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 21 June 2016

TIME: To follow the Public Voice Committee

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

Frank Cordingley
Interim Chief Executive Officer

City Administration Centre
282 King Street
NEWCASTLE NSW 2300

10 June 2016

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## DEVELOPMENT APPLICATIONS COMMITTEE
### 21 June 2016

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CONFIRMATION OF PREVIOUS MINUTES

MINUTES OF DEVELOPMENT APPLICATIONS COMMITTEE 17 MAY 2016

RECOMMENDATION

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

ATTACHMENTS

Attachment A: 160517 Minutes of Development Applications Committee

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
CITY OF NEWCASTLE

Minutes of the Development Applications Committee Meeting held in the Council Chambers, 2nd Floor City Hall on Tuesday 17 May 2016 at 6.01pm.

PRESENT

IN ATTENDANCE
F Cordingley (Interim Chief Executive Officer), G Cousins (Director Corporate Services), K Liddell (Acting Director Infrastructure), A Baxter (Acting Director Planning and Regulatory), M Blackburn-Smith (Manager Building and Development), F Giordano (Manager Legal and Governance), J Gaynor (Manager Strategic Planning), K Hyland (Manager Communications and Engagement), K Sullivan (Council Services/Minutes) and A Leach (Council Services/Meetings Management).

APOLOGIES

MOTION
Moved by Cr Clausen, seconded by Cr Luke

The apologies submitted on behalf of the Lord Mayor, Cr Nelmes, Councillors Compton, Doyle, Osborne and Waterhouse be received and leave of absence granted.

Carried

DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTERESTS

Councillor Luke
Councillor Luke declared a non-pecuniary significant conflict of interest in Item 5 - DA 2015/10112 - 90 Vale Street Shortland as he had been inadvertently approached previously by one of his clients with concerns about the development. For transparency, Councillor Luke indicated that he would leave the Chamber for discussion on that item.

Councillor Clausen
Councillor Clausen declared a less than significant non-pecuniary interest in Item 4 - DA 2015/0876 - 29 and 31 Laman Street, Cooks Hill indicating that he had been approached by a number of individuals in respect of the application who had made political donations to his campaign.
Councillor Clausen
Councillor Clausen declared a less than significant non pecuniary interest in Item 5 - DA 2015/10112 - 90 Vale Street Shortland indicating that his employer was listed as a landowner on the development application. Councillor Clausen advised that he had no involvement nor was he aware that his employer owned land at the location. He advised that he would not receive any benefits from a decision and would remain in the meeting.

Councillor Crakanthorp
Councillor Crakanthorp declared a less than significant non-pecuniary interest in Item 4 - DA 2015/0876 - 29 and 31 Laman Street, Cooks Hill indicating that he had been approached by a number of individuals in respect of the application who had made political donations to his campaign.

Councillor Posniak
Councillor Posniak declared a less than significant non-pecuniary interest in Item 4 - DA 2015/0876 - 29 and 31 Laman Street, Cooks Hill indicating that she had been approached by a number of individuals in respect of the application who had made political donations to her campaign.

Councillor Dunn
Councillor Dunn declared a less than significant non-pecuniary interest in Item 4 - DA 2015/0876 - 29 and 31 Laman Street, Cooks Hill indicating that he had been approached by a number of individuals in respect of the application who had made political donations to his campaign.

CONFIRMATION OF PREVIOUS MINUTES

MINUTES - DEVELOPMENT APPLICATIONS COMMITTEE 19 APRIL 2016

MOTION
Moved by Cr Clausen, seconded by Cr Rufo

The draft minutes as circulated be taken as read and confirmed. Carried
DEVELOPMENT APPLICATIONS

ITEM-4  DAC - DA 2015/0876 - 29 & 31 LAMAN STREET, COOKS HILL - ERECTION OF THREE STOREY SERVICED APARTMENT DEVELOPMENT (11 UNITS) PLUS BASEMENT PARKING AND 11 LOT STRATA SUBDIVISION

MOTION
Moved by Cr Tierney, seconded by Cr Robinson

That the application for the construction of a three-four storey serviced apartment development (including basement level parking for 13 vehicles) and strata subdivision be approved and consent granted subject to compliance with the conditions set out in the draft Schedule of Conditions (refer to Attachment B)

For the Motion: Councillors Clausen, Luke, Robinson, Rufo and Tierney.

Against the Motion: The Deputy Lord Mayor, Cr Dunn and Councillors Crakanthorp and Posniak.

Carried

ITEM-5  DAC - DA 2015/10112 - 90 VALE STREET, SHORTLAND - ERECTION OF FIFTY AGED CARE DWELLINGS, ASSOCIATED ADMINISTRATION / COMMUNITY FACILITY BUILDING AND UPGRADE TO ENTRY ROAD AND CAR PARKING (PHASE ONE)

Councillor Luke retired from the Chamber at 6.18pm and did not return prior to the close of the meeting.

MOTION
Moved by Cr Clausen, seconded by Cr Tierney

That Development Application DA 2015/10112 for the erection of fifty (50) aged care dwellings; an associated administration/community facility building; and an upgrade to the existing entry road and car parking (Phase One) on Lot 103, DP 881682 and Lot 1 DP, 1188100 be approved subject to compliance with the conditions set out in the Draft Schedule of Conditions (refer to Attachment B).

For the Motion: The Deputy Lord Mayor, Cr Dunn and Councillors Clausen, Crakanthorp, Posniak, Robinson, Rufo and Tierney.

Against the Motion: Nil.

Carried

The meeting concluded at 6.20pm.
PART I

PURPOSE

An application has been received seeking consent for the demolition of the existing industrial buildings on the site and erection of a 10 storey mixed development with four ground floor commercial units, 122 residential units and 133 associated parking spaces.

The proposal has undergone several minor amendments to address design aspects raised during the assessment of the application including the Urban Design Consultative Group. The final amended development is appended at Attachment A.

The original proposal was notified for 14 days in accordance with the provisions of Newcastle DCP 2012 and three public submissions have been received.

The concerns raised by the objectors in respect of the proposal include: traffic/parking, privacy, shadowing, flooding, mines subsidence, setbacks, landscaping, apartment mix, services, acoustic impacts, streetscape, breezes, construction impacts, pedestrian access, heritage, height, bulk & scale.

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 as the construction value of the proposal development ($18.75 million) exceeds the $10 million delegation limit.

Issues

- Whether the proposal is reasonable having regard to the established character of the area and urban design outcomes proposed.
- Whether the proposed design is acceptable in terms of the height, bulk and streetscape.
- Whether the proposal is acceptable having regard to adverse amenity impacts.
- Whether the proposal is acceptable having regard to the likely traffic and parking impacts.

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 the imposition of the nominated conditions of consent.

RECOMMENDATION

The application for the demolition of the existing industrial buildings on the site and erection of a 10 storey mixed development with four ground floor commercial units, 122 residential units and 133 associated parking spaces be approved and consent granted, subject to compliance with the conditions set out in the draft Schedule of Conditions (refer to Attachment B).

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 with 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 with a two year period before the date of this application?*

PART II

1.0 THE SUBJECT SITE

The subject site includes seven separate allotments with frontages to Charles Street, Wickham Street and Railway Street in Wickham.
The overall development site is an irregular shape with frontage to Charles Street of approximately 43.8 metres, Wickham Street of approximately 40.4 metres and a frontage of approximately 33.1 metres to Railway Street. The development site has a total area of approximately 2,663m².

The subject site is predominantly flat and contains several interconnected industrial buildings and associated parking/yard areas. There are two small bottlebrush shrubs at the Wickham Street and Fern Street frontages of the site (i.e. *callistemon viminalis*). There are no other significant plants or vegetation species on the site.

Existing development on the adjoining properties is varied ranging from single dwellings towards the north, to industrial and commercial buildings generally one to two storey in scale to the east and west. Directly to the south is an existing heritage item at 15 Charles Street (dwelling) and another industrial building. Further to the south-east is the railway line and Wickham Transport Interchange.

### 2.0 THE PROPOSAL

The applicants have provided the following details regarding the proposal:

> 'The proposal is for demolition of the existing industrial/warehouse buildings on the site and construction of two (2) towers (10 and 9 storeys) comprising 122 residential apartments, four (4) ground floor commercial premises, a landscape communal garden, and 133 on-site car parking spaces.'

> 'The proposed building is designed with a three (3) storey podium sitting as a strong base below two residential towers.'

The three level podium (ground level to level 2) proposes 4 commercial units and 20 apartments. The western tower comprises nine (9) storeys towards Wickham Street proposing 45 apartments (levels 3 to 9), and the eastern tower comprise ten (10) storeys towards Charles Street proposing 57 apartments (levels 3 to 10).

The development proposes a spread of dwellings including:

- 42 x one-bedroom;
- 77 x two-bedroom; and
- 3 x three-bedroom dwellings.

The proposal includes parking for 133 vehicles accessed via Wickham Street. This parking is proposed to be located at the ground, first and second floors, and is designed to be hidden from view by the proposed commercial units and apartments on these levels.

A communal garden at level three is proposed to be located between the two towers and will include comprehensive landscaping including trees and a kids play area.

A copy of the amended development plans are appended at Attachment A. The various steps in the processing of the application to date are outlined in the Processing Chronology appended at 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. Three submissions have been received in response.

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

Traffic/Parking

i Traffic/Parking - Concerns regarding the adverse impact in terms of traffic congestion in the narrow streets. Concern regarding adverse impacts on street parking and the proposal increasing demand on the street.

Amenity

i Privacy - Concern that the proposal will have unreasonable privacy impacts. The proposal does not have sufficient setbacks/separation between this building (i.e. windows/balconies) and the neighbouring properties.

ii Shadowing - Concern that the proposal will have an unreasonable shadowing impact on neighbouring properties.

iii Noise Conflict - Concern regarding potential noise affectation from air conditioning systems. Concern regarding the noise and vibration impacts from items such as pumps. Fire and electricity station positioned directly adjacent the neighbouring property.

iv Breezes/Wind Tunnel - Concern that the proposal will block breezes and/or result in a wind tunnel effect in the area.

v Construction Impacts - Concern that the construction phase will impact on the neighbouring properties and cause potential structural damage.

Urban Design

i Height, Bulk & Scale - The proposal is too large having regard to the scale of housing in the immediate area and the streetscape. The proposal should be a maximum of 6 storeys.

ii Development Potential/Setbacks - The proposal should not be built to boundary adjacent the neighbouring properties as it will unreasonably impact on the future development of those sites (i.e. requiring the neighbouring sites to setback any potential development to provide adequate separation).

iii Landscaped Setbacks - The proposal should provide landscaped setbacks to each boundary adjoining neighbours.

iv Deep Soil Plantings - The proposal does not have sufficient deep soil plantings.

Street Appearance/Landscaping - Concern that additional landscaping/vegetation needs to be provided within the streetscape.

v Apartment Mix - Concerned that the proposal has an adequate mix of apartment types (1, 2 and 3 bedroom).
Engineering
i  Flooding - Concern that the proposal will be affected and/or exacerbate the local flooding.
ii  Mine Subsidence - Concern that the proposal will be impacted by Mine Subsidence.
ii  Infrastructure/Services - Concern that the proposal will require upgrade in infrastructure/services (e.g. drainage, gas & power) which local residents will be required to contribute to the cost of.

Misc
i  Pedestrian Access - Concern that pedestrian access for 15 Charles Street along the northern boundary would be lost.
ii  Heritage - Concern regarding impact on existing 'heritage' kerb and gutters (i.e. bluestone and sandstone guttering).

These matters are addressed within the report below.

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 [Section 79C(1)(a)(i) and (ii)]

4.1.1 State Environmental Planning Policy No 55 - Remediation of Land (SEPP 55)

The subject site has been investigated having regard to the provisions of SEPP 55 in terms of potential land contamination.

The proposal has included several land contamination reports by Douglas Partners (Preliminary Site Investigation, Detailed Site Investigation and a Remediation Action Plan - RAP).

The development, and the associated contamination reports, has been assessed by Council’s Senior Environment Protection Officer and is considered to be satisfactory subject to conditions recommended at Attachment B.

The Senior Environment Protection Officer details that generally low levels of contamination were found on the subject site including introduced fill (including slag, coal, bricks and concrete), a minor amount of asbestos and possibly two remnant fuel tanks and a small amount of associated hydrocarbons.

The remediation action plan (RAP) submitted to address remediation of the site has been assessed and is considered to be suitable subject to conditions of consent.
4.1.2 State Environmental Planning Policy No 65 - Design Quality of Residential Apartment Development (SEPP 65)

The proposal has been assessed under the provisions of SEPP 65 and the development has undergone significant several design changes to address the valid issues raised by the Urban Design Consultative Group (UDCG) and Council. The latest amended proposal is now considered to be acceptable by the Group

A summary of the UDCG's report following the consideration of the latest amended plans is contained below:

i. The proposal was considered to be acceptable in terms of its character and context having regard to the transition likely for the area under the current planning controls.

ii. The built form and scale of the development was considered to be acceptable having regard to its visual appearance, the adopted height standards and the likely future context. The proposals interaction with the adjacent heritage item was considered reasonable considering the design, materials and colours incorporated into the development.

iii. The Group required that the landscaping design of the podium be modified to a) ensure the privacy of the future residents and b) incorporate larger growing tree and shrubs species. The latest landscape design has reflected these requirements incorporating only a central walkway and a revised comprehensive landscape design (including a total of 4 larger growing trees and 5 medium growing trees plus comprehensive shrubs and ground covers). The proposal also incorporates six street trees to Railway Street.

iv. The amenity aspects of the proposal are considered to be acceptable having regard to the provisions of the Apartment Design Guidelines (ADG). The applicant has redesigned window arrangement for the second bedrooms of the proposed dwellings to ensure that the requirements of the ADG are met (this has been confirmed via acoustic modelling by RCA Acoustics). The eastern foyer stairwell has been redesigned as suggested. Proposed Unit W903 is now designed as a two bedroom unit and associated study.

v. ‘Care will need to be taken in the landscape design for the podium level to ensure adequate safety for residents using these spaces after hours.’

vi. The Group are satisfied with the redesigned and enlarged ground floor lobbies. The inclusion of the kids play area and associated small shade structure within the communal garden area is supported.

vii. ‘Generally the group felt the contemporary character of the proposed building was appropriate. The limited use of bold feature colours with an overall neutral colour palette would sit well in the area.’
The blank facades on the boundaries have been improved by breaking them up with colour. The Panel recommendation of a horizontal top (rather than raked) to the parapet adjacent to the heritage cottage has been incorporated. The mesh screening to the south western balconies has been revised to be in keeping with other areas of the building and is provides an interesting sculptural finish to the building.

Overall the proposal, as amended, was support by the Group subject to several small changes which have subsequently been made by the applicants.

4.1.3 State Environmental Planning Policy No 71 - Coastal Protection (SEPP 71)

The subject site, while within an area which would normally be affected by the coastal protection provisions of SEPP 71, is specifically excluded by Clause 1.9 of the Newcastle LEP 2012.

4.1.4 State Environmental Planning Policy (Building Sustainable Index: Basix) 2004

The applicants have submitted a revised BASIX certification demonstrating that the proposal meets the energy, thermal and water targets under the provisions of the BASIX SEPP.

4.1.5 State Environmental Planning Policy (Infrastructure) 2007 (iSEPP)

The location of the subject site requires that road and rail noise/vibration impacts are addressed having regard to the provisions of the iSEPP.

The applicants have submitted an acoustic report evaluating these likely impacts (including the potential impacts of the future Wickham Transport Interchange Noise and Vibration assessment by GHD) which makes recommendation regarding mitigation measures necessary to ensure that the acoustic standards under the iSEPP are met.

Appropriate conditions of consent are recommended at Attachment B.

Other State Environmental Planning Policies

The proposal is not contrary to the provisions of any other relevant State Environmental Planning Policy.

4.1.6 Newcastle Local Environmental Plan 2012 Sec. 79(c)(1)(a)(i) & (a)(ii)

Clause 2.1 Land Use Zones

The subject property is included within the B4 Mixed Use zone under the provisions of the Newcastle Local Environmental Plan, 2012, within which zone the proposed development is permissible with Council's consent. The proposed development is also considered to be consistent with the zone objectives.
Clause 4.3 Heights of Buildings

The proposal complies with the 35 metre height standard being 35.0 metres high. The proposal includes several architectural fin wall elements which protrude above the 35.0 metres, but these do not constitute a height exceedence having regard to the provisions of Clause 5.6 of the Newcastle LEP 2012 - Architectural roof features.

Clause 4.4 Floor Space Ratio

The proposal complies with the 4.0:1 floor space ratio (FSR) having a FSR of 3.14:1.

Clause 5.6 Architectural Roof Features

Under the provisions of Clause 5.6, a proposed development may breach the height standard limitation where that exceedence constitutes architectural roof features as detailed by subclause (3) given below:

‘(3) Development consent must not be granted to any such development unless the consent authority is satisfied that:
   (a) the architectural roof feature:
      (i) comprises a decorative element on the uppermost portion of a building, and
      (ii) is not an advertising structure, and
      (iii) does not include floor space area and is not reasonably capable of modification to include floor space area, and
      (iv) will cause minimal overshadowing, and
   (b) any building identification signage or equipment for servicing the building (such as plant, lift motor rooms, fire stairs and the like) contained in or supported by the roof feature is fully integrated into the design of the roof feature.’

The fin wall features included at the top of the towers (approximately 0.5m and 1.0m above the 35m height standard respectively) are considered to constitute architectural roof features and do not represent a variation to the height standard under the Newcastle LEP 2012. Additionally, the inclusion of these minor architectural roof features will not have a perceptible adverse amenity impact upon the surrounding area.

Clause 5.9 Preservation of Trees and Vegetation

The proposal as designed will necessitate the removal of two street trees (bottlebrush shrubs). The proposed landscape scheme involves significant gardens onsite plus the provision of a number of new street trees within Railway Street frontage.

Clause 5.10 Heritage Conservation

The subject site does not include any heritage items and is not within a conservation area.
The proposal is directly adjacent a Local heritage item under the Newcastle LEP 2012 at 15 Charles Street. The Item is listed on the NSW Heritage register as being significant as follows:

'The cottage at 15 Charles Street appears to be one of the oldest surviving cottages in the Wickham area, and is a rare example of a building from the mid to late 19th century retaining most of its decorative features largely intact. It is a conspicuous feature of the streetscape, being a rare remaining house surrounded by inter industrial / commercial buildings.'

The NSW Heritage Register indicates that the heritage item is in '...reasonable condition though requiring maintenance and repairs' (29 Oct 2004). Based on the streetscape appearance of the Item, it appears to be currently in good condition. The heritage report by EJE Heritage, submitted on behalf of the applicants, considers that the heritage item has been well restored and is in excellent condition.

The interaction between the proposal and the adjacent heritage item was considered as reasonable by the Urban Design Consultative Group. It was recognised that the juxtaposition of new allowable development within the area (35 metre height standard applies) with the existing heritage item would be difficult. However, it was considered that the outcome in this instance was reasonable having regard to the stepped adjacent tower at Level 7, the increased front setback, design elements incorporated by the proposal and the combination of materials/colours utilised.

Clause 6.1 Acid Sulfate Soil

The site is impacted by Class 3 Acid Sulfate Soils.

The soil testing undertaken for the proposal has been detailed in the submitted report by Douglas Partners and assessed by Council's Senior Environment Protection Officer, as detailed below:

'The consultant has indicated that testing on this and other sites nearby has indicated the likely presence of acid sulfate soil however this was not able to be categorically confirmed as the testing results appear to be inconclusive. The consultant has indicated that on balance of probability it should be assumed that potential acid sulfate soils (ASS) exist on the site and that an acid sulfate soils management plan is required to ensure excavation is undertaken with appropriate controls in place.

Environmental services considers that whilst the probability of encountering ASS at depth is possible, the risks of impact to the environment from acid sulfate soils in relation to this development are low considering there is no significant excavations proposed at depth such as construction of basement carparks and other similar developments nearby have not encountered ASS as far as Environmental Services is aware.

The applicant will however be required to submit to Council/PCA an acid sulfate soils management plan prior to construction works commencing. This may also be provided to Council with the required RAP prior to approval.'
Appropriate conditions of consent are recommended at Attachment B in relation to acid sulphate soils.

Clause 6.2 Earthworks

The proposal includes the minimal earthworks and is considered to be acceptable having regard to the provisions of this Clause of the Newcastle LEP 2012.

Part 7 - Clauses 7.2, 7.5, 7.9, 7.10 & 7.10A (City Centre & Design Excellence)

The subject site is within the Newcastle City Centre as defined by the Newcastle LEP 2012 and, as such, Part 7 of the LEP broadly applies and specifically Clause 7.5 - Design Excellence.

It is considered that the proposal is satisfactory having regard to the design excellence provisions under Clause 7.5 which intersect with the requirements of the State Environmental Planning Policy No 65 and the Apartment Design Guidelines discussed above within Section 4.1.2. The design of the proposal underwent several significant iterations addressing matters raised by the UDCG and Council and the final design is now considered to be acceptable.

It is confirmed that the proposal does not trigger a requirement for a design competition under Clause 7.5(4) as it is below the criteria. Furthermore, Clauses 7.9, 7.10 and 7.10A do not have any specific height or Floor Space Ratio provisions relevant to the current proposal.

4.2 Merit Considerations

4.2.1 Relevant Strategic Policies

3.10 Commercial Uses

The proposal is considered to be meet the street activation principles detailed within the Newcastle DCP 2012. The ground floor includes four commercial tenancies and two entry foyers (one for each tower). The majority of each street frontage is utilised for these proposal commercial units and, as such, is considered to be a good outcome in terms of urban design and streetscape.
4.01 Flood Management

The proposal has been assessed by Council's Development Engineers and is considered to be satisfactory subject to conditions of consent. The engineers detailed that the proposal meets the required flood levels as follows:

"The minimum required floor level for occupiable rooms on this site is 2.55m Australian Height Datum (AHD) and this has been achieved with a level of 2.6m AHD proposed.

Part of the site has been identified as a flood storage area for the Probable Maximum Flood (PMF) event of 3.0m AHD but not for the 1% Annual Exceedence Probability (AEP) event. Onsite flood refuge is provided in the upper floor levels."

4.04 Safety and Security

The proposed development is considered to be consistent with the provisions of the Newcastle DCP 2012 having regard to the Crime Prevention Through Environmental Design (CPTED) Principles. The applicants have submitted a specialist CPTED Principles report which has made recommendations regarding elements such as architectural design changes, landscape design and maintenance, directional signage and lighting to maximise the safety and security of the proposal.

4.05 Social Impact

The proposed development is likely to have significant positive social and economic benefits through providing a mixture of alternative housing options in an inner city location. Furthermore, these proposed apartments are likely to be well positioned in terms of public transport with Hunter Street and the future Wickham Transport Interchange being nearby.

5.01 Soil Management

The proposed development involves limited excavation/fill and is considered to be acceptable subject to conditions of consent. The remediation of existing land contamination has been addressed under Section 4.1.1 - SEPP 55 above.

6.01.01-04 - Newcastle City Centre

The subject site is located within the West End Precinct under the Newcastle City Centre controls.

The proposal, under the Newcastle City Centre controls, did not comply with the following controls:

i) 3.5m primary building setback (front setback) to each street frontage
ii) 6.0m setback at the 16m street wall height
As noted above, the proposal has been assessed by the UDCG and is considered acceptable, notwithstanding the variations to the setbacks as detailed. In this instance, the variations as proposed will result in a better urban design outcome. The proposed building will present a strong corner element to the Wickham/Railway Street intersection. The design, as proposed, also ensures that the commercial units at the ground floor maintain good street activation encouraging interaction with the adjoining street and public footway.

7.01 Building Design Criteria & 7.02 Landscape, Open Space and Visual Amenity

The majority of the controls contained within these sections of the Newcastle DCP 2012 intersect with the controls under the Apartment Design Guideline and Sections 6.01.01-.04 of the Newcastle DCP 2012, the latter two controls prevailing.

It is considered that the proposal meets the remaining requirements (eg landscaping design) and is acceptable having regard to these Sections of the Newcastle DCP 2012.

7.03 Traffic, Parking and Access

A traffic and parking assessment by SECA Solution Traffic Consultants was submitted in association within the proposed development which concluded that the impacts of the proposed development will be acceptable in the locality.

The proposal and associated traffic/parking report has been assessed by Council’s Senior Development Engineer and is considered to be acceptable subject to conditions of consent as recommended within Attachment B. Details of the engineering assessment are included below:

i) Vehicular access, driveway design and crossing location.

The site currently has vehicular access via Charles Street and Wickham Street via a number of accesses and the proposed development seeks to provide a single access to the site from Wickham Street near Station Street at the approximate location of an existing access. No objection is raised to the proposal which is seen as having a positive impact on the road network through the removal of a number of redundant accesses.

SECA Solution has assessed the access as satisfactory for the number of car parks supplied and in accordance with Australian Standard and Newcastle Council requirements. I concur with this finding and confirm the access is not within a prohibited location.

SECA Solution have recommended that a median island and pedestrian refuge be constructed in Wickham Street at Station Street to ensure vehicles slow down around this corner before reaching the development access and also provide suitable crossing facilities for the additional pedestrian traffic in the area. This proposal is supported and is consistent with Council’s draft Wickham Master Plan therefore will be conditioned.
ii) Traffic Generation

The submitted traffic report has identified a peak traffic generation of 43 vehicle trips per hour for the development due to the proximity of the site to the Wickham Transport Interchange. I believe this is a bit low based on existing developments though concede could be possible once the Interchange is constructed. Overall though this is the type of development suited to the area and on its own the development will not adversely impact on the local road network. The traffic issue with the area will be the cumulative impacts of all the developments and a traffic study of the whole Wickham area should be undertaken to determine likely road network upgrades so that all developments can contribute in a fair and reasonable manner via a S94 plan. It would be unfair to require this from a single developer and thus this should be managed by Council’s Traffic section. I agree with SECA Solutions comments in the traffic report that the Throsby Street/Hannell Street intersection at least would come under pressure from all the development in Wickham and additional turn lane lengths and parking restrictions may be required.

iii) Parking Demand

SECA Solution has identified that the Council DCP parking requirement for the development is 132 spaces and 133 spaces have been provided therefore compliance with the DCP is achieved. However motorbike parking and bicycle storage is also required. Whilst a suitable bicycle storage area is provided no motorcycle parks are provided. Noting that 7 motorbike parking spaces are required and that the 1 surplus car park could be converted to 3 to 4 motorbike parks it is proposed to condition the provision of at least 3 motorbike parks in the complex.

The only issue I see with the on-site parking is the allocation of parking. The plans show six spaces dedicated to the commercial areas which is satisfactory though a separate dedicated service vehicle space should also be provided. The proposal under the DCP is also required to provide 24 to 25 visitor car spaces. It is important given the likely on-street parking demand in the area to provide some visitor parking however a reduction in visitor parking may also encourage visitors to utilise public transport. Therefore it is proposed to condition the provision of 12 visitor car spaces being the 12 spaces on ground level nearest the site access and including the disabled parking space.'

‘A major issue Council has had in respect to the construction of apartments in Newcastle is the provision of parking for construction employees. As generally parking cannot be provided on-site construction employees are utilising the existing on-street car parking in the area which adversely impacts on the availability of parking for residents their visitors and CBD workers. Therefore Council now requires construction employees to be shuttled in to the site from remote parking areas unless on-site car parking can be provided during construction.’

Collection of waste from the site will be by private contractor utilising large bulk bins from within the site (likely 1100L).
During construction, a Construction Management Plan is required to help ensure minimal impact upon adjoining users, particularly residential users within the nearby area. Overall, the proposal is considered to be satisfactory from a traffic, parking and vehicle servicing aspect.

7.05 Energy Efficiency

The proposal is considered to be acceptable having energy efficiency requirements and has addressed BASIX requirements under Section 4.14 above.

7.06 - 7.07 Storm water and Water Efficiency

The subject site is affected by flooding as detailed under 4.01 - Flood Management above.

The proposal has been assessed by Council's Development Engineers and is considered to be satisfactory subject to conditions of consent. The proposal incorporates to reuse tanks with a combined storage volume to meet the requirements of the Newcastle DCP 2012.

8.0 Public Participation

The proposal was notified in accordance with the provisions of the Newcastle DCP 2012 and 3 submissions were received. The issues raised have been detailed within Section 3.0 and addressed within the body of the report.

4.2.2 Impacts on the Natural and Built Environment [Section 79C(1)(b)]

a) Character, Streetscape, External Appearance, Urban Design, Height, Bulk & Scale

The amended plans have addressed the issues raised by Councils UDCG and Council's officers as discussed within Section 4.1.2 above.

The proposal is of a height and scale which is a considerable change to the current area but this is consistent with the strategic outcomes envisioned by the current planning controls.

The amended proposal is considered to be acceptable having regard to the height, external appearance, character of the area, height, bulk and scale.

b) Amenity (Privacy, Overshadowing, Views & Construction Impacts)

Privacy

The proposed development is considered to be acceptable in terms of its privacy impacts having regard to the relative position of balconies and windows to the neighbouring properties.
Overshadowing

The design, as proposed, results in the majority of the shadows falling onto the subject site and Charles, Wickham and Railway Streets. The shadows which fall onto the adjoining properties 15-19 Charles Street are significant, but unavoidable having regard to the allowable planning controls applying within the area.

It is considered that the impact on 17 and 19 Charles Street is also acceptable (an industrial building and vacant allotment respectively). The impacts on 15 Charles Street while significant could not be readily resolved by further design changes. It is also noted that this site would already be overshadowed by the existing neighbouring development.

On balance, it is believed that the overshadowing impacts of the proposal are acceptable.

Views

As noted previously in this report, the lands surrounding the subject site are relatively flat and predominantly occupied by industrial and commercial uses. It is calculated that the few dwellings in the immediate locality do not have significant views either to or from their property. As such, this proposed new development will have minimal adverse view affectation.

The proposal will however result in a noticeable change to the general outlook in the area due to the height and scale of the proposal. It is considered that this is reasonable having regard to the strategic outcomes planned for the area as aspired too in the prevailing planning controls.

The design and form of the development is proposed as two separate towers, rather than a continuous bulk and further amendment of the design would not readily improve the outcomes in terms of views and outlooks.

The overall impacts in terms of views and outlook are considered acceptable in this instance.

Construction Impacts

Appropriate conditions have been recommended at Attachment B to address potential construction impacts.

4.2.4 Suitability of the Site for the Development [Section 79C(1)(c)]

The site is not within a Mine Subsidence District. The site is not subject to any other known risk or hazard that would render it unsuitable for the proposed development.
4.2.5 Submissions made in accordance with the Act or Regulations [Section 79C(1)(d)]

This report has addressed the various concerns raised in the submission received in response to the Public Notification and under the Act and Regulation.

The following submissions have been addressed directly below:

i) Noise Conflict - Concern regarding potential noise conflict from air conditioning systems. Concern regarding the noise & vibration impacts from aspects such as pumps. Fire and electricity stations location directly adjacent the neighbouring property.

Comment: Air conditioning systems will be required to meet the Australian Standards in terms of sound rating. The electrical substation results in negligible noise output. The fire pumps would only generate an acoustic impact in the event of a fire and this is considered to be reasonable.

ii) Breezes/Wind Tunnel - Concern that the proposal will block breezes and/or result in a wind tunnel effect in the area.

Comment: The proposal consists of a three level podium and two separated tower elements. The development was assessed by Council's UDCG and development staff and is considered to be reasonable in terms of wind tunnel effect and breezes.

iii) Infrastructure/Services - Concern that the proposal will require upgrade in infrastructure/services (e.g. drainage, gas & power) which local residents will be required to contribute to the cost of.

Comment: Any upgrades and/or connections to services and infrastructure will be at the developments cost.

iv) Pedestrian Access - Concern that pedestrian access for 15 Charles Street along the northern boundary would be lost.

Comment: The current development does not propose to build on or over 15 Charles Street. The northern pedestrian access is limited by the existing industrial building built common boundary and this situation will be unchanged by the proposed development.

v) Heritage - Concern regarding impact on existing 'heritage' kerb and gutters (i.e. bluestone and sandstone guttering).

Comment: A condition has been recommended at Attachment B addressing the 'heritage' kerb and gutter.
Ausgrid

The applicants have undertaken initial negotiations with Ausgrid regarding electricity connection and upgrades. Ausgrid has raised no objections to the proposal subject to a network connection application and associated design contract being completed prior to connection (typically this approval would be sought during the Construction Certificate stage). Any requirements for provision for underground power will be subject to this network connection application.

4.2.6 Public Interest [Section 79C(1)(e)]

- **Sustainability**

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 consolidation objectives, making more efficient use of the established public infrastructure and services.

The proposed development will not result in a significant disturbance of any endangered flora or fauna habitat or otherwise adversely impact on the natural environment (detailed above).

- **General**

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

**ATTACHMENTS**

**Attachment A:** Plans and elevations of proposed amended development - 3-13 Charles Street and 14-22 Wickham Street, Wickham

**Attachment B:** Draft Schedule of Conditions - 3-13 Charles Street and 14-22 Wickham Street, Wickham

**Attachment C:** Processing Chronology - 3-13 Charles Street and 14-22 Wickham Street, Wickham

**Attachment D:** Urban Design Consultative Group - 3-13 Charles Street and 14-22 Wickham Street, Wickham
ATTACHMENT B – DRAFT SCHEDULE OF CONDITIONS
DA 2015/10123 - 3-13 CHARLES STREET, WICKHAM
AND 14-22 WICKHAM STREET, WICKHAM

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/Floor Plan</td>
<td>Proj No 1017 DA 10, DA11, DA12, DA13, DA14, DA 15, DA16, DA17, DA18, DA19, DA20, DA21, Iss C</td>
<td>LJM Architecture</td>
<td>March 2016</td>
</tr>
<tr>
<td>Elevation Plan</td>
<td>Proj No 1017 DA 30, DA31, DA40, DA41, DA42, DA 50, DA51, DA52, DA60, DA61, DA62, DA63 Iss C</td>
<td>LJM Architecture</td>
<td>March 2016</td>
</tr>
<tr>
<td>Landscape Plan</td>
<td>Dwg No US 51162PD.01A Pg 1/1</td>
<td>Forum Urban Sanctum</td>
<td>January 2016</td>
</tr>
<tr>
<td>Landscape Plan</td>
<td>Dwg No US 51162LP.01C - Amendment C 15/1/16 Pg 1/3</td>
<td>Forum Urban Sanctum</td>
<td>September 2015</td>
</tr>
<tr>
<td>Landscape Plan</td>
<td>Dwg No US 51162 SS Pg 3/3</td>
<td>Forum Urban Sanctum</td>
<td>September 2015</td>
</tr>
<tr>
<td>Statement of Environmental Effects</td>
<td>Issue A</td>
<td>ADW Johnson</td>
<td>22/10/15</td>
</tr>
<tr>
<td>Remediation Action Plan</td>
<td></td>
<td>Douglas Partners Pty Ltd</td>
<td>December 2015</td>
</tr>
<tr>
<td>Traffic Noise Assessment</td>
<td></td>
<td>RCA Australia Pty Ltd</td>
<td>October 2015</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 A total monetary contribution of $418,874.16 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>
<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>
<tr>
<td>June</td>
<td>Late July</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.

4 On-site parking accommodation is to be provided for a minimum of 132 cars and 3 motor cycles. A minimum of 6 spaces including a designated service
vehicle space is to be allocated for the commercial premises and a minimum of 12 spaces is to be allocated and delineated as visitor car parking. This parking is to 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 and the plans submitted with the development application. Full details are to be included in documentation for a Construction Certificate application.

5 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.

6 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.

7 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 Concept Stormwater Drainage Plan prepared by Michael Fitzgerald (Job No. 15-4871, Drg. No. C1, Issue 1, dated 19/08/15). Full details are to be included in documentation for a Construction Certificate application.

8 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.
9 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.

10 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.

11 The design and construction of the proposed development is to be in accordance with the relevant requirements of the Australian Standard 4674-2004 Design, Construction and Fit-Out of Food Premises.

   a) All external and internal walls including partitioning walls are to be of solid construction, such as masonry construction (AS 4674-2004 (3.2.1)). It should be noted that cavity stud walls are not appropriate anywhere in the food premises. Refer to table 3.2 (AS 4674-2004) for suitable wall finishes.

   b) Ceiling must be non-perforated and finished free from open joints, cracks and crevices and shall be finished smooth (AS 4674-2004 (3.2.5). Please note: drop in panels are not to be used in food preparation areas or over areas where open food is displayed or served (AS 4674-2004 (3.2.8)

   c) All waste water from the food processing within the café must be disposed of to the sewer via a grease arrester. Contact Hunter Water to confirm requirements of the arrester. The grease arrester shall not be located in areas where food, equipment or packaging materials are handled or stored to ensure compliance with the Australian Standard 4674-2004 (2.3.1). The grease arrester shall be located outside the food handling area with direct vehicle access for cleaning purposes as required by Australian Standard 4674-2004 (2.3.2).

   d) All food premises must have natural or mechanical ventilation that complies with the Building Code of Australia (AS 4674-2004 (2.5)). Written certification is to be provided to Council prior to the premises trading to ensure the mechanical exhaust ventilation system meets the requirement of AS1668.1 and AS1668.2 (AS 4674-2004 (2.5.1)).

12 A commercial vehicular crossing is to be constructed across the road reserve in Wickham Street, 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 a maximum of 6 metres wide.
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.

13 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.

14 All onsite stormwater detention or 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.

15 Prior to the issue of a Construction Certificate, the proponent is to prepare and submit to the PCA and Council an Environmental Management Plan (EMP) for construction/demolition works on the site, which is to be kept on site and made available to authorised Council officers upon request. The EMP 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 water management strategy, detailing erosion and sediment control, management of soil stockpiles, control and management of surface water, groundwater and process water. Procedures should also 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. This strategy should be cross-referenced with the water management strategy.

d) A soil management strategy, detailing measures to be implemented to manage the identification and control and disposal of any acid sulphate soils or soil contamination identified during site works.

e) A noise and vibration management program detailing measures to minimise the impact of the construction phase on the amenity of the locality in accordance with Australian Standard AS 2436. 2010 (Guide to
Noise and Vibration control on Construction, Demolition and Maintenance Sites).

f) A waste minimisation strategy, which aims to avoid production of waste and maximise reuse, recycling or reprocessing of potential waste material.

g) A community relations plan, which aims to inform local residents and other local stakeholders of the proposed nature and timeframes for demolition and construction activities together with contact details for site management.

16 The balustrades of the proposed balconies being modified so that any areas of transparent glass balustrading for each unit being limited to a lesser proportion overall than solid. Full details are to be submitted with the required Construction Certificate.

17 The treatment of podium’s common boundary walls being treated such that they their visual impact to neighbouring properties being mitigated as far as possible by the adding the combination surface patterning and texture and palette of neutral colours consistent with those proposed for the streetfront elevations. Full details are to be submitted with the required Construction Certificate.

18 Full design details of the children’s play area and associated shade structure being provided with the required Construction Certificate.

19 The Crime Prevention Through Environmental Design (CPTED) measures being implemented in accordance with the recommendations of the CPTED report by James Marshall & Co (September 2015). Full details are to be submitted with the required Construction Certificate.

20 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 Green Travel Plan is to be completed and submitted with the required Construction Certificate.

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

21 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).
22 Building demolition is to be planned and carried out in accordance with Australian Standard 2601:2001 - The Demolition of Structures.

23 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.

24 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.

25 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.

26 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
The demolisher is to ensure that all demolition material is kept clear of the public footway and carriageway as well as adjoining premises.

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.

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).

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

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.

All building work must be carried out in accordance with the provisions of the Building Code of Australia.
32 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.

33 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.

34 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.

35 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.

36 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.

37 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.

38 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.

39 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.

40 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.

41 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.

42 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.

43 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’.

44 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.

45 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.

46 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.

47 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.

48 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.

49 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).

50 Acid sulfate soil - found at excavation

During construction works, an assessment of acid sulfate soil potential is to be undertaken in the area of excavation. If acid sulfate soils are found to be present, soils are to be treated in accordance with the New South Wales Acid Sulfate Soil Management Advisory Committee’s ‘Acid Sulfate Soil Manual’.

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

51 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.

52 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.

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

54 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.

55 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.
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.

Appropriate acoustic treatment is to be implemented in accordance with the recommendations set out in the report prepared by RCA Australia Pty Ltd, (October 2015) - Traffic Noise Report. 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.

Prior to issue of an Occupation Certificate, the food business must notify the relevant enforcement agencies, under the Food Act 2003 and (for licensed food businesses) under the Food Regulation 2010. Notification is to be provided to Council.

Note: To arrange notification of the food business with Council go 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. To notify with the NSW Food Authority go to www.foodnotify.nsw.gov.au and follow the instructions.

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

The developer is to design and construct the following works within the Charles Street, Station Street and Wickham Street frontages adjacent to the site at no cost to Council and in accordance with Council’s guidelines and design specification:

a) Public Domain Works
   
   i. Reconstruct footpath to Council specifications.
   
   ii. Construct pedestrian refuge in Wickham Street at its intersection with Station Street.
Detailed public domain plan including longitudinal and cross sections is to be provided to Council for review and approval as part of the S138 Road Act Type 2 application.

Such works are to be implemented prior to the issuing of an Occupation Certificate for the proposed development.

b) Public Domain (Existing Stone Kerb & Gutter)
   i Construct new footpath, retain/install stone kerb and gutter. The scope of footpath works to extend 5m beyond the property boundary.
   ii Ensure adequate means to protect existing stone kerb and gutter are provided during demolition/construction of building works.

61 Prior to the issuing of an Occupation Certificate, a Validation Report is to be prepared by a suitably qualified person in accordance NSW Government endorsed contaminated land guidelines and submitted to Council and the PCA.

62 The children's play area and associated shade structure being installed prior to the issue of any occupation certificate and/or occupation of the premises.

63 The Crime Prevention Through Environmental Design (CPTED) measures being implemented in accordance with the recommendations of the CPTED report by James Marshall & Co (September 2015). Written final certification confirming the recommended CPTED treatments have 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 any Occupation Certificate and/or occupation of the premises.

CONDITIONS TO BE SATISFIED DURING THE OPERATION AND USE THE DEVELOPMENT

64 The hours of operation or trading of the commercial/business tenancies are to be not more than from:

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unless a separate application to vary the hours of operation or trading has been submitted to and approved by Council.

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

66 All vehicular movement to and from the site is to be in a forward direction.

67 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.

68 The premise/s is/are allocated the following street address/es in accordance with Council's House Numbering Policy and the Surveying and Spatial Regulation.

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<th>Unit Number on plan</th>
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A Community Liaison Officer is to be appointed prior to construction works commencing to act as a point of contact for adjacent occupiers throughout the construction phase of the development. The Community Liaison Officer is to be engaged until construction works are completed. Contact details of the
Community Liaison Officer are to be provided to Council and adjoining occupiers via a letterbox drop/community newsletter and signage at the site.

70 The proposed remediation work being carried out in accordance with the requirements set out in the submitted Remedial Action Plan (RAP) prepared by Douglas Partners Pty Ltd dated February 2016.

ADVISORY MATTERS

71 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.

72 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.

73 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.

74 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.

75 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).

76 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.
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
<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
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<tbody>
<tr>
<td>21 October 2015</td>
<td>Application lodged.</td>
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<tr>
<td>2-17 November 2015</td>
<td>Public Notification.</td>
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<td>24 December 2015</td>
<td>Further information requested.</td>
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<td>7 January 2016</td>
<td>Additional information submitted.</td>
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<td>14 January 2016</td>
<td>Additional information submitted.</td>
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<td>Additional information submitted.</td>
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<td>12 February 2016</td>
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<td>11 March 2016</td>
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This report addresses the nine Design Quality Principles set out in the Apartment Design Guide (2015) under State Environmental Planning Policy No.65. It is also an appropriate format for applications which do not include residential flats.

GENERALLY

1. Context and Neighbourhood Character
The site is located on the northern side of the proposed new train station at Wickham. The area is in transition and there are numerous mid-rise residential and mixed use developments proposed in the area. The site is bounded by Wickham Street to the west, Station Street to the south, and Charles Street to the east. Several lots on the corner of Charles and Station Streets are not part of this development site. The site is surrounded by low grade commercial and light industrial type buildings with one site on the southern boundary to the Charles Street site containing a heritage listed two storey cottage. While the development would be
out of character with the existing context, this area is undergoing a transition and that several other similar developments are proposed in close proximity to this site.

2. Built Form and Scale
The bulk and scale of the development was generally considered acceptable. The proximity of the adjacent heritage listed cottage on Charles Street was difficult to address adequately. The treatment proposed of stepping the building back from the podium level up and stopping the building at Level 7 was considered reasonable and gives the most opportunity to the site to the south to be reasonably developed. The changes to the balcony materials and colours of the lower three levels in the revised documentation further improves the scale of the building adjacent to the heritage cottage.

The height at 33.4m is below the allowable 35m and is considered acceptable. While the building will sit up higher than most other buildings in the area, it is generally consistent with the likely future context, which will evolve as other buildings of similar scale are developed.

The general approach to the building form is considered to be appropriate. The carpark is tucked in behind the commercial and residential units. The podium is created to enforce the street frontage and provides a strong base to sit the two residential towers on. A landscaped podium level then provides an opportunity for pleasant outdoor area for the residents. Consideration should be given to the noise that may be generated by the new train station and its impact on this common area. Some acoustic screening at podium level has been considered in the revised submission.

3. Density
The proponent provided calculations to show the building is slightly increased to 3.14:1, but still well below the allowable FSR of 4:1.

4. Sustainability
Whilst aspects of environmental sustainability were not discussed, the Pre DA report indicated passive measures and good natural lighting, energy efficient lighting and appliances and water recycling were to be included in the design.

5. Landscape
Landscaping was shown in conceptual form on the model. This includes street planting and extensive planter beds to terraces. The conceptual layout of the communal roof top has been modified. The Panel previously recommended that the pathway shown around the outside of the central area should be deleted which would provide a larger landscape buffer to the private terraces nearby. The applicant has maintained the pathway and extended it to connect to all apartments reducing the private open space they previously had and compromising privacy for these apartments. This is contrary to the recommendations of the panel and in the absence of any justification by the applicant, the Group is still of the view that this should be revised as previously recommended. The Group reiterated its previous recommendation that where ever possible at podium level, larger trees should be provided with an additional soil depth achieved via a localized set-down in the slab. In addition to this, any raised garden beds should be concealed by terraced decking or paving, and no visible planter bed-edge / retaining wall should be higher than a
low bench seat. Generally, larger tree species selections, including large shrubs and small to medium scaled trees, as well as a greater vegetation coverage/density are considered necessary to achieve an attractive landscaped outcome. Street tree planting is strongly encouraged by the Group, and it was recommended that the applicant’s landscape architect liaise with Council with respect to location and species of trees, as well as any upgrading of the footpath pavement. The proponent has advised that they have no objection to street trees and will work with Council to achieve an acceptable outcome.

6. Amenity
The apartments are generally well laid out. The units facing west in the east tower which previously had a second bedroom without an external window have been modified to comply with the 2015 Apartment Design Guide which states that every habitable room must have a window in an external wall and that daylight and air may not be borrowed from other rooms. A recessed ‘slot’ has been used successfully in other developments. In this situation, however, the recess is too long and narrow and should be widened. This will involve some replanning of the groups of units where this device is employed, one option being the deletion of the second bedroom in one of each pair of units. Often these recesses can be reduced in depth by utilizing an area at the end of the ‘slot’ for a desk or chair in the bedroom. The narrowness of the recess shared by two bedroom windows means that this is not an option in the plan as proposed. An acoustic screen should also be included to reduce sound travelling between adjacent bedrooms when both windows are open.

Figures on natural ventilation to the apartments have been provided. While there is an improvement with additional windows many units do not have adequate cross ventilation.

Unit W903 shows a bedroom behind the kitchen with no windows. This room could perhaps be accepted as a study or media room due to the lack of natural light and ventilation.

The entrance/exit to the stair adjacent to the eastern foyer should be replanned so that it can be accessed from the foyer.

7. Safety
Safety and security issues were not identified. Care will need to be taken in the landscape design for the podium level to ensure adequate safety for residents using these spaces after hours.

8. Housing Diversity and Social Interaction
The capacity for social interaction is considered to be closely tied to the successful resolution of lobbies, mail pickup points, and the rooftop communal area. The entry foyer at ground level on the eastern tower has been increased in size and is now acceptable for the amount of units being catered for.

A small shade structure and toddlers’ play space to the podium level communal space have been included. Care needs to be taken to adequately screen private units visually and acoustically from the communal spaces at podium level.
9. **Aesthetics**
Generally the group felt the contemporary character of the proposed building was appropriate. The limited use of bold feature colours with an overall neutral colour palette would sit well in the area. The balustrades of the balconies have been varied slightly in order to provide more variation to the façade and at the same time provide some screening for air conditioning and clothes drying areas. While the changes made to the balustrades are a positive development, it was suggested that any areas of transparent glass balustrading for each unit, be limited to a lesser proportion overall than solid.

The blank facades on the boundaries have been improved by breaking them up with colour. The Panel recommendation of a horizontal top (rather than raked) to the parapet adjacent to the heritage cottage has been incorporated. The mesh screening to the south western balconies has been revised to be in keeping with other areas of the building and is provides an interesting sculptural finish to the building.

The treatment of podium’s common boundary walls, other than those adjacent to the heritage cottage, which have been addressed, need to be treated such that they their visual impact to neighbouring properties can be mitigated as far as possible, by the adding of some surface patterning and texture, and possibly some soft landscaping cascading over the upper podium wall to visually “soften” its upper edge. This has been now incorporated in the design.

**Amendments required to Achieve Design Quality:**
The proposed application is generally supported, subject to the detailed issues raised above being resolved to the satisfaction of Council.

**Summary Recommendation:**
The design would potentially result in a development of good standard and is supported in principle, subject to the successful addressing of the issues raised above, as part of the detailed design process. It should not be necessary to refer the application again to the Group unless Council so desires.