stating that unauthorised entry to the work site is prohibited, and
   d) being erected in a prominent position that can 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.

46. All building work must be carried out in accordance with the provisions of the Building Code of Australia.

47. All excavations and backfilling are to be executed safely in accordance with appropriate professional standards and excavations are to be properly guarded and protected to prevent them from being dangerous to life and property.

48. If the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person’s own expense:
   a) Protect and support the adjoining premises from possible damage from the excavation, and
   b) Where necessary, underpin the adjoining premises to prevent any such damage.

The above requirements does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to the requirements not applying.

49. If the soil conditions require it, retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil must be provided and adequate provision must be made for drainage.

50. All building materials, plant and equipment is to be placed on the site of the development so as to ensure that pedestrian and vehicular access in public places is not restricted and to prevent damage to the road reserve. The storage of building materials on Council reserves including the road reserve is not permitted.

51. A Registered Surveyor’s certificate detailing the setting out of the proposed building on the site, including the relationship of the set out building to property boundaries, is to be submitted to the Principal Certifying Authority before construction is commenced.

52. A survey certificate prepared by a Registered Surveyor is to be submitted to the Principal Certifying Authority upon completion of the floor slab formwork, before
concrete is poured, to ensure that the siting of the building in relation to adjacent boundaries is in accordance with the development consent.

53. Certification is to be prepared by a Registered Surveyor and submitted to the Principal Certifying Authority at the stages of construction indicated:
   a) On completion of ground floor construction, confirming that the floor levels are in accordance with the approved levels.
   b) On completion of each subsequent floor level, confirming that the floor levels are in accordance with the approved levels.

When the roof has been completed, confirming that the building does not exceed the approved levels.

54. Certification is to be prepared by a Registered Surveyor and submitted to the Principal Certifying Authority on completion of the retaining wall construction confirming that the location of the wall/walls is consistent with the approved location.

55. Certification is to be prepared by a Registered Surveyor and submitted to the Principal Certifying Authority on completion of the retaining wall construction, confirming that finished levels are consistent with the approved levels.

56. Prior to commencement of site works the developer is to submit to Council for approval a Construction Traffic Management Plan addressing traffic control measures to be utilised in the public road reserve during the construction phase.

57. The Construction Traffic Management Plan is to be prepared by a Roads & Maritime Services accredited person with a Design and Audit Traffic Control Plans Certificate in accordance with Australian Standard 1742.3:2009 - Manual of uniform traffic devices - traffic control for works on roads. The plan is to ensure the provision for safe, continuous movement of traffic and pedestrians within the road reserve.

58. Any alternation to natural surface levels on the site is to be undertaken in such a manner as to ensure that there is no increase in surface water runoff to adjoining properties or that runoff is impounded on adjoining properties, as a result of the development.

59. All roof and surface waters are to be conveyed to the street drainage system by way of a sealed pipe system, extending through the footway to Council requirements, in accordance with Element 7.06 ‘Stormwater’ of Newcastle Development Control Plan 2012.

60. The proposed visitor parking bays for the residential and commercial/retail visitors are to be clearly indicated by means of signs and/or pavement markings.

61. All parking and loading bays are to be permanently marked out on the pavement surface, with loading bays and visitor parking facilities being clearly indicated by signs.

62. The vehicular entrance and exit driveways and the direction of traffic movement within the site are to be clearly indicated by means of reflectorised signs and pavement markings.

63. Construction/demolition work that generates noise that is audible at residential premises is to be restricted to the following times:
   - Monday to Friday, 7:00 am to 6:00 pm and
   - Saturday, 8:00 am to 1:00 pm.
No noise from construction/demolition work is to be generated on Sundays or public holidays.

64. Council’s ‘PREVENT POLLUTION’ sign is to be erected and maintained in a conspicuous location on or adjacent to the property boundary so it is clearly visible to the public or at other locations on the site as otherwise directed by Council for the duration of demolition and construction work.

Note: Council’s ‘PREVENT POLLUTION’ sign can be obtained by presenting your development application receipt at Council’s Customer Enquiry Counter at 282 King Street Newcastle.

65. Any excavated material to be removed from the site is to be assessed, classified, transported and disposed of in accordance with the Department of Environment and Climate Change’s (DECC) ‘Waste Classification Guidelines Part 1: Classifying Waste’.

66. Any fill material imported into the site is to be Virgin Excavated Natural Material or material subject to a Resource Recovery Order that is permitted to be used as a fill material under the conditions of the associated Resource Recovery Exemption, in accordance with the provisions of the Protection of the Environment Operations Act 1997 and the Protection of the Environment (Waste) Regulation 2014.

67. Documentation demonstrating the compliance with the conditions of the appropriate Resource Recovery Order and Resource Recovery Exemption must be maintained for any material received at the site and subsequently applied to land under the conditions of the Resource Recovery Order and Exemption. This documentation must be provided to Council officers or the Principal Certifying Authority on request.

68. Erosion and sediment control measures are to be implemented prior to the commencement of works and maintained during the period of demolition and/or construction in accordance with the requirements of Managing Urban Stormwater: Soils and Construction 4th Edition - Vol. 1 (the ‘Blue Book’) published by Landcom, 2004. Controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover.

69. Erosion and sediment control measures are to be implemented prior to the commencement of works and to be maintained during the period of construction in accordance with the details set out on the Erosion and Sediment Control Plan submitted with the application, and with the below requirements:

a) Control over discharge of stormwater and containment of run-off and pollutants leaving the site must be undertaken through the installation of erosion control devices such as catch drains, energy dissipaters, level spreaders and sediment control devices such as hay bale barriers, filter fences, filter dams and sediment basins and controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover. Erosion and sediment control measures are to be designed in accordance with the requirements of the Managing Urban Stormwater: Soils and Construction 4th Edition - Vol. 1 (the ‘Blue Book’) published by Landcom, 2004.

70. Prior to the commencement of work, a 3m wide all weather vehicle access is to be provided from the kerb and gutter to the building under construction, to reduce the potential for soil erosion. Sand shall not be stockpiled on the all-weather vehicle access.

71. All necessary measures are to be undertaken to control dust pollution from the site. These measures must include, but not are limited to:

a) Restricting topsoil removal
b) Regularly and lightly watering dust prone areas (note: prevent excess watering as it can cause damage and erosion

c) Alter or cease construction work during periods of high wind and

d) Erect green or black shade cloth mesh or similar products 1.8m high around the perimeter of the site and around every level of the building under construction.

72. Where the proposed development involves the destruction or disturbance of any existing survey monuments, those monuments affected are to be relocated at no cost to Council by a Surveyor registered under the Surveying and Spatial Information Act 2002 (NSW).

73. All public trees are required to be retained and must be physically protected in accordance with the City of Newcastle Urban Forest Technical Manual ‘Section 8.0 Protection Measures’.

The tree protection fencing must remain in place and maintained until all works have been completed, with no waste materials, washouts, equipment or machinery to be stored within the fenced area.

74. An application is to be made to and granted by the Department of Primary Industries (DPI - previously known as NSW Office of Water) under the Water Management Act 2000 for a Groundwater Licence prior to the commencement of any excavation works and any extraction of groundwater. A copy of the Groundwater Licence is to be provided to Council.

75. Groundwater is not to be discharged into adjoining roads stormwater system and sewerage system without the controlling authority’s approval and/or owner’s consent(s). Approval form the controlling authority and any requirements (including environment controls or the requirements to discharge off-site instead of discharging to sewer/stormwater) of the approving authority is to be complied with prior to the commencement of any extraction of groundwater.

76. Temporary ground anchors are to be designed and installed along the road reserve and adjoining properties to protect the existing properties. The design of the temporary ground anchors is to be carried out by qualified and practicing structural and geotechnical engineers. Approval is to be attained from the road authority for installation of the temporary ground anchors adjoining the road reserve prior to the start of any bulk excavation works. The temporary ground anchors along the road reserve are to be destressed and any timber is to be removed to the satisfaction and requirements of the road authority. Note: ground anchors along private properties are to be approved by the Private Certifying Authority (PCA).

77. All retaining walls adjoining the road reserve are to be designed by a suitably qualified professional engineer with suitable provision made for drainage. Full details of the retaining wall design are to be included in documentation for a Construction Certificate.

78. Any structure on or over the public road reserve, including balconies and awnings, is to be the subject of a separate consent from Council, under Section 138 of the Roads Act 1993, prior to commencement of work.

Note: A separate approval from Council must be obtained for all structures within the public road reserve pursuant to Section 138 of the Roads Act 1993. For further information contact Council’s Strategic Property and Fleet Management Services on 4974 2000 to request a Road Consent. A fee will be payable in this regard.

79. Prior to any site works commencing, the Developer preparing a Construction
CITY OF NEWCASTLE
Development Applications Committee Meeting 15 August 2017

Management Plan (CMP) such to be designed and implemented to manage all environmental aspects associated with the construction works, including off site impacts such as transport to and from the site. Two copies of the CMP are to be provided to the Principal Certifying Authority and the CMP is to be maintained on site during all site works and be made available to Authorised Officers upon request. The CMP is to include but not be limited to:

a) A site management strategy, identifying and addressing issues such as environmental health and safety, site security, and traffic management.

b) A soil and water management strategy, detailing erosion and sediment control, management of soil stockpiles, control and management of surface water and groundwater. Procedures should be included to ensure that all roads adjacent to the site are kept free and clear from mud and sediment.

c) A dust management strategy, detailing procedures to minimise dust generation, with particular reference to control techniques and operational limits under adverse meteorological conditions.

d) A waste minimisation strategy that aims to avoid production of waste and maximise reuse, recycling or reprocessing of potential waste material.

e) A community relations plan that aims to inform local residents and other local stakeholders of the proposed nature and timeframes for construction activities together with contact details for site management.

f) A noise management strategy detailing measures to minimise the impact of the construction phase on the amenity of the locality, in accordance with Australian Standard AS 2436, 1981 ‘Guide to Noise control on Construction, Maintenance and Demolition Sites’. Noise monitoring during the construction phase should be incorporated into the program.

g) A site management strategy for dealing with any identifying potential for Acid Sulphate Soils (ASS) to be encountered and measures and techniques to be followed in the event that ASS is encountered.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE, A SUBDIVISION CERTIFICATE OR A STRATA CERTIFICATE

80. All garbage and recycling waste is to be collected on site by a private waste contractor or Council. Final details from the service provider, indicating vehicle movement to and from the site and hours/days of collection are to be submitted to Council prior to the issue of an Occupation Certificate. Note: No storage of bins on the kerb for collection day will be permitted.

Note: Section 496 (1) of the Local Government Act 1993 (NSW) states "a council must make and levy an annual charge for the provision of domestic waste management services for each parcel of rateable land for which the service is available". Council will charge the domestic waste management service levy, notwithstanding that the waste is collected by a private contractor.

81. All commitments listed in the relevant BASIX certificate for the development are to be satisfactorily completed prior to the issue of an Occupation Certificate. Should there be any changes to the specifications of the dwelling that have implications for compliance with the approved certificate, except where restricted or excluded by any other condition of consent, an amended BASIX Certificate can be relied upon as having complied with this condition. A copy of any amended BASIX Certificate is to be provided to Council within fourteen days of receipt.
82. All public footways, footpaving, kerbs, gutters and road pavement damaged during the works are to be immediately repaired following the damage, to a satisfactory state that provides for safe use by pedestrians and vehicles. Full restoration of the damage is to be carried out to Council’s satisfaction prior to the completion of demolition work or prior to the issue of any Occupation Certificate in respect of development involving building work.

83. The required public domain works are to be implemented and construction works are to be completed to Council satisfaction prior to the issue of any Occupation Certificate.

84. Any redundant existing vehicular crossing is to be removed at no cost to Council. The road reserve and kerb is to be restored to Council’s satisfaction to match the existing infrastructure. Works are to be completed prior to the issuing of a Final Occupation Certificate for the proposed development.

85. A copy of the stormwater drainage design plans approved with the Construction Certificate with ‘work as executed’ levels indicated, shall be submitted to the Principal Certifying Authority and to The City of Newcastle prior to the issue of an Occupation Certificate. The plans shall be prepared by a Practising Professional Engineer or Registered Surveyor experienced in the design of stormwater drainage systems.

86. A Landscape Practical Completion Report is to be submitted to the Principal Certifying Authority prior to the issue of the Final Occupation Certificate. The report is to verify that all landscape works have been carried out in accordance with the comprehensive landscape design plan and specifications that were required to be included in documentation for a Construction Certificate application and is to verify that an effective maintenance program has been commenced.

87. All external items of air conditioning plant are to be screened or positioned in such a manner as to not detract from the visual presentation of the building.

88. Appropriate acoustic treatment is to be implemented in accordance with the recommendations set out in the report prepared by Reverb Acoustics, dated January 2017. Written final certification confirming the recommended acoustic treatment has been implemented in accordance with the requirements of the above report is to be submitted to the Principal Certifying Authority and Council prior to the issue of an Occupation Certificate.

Note: The acoustic consultant may need to be involved during the construction process in order to ensure final certification is achieved.

89. Written certification from an appropriately qualified acoustic consultant is to be submitted to the Principal Certifying Authority prior to issue of an Occupation Certificate confirming that noise from all mechanical plant and equipment achieves the required acoustic attenuation to comply with the conditions of consent and the requirements of the Protection of the Environment Operations Act 1997.

90. A post construction dilapidation report prepared by a suitability qualified person shall be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate, to ascertain if any structural damage has occurred to the adjoining buildings, infrastructure and roads. The reports shall be forwarded to Council and will be made available in any private dispute between neighbours regarding damage arising from construction works.

91. Prior to issue of an Occupation Certificate, any food business must notify the relevant enforcement agency, under the Food Act 2003 and (for licensed food businesses) under the Food Regulation 2010. Notification is to be provided to Council by going to www.newcastle.gov.au and download a copy of the ‘Council Food Business Notification Form’ or contact Council’s Regulatory Services on (02) 4974 2525.
92. A design verification statement from a qualified designer shall be submitted to the
Principal Certifying Authority prior to the issue of an Interim or Final Occupation
Certificate, whichever occurs first. The statement shall confirm the development has
been constructed in accordance with the quality principles set out in Part 2 of State
Environmental Planning Policy No. 65 - Design Quality of Residential Flat
Development.

Note: ‘Qualified Designer’ means a person registered as an architect in accordance
with the Architects Act 2003. This condition is imposed in accordance with Clauses
154A of the Environmental Planning and Assessment Regulation 2000.

93. Following completion of the remediation works, a validation report being prepared by a
suitably qualified consultant in accordance with the relevant Environment Protection
Authority Guidelines and submitted to the Principal Certifying Authority and Council
prior to the issuing of an Occupation Certificate.

94. A suitably qualified professional engineer is to verify that retaining walls have been
constructed in accordance with the relevant design with written confirmation of such is
to be submitted to the Principal Certifying Authority prior to the issuing of an
Occupation Certificate.

95. A Maintenance Manual for all stormwater devices is to be prepared in accordance with
Council’s Stormwater and Water Efficiency for Development Technical Manual
(Updated 2013). The Maintenance Manual is to address maintenance issues
concerning the water quality/quantity devices including routine monitoring and regular
maintenance and be kept on site at all times. Establishment and maintenance of the
water quality/quantity devices in accordance with the Maintenance Manual prepared
by the applicant is to be completed prior to the issuing of an Occupation Certificate.

96. An appropriate flood emergency response plan is to be prepared by consulting
engineers experienced in flood management and put in place by the applicant prior to
the issuing of an Occupation Certificate. Such plan is to be effectively updated and
maintained by the occupiers, to include an education and awareness component for
the workforce and detailed evacuation procedures to interface with the Bureau of
Meteorology’s flood warning system and the local State Emergency Services plan
(where appropriate) and to include provisions for any third parties likely to be involved.

A flood emergency response plan is to describe the following components:

a) Likely flood behaviour
b) Flood warning systems
c) Education awareness program
d) Evacuation and evasion procedures
e) Evacuation routes and flood refuges and
f) Flood preparedness and awareness procedures for residents and visitors

Considerations should include the full range of flood risks, the proposed use of the
site, site access constraints and local area evacuation routes to high ground. The plan
is to be aimed at self-directed evacuation or evasion to minimise the draw on limited
State Emergency Services resources.

97. A Green Travel Plan with Public Transport Routes and Bicycle Network is to be
prepared and made available to the new residents and commercial premises tenants.
The Public Transport and Bicycle Network Plans are to be installed in common areas
prior to any Occupation Certificate. Use of alternative modes of transport is to be encouraged.

CONDITIONS TO BE SATISFIED DURING THE OPERATION AND USE THE DEVELOPMENT

98. The hours of operation or trading of the retail and commercial premises within this mixed use development are to be not more than from:

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<thead>
<tr>
<th>DAY</th>
<th>START</th>
<th>FINISH</th>
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<tbody>
<tr>
<td>Monday</td>
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unless a separate application to vary the hours of operation or trading has been submitted to and approved by Council.

99. The use and occupation of the premises, including all plant and equipment installed thereon, is not to give rise to any offensive noise, as defined under the Protection of the Environment Operations Act 1997 (NSW).

Should Council consider offensive noise has emanated from the premises, the owner/occupier of the premises will be required to submit an acoustic assessment prepared by a suitably qualified acoustical consultant recommending appropriate acoustic measures necessary to ensure future compliance with this condition and will be required to implement such measures within a nominated period. Furthermore, written certification from the said consultant confirming the recommended acoustic measures have been satisfactorily implemented will be required to be submitted to Council prior to the expiration of the nominated period.

100. The use and occupation of the premises is not to give rise to the emission of any 'air impurity' as defined under the Protection of the Environment Operations Act 1997 (NSW), that interferes unreasonably with the amenity of neighbouring premises and/or other sensitive receivers.

Should Council consider that unreasonable levels of air impurities have been emitted from the premises, the owner/occupier will be required to engage a suitably qualified consultant to recommend measures to control emissions of air impurities to an acceptable level and such measures being implemented within a nominated time period. Furthermore, written certification from the suitably qualified consultant will be required to be submitted to Council confirming that air impurity emissions from the premises do not interfere unreasonably with the amenity of neighbouring premises and/or other sensitive receptors before the expiration of the nominated period.

101. No goods or advertising signs are to be displayed or allowed to stand on the public footpath or street.

102. The landscaped areas are to be kept free of parked vehicles, stored goods, garbage or waste material and being permanently maintained.

103. A Landscape Establishment Report is to be submitted to Council following completion of a three month maintenance period, verifying that satisfactory maintenance of the landscape works has been undertaken and any necessary rectification measures have been carried out to a high professional standard; copy of report format attached.
104. The driveway crossing, parking areas and stormwater management system are to be properly maintained for the life of the development.

105. Vehicles and garbage collections are to be loaded or unloaded standing wholly within the premises and within loading bays designated on the submitted plans or as otherwise provided in accordance with the conditions of this consent and under no circumstances are vehicles to be loaded or unloaded at the kerb side, across the public footpath or in a manner which obstructs vehicular access to the site.

106. All vehicular movement to and from the site for the carpark is to be in a forward direction.

107. Proposed parking areas, vehicle bays, driveways and turning areas are to be maintained clear of obstruction and be used exclusively for purposes of car parking, loading and unloading, and vehicle access, respectively. Under no circumstances are such areas to be used for the storage of goods or waste materials.

108. Any washing, degreasing or steam cleaning of vehicles, plant, engines, mechanical equipment or parts is to be carried out within a wash bay or dedicated cleaning unit connected to the sewers of the Hunter Water Corporation in accordance with an approved Trade Waste Agreement or to a waste collection system for disposal by a licensed waste transport contractor in accordance with the Department of Environment and Climate Change ‘Waste Classification Guidelines Part 1: Classifying Waste’. Under no circumstances are such activities to be carried out elsewhere on site.

109. Any liquid wastes from the premises, other than stormwater are to be either discharged to the sewers of the Hunter Water Corporation in accordance with an approved Trade Waste Agreement or collected and disposed of by a licensed waste transport contractor in accordance with the Department of Environment and Climate Change ‘Waste Classification Guidelines Part 1: Classifying Waste’.

110. The development is allocated the following street address(es) in accordance with Council’s House Numbering Policy and the Surveying and Spatial Regulation.

<table>
<thead>
<tr>
<th>Unit Number on plan</th>
<th>Council Allocated Street Address(es)</th>
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<tbody>
<tr>
<td>Ground Floor Commercial Unit</td>
<td>1/20 Denison Street Newcastle West</td>
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<tr>
<td>First Floor Commercial Unit</td>
<td>101/20 Denison Street Newcastle West</td>
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<td>Second Floor Commercial Unit</td>
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111. The proposed car wash bay being designed in accordance with Hunter Water Corporation Guidelines for the Installation and Maintenance of Oil Separators for Service Stations and Vehicle Repair Shop.

112. All vehicles and machinery to be cleaned in the wash bay standing wholly within the
bundled area such that all spray and runoff water from the washing of the vehicles or machinery is collected into the water treatment system.

113. The grease arrestor is to be installed in accordance with Australian Standard AS 4674: 2004 Design, construction and fit-out of food premises. The grease arrestor shall be connected to the sewers of the Hunter Water Corporation in accordance with an approved Trade Waste Agreement and regularly inspected and maintained by a licensed waste transport contractor.

114. Under no circumstances is onsite remediation treatment to be carried out.

ADVISORY MATTERS

- Any proposed business identification sign or advertising sign should be designed in accordance with the provisions of Newcastle Development Control Plan 2012 and be the subject of a separate Development Application approved prior to erection or placement in position.

- It is recommended that, prior to commencement of work, the free national community service ‘Dial before you Dig’ be contacted on 1100 or by fax on 1200 652 077 regarding the location of underground services in order to prevent injury, personal liability and even death. Inquiries should provide the property details and the nearest cross street/road.

- Any necessary alterations to public utility installations are to be at the developer/demolisher’s expense and to the requirements of both Council and any other relevant authorities. Council and other service authorities should be contacted for specific requirements prior to the commencement of any works.

- Prior to commencing any construction works, the following provisions of the Environmental Planning and Assessment Act 1979 (NSW) (the ‘Act’) are to be complied with:
  a) A Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act
  b) A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b) of the Act and
  c) Council is to be given at least two days’ notice of the date intended for commencement of building works, in accordance with Section 81A(2)(c) of the Act.

- A Construction Certificate application for this project is to include a list of fire safety measures proposed to be installed in the building and/or on the land and include a separate list of any fire safety measures that already exist at the premises. The lists must describe the extent, capability and basis of design of each of the measures.

- Prior to the occupation or use of a new building, or occupation or use of an altered portion of, or an extension to an existing building, an Occupation Certificate is to be obtained from the Principal Certifying Authority appointed for the proposed development. An application for an Occupation Certificate must contain the information set out in Clause 149 of the Environmental Planning and Assessment Regulation 2000 (NSW).

- A copy of the final Fire Safety Certificate (together with a copy of the current fire safety schedule) is to be given to the Commissioner of NSW Fire Brigades and a further copy of the Certificate (together with a copy of the current fire safety schedule) is to be prominently displayed in the building.
• An annual Fire Safety Statement in the form described in Clause 175 of the Environmental Planning and Assessment Regulation 2000 (NSW) is to be submitted to Council and a copy (together with a copy of the current fire safety schedule) is to be given to the Commissioner of New South Wales Fire Brigades. A further copy of the Statement (together with a copy of the current fire safety schedule) is to be prominently displayed in the building.

• It is an offence under the provisions of the Protection of the Environment Operations Act 1997 (NSW) to act in a manner causing, or likely to cause, harm to the environment. Anyone allowing material to enter a waterway or leaving material where it can be washed off-site may be subject to a penalty infringement notice (‘on-the-spot fine’) or prosecution.

• Failure to comply with the conditions of consent constitutes a breach of the Environmental Planning and Assessment Act 1979 (NSW), which may be subject to a penalty infringement notice (‘on-the-spot fine’) or prosecution.

END OF CONDITIONS
PROCESSING CHRONOLOGY
DA 2016/01341 – 20 Denison Street Newcastle West

Note: 15 December 2015 - Prior to lodgment of the Development Application, the Urban Design Consultative Group considered the proposal for this site.

25 November 2016 - Development application lodged with Council
28 November 2016 - Development application reviewed and allocated to the Assessing Officer
28 November 2016 - External and Internal referrals of the application sent
30 November 2016 - Public Notification undertaken - exhibition period from 30 November to 16 December 2016
30 November 2016 - Internal referral sent to Strategic Planner
30 November 2016 - Internal referral sent to Building Surveyor
06 December 2016 - Internal referral advice received from Environmental Services
14 December 2016 - Submission received objecting to the development proposal
15 December 2016 - Internal referral advice received from Street addressing
18 December 2016 - Internal referral advice received from Heritage Advisor
19 December 2016 - Internal referral advice received from Food Surveillance
19 December 2016 - Internal referral advice received from Environmental Services requesting additional information - acoustics and remedial action plan (ie. contamination).
21 December 2016 - Submission received objecting to the development proposal
20 January 2017 - Internal referral advice received from Strategic Planner
13 February 2017 - Internal referral advice received from Environmental Services based on additional information submitted - acoustics and remedial action plan (ie. contamination).
20 February 2017 - Internal referral advice received from Development Engineering
15 March 2017 - Urban Design Consultative Group Meeting
04 April 2017 - Internal referral advice received from Building Surveyor
31 May 2017 - Additional Acoustic Report information received from applicant
01 June 2017 - Internal referral advice received from Environmental Services based on additional information submitted in response to Urban Design Consultative Group Meeting comments dated 15 March 2017
29 June 2017 - Outstanding information request sent via email to the applicant
17 July 2017 - Internal referral sent to Property Management / Commercial Property
18 July 2017 - Outstanding information received from the applicant
24 July 2017 - Internal referral advice received from Property Management / Commercial Property