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 18 July 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 11 July 2017

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**NOTE:** ITEMS MAY NOT NECESSARILY BE DEALT WITH IN NUMERICAL ORDER
CONFIRMATION OF PREVIOUS MINUTES

MINUTES - DEVELOPMENT APPLICATIONS COMMITTEE - 20 JUNE 2017

RECOMMENDATION

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

ATTACHMENTS

Attachment A: 170620 Minutes of the 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, 290 King Street, Newcastle on 20 June 2017 at 7.15pm.

PRESENT

IN ATTENDANCE
J Bath (Interim Chief Executive Officer), A Glauser (Acting Director Corporate Services), K Liddell (Acting Director Infrastructure), M Blackburn-Smith (Manager Development and Building), K Baartz (Communications Manager), A Knowles (Minutes/Council Services) and J Redriff (Minutes/Council Services).

APOLOGIES

MOTION
Moved by Cr Rufo, seconded by Cr Compton.

The apologies submitted on behalf of Councillor Doyle, Councillor Osborne and Councillor Dunn be received and leave of absence granted. Carried

DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTERESTS
The Lord Mayor called for declarations of pecuniary and non-pecuniary interests.

Councillor D Compton
Councillor Compton declared a non-pecuniary, less than significant conflict of interest as his building firm was asked at times to tender on projects, and furthermore in respect of Item 9 - DA2016/01283 - 63-75 Brunker Road, he stated he would leave the Chamber as he had a work colleague that had made a submission on one of the adjoining properties.

CONFIRMATION OF PREVIOUS MINUTES

MINUTES - DEVELOPMENT APPLICATIONS COMMITTEE 18 APRIL 2017

MOTION
Moved by Cr Clausen, seconded by Cr Waterhouse

The draft minutes as circulated be taken as read and confirmed. Carried
MINUTES - DEVELOPMENT APPLICATIONS COMMITTEE 16 MAY 2017

MOTION
Moved by Cr Clausen, seconded by Cr Waterhouse

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

DEVELOPMENT APPLICATIONS

ITEM-7 DAC 21/06/17 - DA2015/10304 - 123 KING STREET NEWCASTLE - ALTERATIONS AND ADDITIONS TO BUILDING FOR ADAPTIVE RE-USE AS 6 STOREY MIXED USE DEVELOPMENT WITH 3 COMMERCIAL TENANCIES PARKING AT GROUND LEVEL AND 25 RESIDENTIAL UNITS

MOTION
Moved by Cr Compton, seconded by Cr Luke.

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 development standard at clause 4.3 Height of Buildings, and Council considers the objection to be justified in the circumstances and is consistent with the aims of the relevant LEP clause;

B. 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 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 LEP clause; and

C. That the application at 123 King Street, Newcastle 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: Lord Mayor, Councillor Nelmes, Councillors Clausen, Compton, Luke, Posniak, Robinson, Rufo and Waterhouse.

Against the Motion: Nil.

Carried
ITEM-8  DAC 20/06/17 - DA2017/00052 - 176 HUNTER STREET NEWCASTLE - ADAPTIVE RE-USE OF EXISTING COMMERCIAL BUILDING INVOLVING CHANGE OF USE, FIT OUT AND TWO STOREY ADDITIONS FOR MIXED-USE DEVELOPMENT COMPRISING RETAIL, COMMERCIAL, RESIDENTIAL AND SMALL BAR

MOTION
Moved by Cr Compton, seconded by Cr Posniak

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 4.3 Height of Buildings and 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 LEP clauses; and

B. That Development Application DA2017/00052 for alterations and additions, façade restoration and the reuse of 176 Hunter Street Newcastle 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:  Lord Mayor, Councillor Nelmes, Councillors Clausen, Compton, Luke, Posniak, Robinson, Rufo and Waterhouse.

Against the Motion:  Nil.

Carried

ITEM-9  DAC 20/06/17 - DA2016/01283 - 65-75 BRUNKER ROAD BROADMEADOW ERECTION OF A FIVE STOREY RESIDENTIAL FLAT BUILDING INCLUDING 38 RESIDENTIAL UNITS, 42 PARKING SPACES AND ASSOCIATED SITE WORKS

At this stage of the meeting Councillor Compton left the chamber.

MOTION
Moved by Cr Clausen, seconded by Cr Robinson

A. That the Development Applications Committee note the objection under clause 4.6 Exceptions to Development Standards of Newcastle Local Environmental Plan 2012, against the development standard at clause 4.3 Height of Buildings, and considers the objection to be justified in the circumstances and consistent with the aims of the relevant LEP clause; and

B. That development application DA2016/01283 for the demolition of buildings, erection of a five storey residential flat building and associated site works at 65-75 Brunker Road, Broadmeadow be approved and consent granted, subject to
compliance with the conditions set out in the draft Schedule of Conditions (refer to Attachment B); and

C. That those persons who made a submission be advised of Council's determination.

**For the Motion:** Lord Mayor, Councillor Nelmes, Councillors Clausen, Luke, Posniak, Robinson, Rufo and Waterhouse.

**Against the Motion:** Nil.

**Carried**

Councillor Compton returned to the Chamber at the conclusion of this item.

The meeting concluded at 7.36pm
DEVELOPMENT APPLICATIONS

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

APPLICANT: ZIEL DESIGN
OWNER: A J PHILLIPS & Z J FRANKS
REPORT BY: PLANNING AND REGULATORY
CONTACT: DIRECTOR PLANNING AND REGULATORY / MANAGER DEVELOPMENT AND BUILDING

PART I

PURPOSE

An application has been received seeking consent to alterations and additions to a dwelling at 23 Alfred Street Newcastle East.

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 three submissions have been received in response.

The objectors' concerns include the size of the rear addition, the impact of the rear addition on visual amenity, overshadowing and a lack of landscaped area on site.

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

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 contravention of Principal Development Standard Clause 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 (NSW) 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 (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.

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 made 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 1, DP 445072 and is a narrow, generally flat and rectangular shaped allotment located on the southern side of Alfred Street. The lot has a frontage of 3.92m, a depth of 20.11m and a total land area of 78.83m².

The site has a road frontage to Alfred Street and a rear frontage to a laneway that connects with Zaara Street and Parnell Place. The site contains a two-storey, two-bedroom terrace style dwelling that directly adjoins both side boundaries of the site.

The dwelling is at the western end of a row of eight connected terrace houses. The general built form of the subject property and surrounding townhouses comprises of painted brick construction with elevated timber balconies and metal roof sheeting.

The typology of development in the immediate area predominantly consists of two-storey attached terraced dwellings, mostly in a similar style to the subject property.

The subject allotment is located within the Newcastle East Heritage Conservation Area.

2.0 THE PROPOSAL

The applicant seeks consent to carry out alterations and additions to the dwelling on the site, including the following works:

i. Demolition of a single storey rear addition that includes the kitchen and bathroom.
ii. Alteration of the ground floor window on the southern (rear) elevation.
iii. Alteration to the ground floor of the dwelling, from the dining room to the bathroom and laundry.
iv. Creation of a two-storey rear addition encompassing a kitchen/dining room at ground level and a master bedroom with ensuite on the upper floor.
v. An increase in Gross Floor Area (GFA) in respect to the ground floor (7.64 m²) and first floor (24.55m²). The total additional GFA proposed is 32.19m²;
vi. Addition of a 9.04m² ground floor deck at the rear of the property.

In response to concerns raised by Council officers and objectors regarding potential adverse privacy, outlook and building scale impacts, the original proposal has been amended as follows:

i. A reduction in the depth of the first-floor master bedroom. Both the ground and first floor align with the established rear building setback.
ii. A reduction in the height of the proposed addition by between 0.49m and 0.88m and the creation of a lower link between the existing building and the proposed addition. This link structure accords with Council’s heritage controls by ensuring a separation between the existing building and the proposed addition.
iii. Changes to the construction of the proposed addition, with traditional brick used as the ground floor cladding and light weight fibre cement cladding used on the first floor, to create a more varied presentation.

A copy of the amended plans is appended 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 original application was publicly notified in accordance with Council's Public Notification policy for a period of 14 days and three submissions were received in response.

The current amended plans have not been publicly re-notified due to the minor nature of the amendments and the fact that the changes are considered to address the neighbours' concerns.

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

a) Overshadowing and impact on breezes;
b) Bulk and scale;
c) Floor space ratio exceedance;
d) Landscaping shortfall;
e) Visual amenity impacts; and
f) Privacy impacts from the proposed new window in the rear addition.

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

4.0 ENVIRONMENTAL PLANNING ASSESSMENT

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 for 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 other relevant SEPP.

Newcastle Local Environment Plan 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 considered to be 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 existing development is 9.32m above existing ground. The maximum height of the proposed rear addition is 6.75m, being compliant in this regard.

**Clause 4.4 - Floor Space Ratio**

The existing dwelling has a calculated gross floor area (GFA) of 70.22m², equating to an FSR of 0.89:1.

The proposed alterations and additions seek to increase the GFA by approximately 32.19m² to a total of 102.41m², resulting in a proposed FSR of 1.3:1. This equates to a 46% increase in FSR from the existing situation and a 30% (23.58m²) exceedance of 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 standard 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 seeking to vary the FSR development standard and demonstrating that:
   a) Compliance with the development standard is unnecessary 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:

"Strict compliance is unnecessary as the proposed development will be consistent with the existing bulk and scale of the neighbouring dwellings. The proposed alterations and additions have been designed to ensure that the surrounding streetscape and established hierarchy of the terrace row will be maintained and the development will not appear bulky or out of place in the existing context. The visual dominance of the existing terraces will be maintained and complimented by the proposed additions."

**Departure from the standard -**

In establishing that compliance with the relevant development standard is unnecessary, the following principles have been addressed:

i. The density of the proposed development is consistent with the existing dwellings in the area, particularly the residences in the terrace row.

ii. The bulk and scale is consistent with the surrounding dwellings and will prevent the development from appearing out of place. The proposed alterations and additions will make a positive contribution to the streetscape through the preservation of the existing heritage facade and the articulation of the proposed additions to suit the streetscape.

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

**Officer's comment:** 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 for FSR 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 Principal Development Standard for FSR, 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) The proposal meets the objectives of the development standard - Clause 4.4 Floor Space Ratio;

e) The proposal is acceptable in terms of amenity impacts (overshadowing and privacy);

f) The proposal is acceptable in terms of its impact on the character of the Newcastle East Conservation Area; and

g) While a 30% numerical variation appears significant as detailed in the discussion above, the inclusion of an additional gross floor area of 23.58m² above the maximum FSR for the site is considered to be acceptable in the context of achieving modern standards of functionality and use of the dwelling. The proposed floor total floor area of 102.41m² would continue to be relatively modest for a dwelling house.

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 Principal Development Standard of NLEP 2012 is considered to be an acceptable planning outcome and in this instance strict compliance would be unnecessary.

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 and it is considered that the proposed alterations and additions to the building will not adversely impact upon the established streetscape in this section of the heritage conservation area. The proposed additions would be visible from the rear lane adjoining the site and, in this respect; it's noted that there is considerable variation and in the laneway presentation of dwellings in the locality.

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 historic application of the prescribed development densities for the locality of the site.
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 Standard 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 of the DCP:

a) 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 of this report.

b) Height of Buildings (3.02.02)

The proposed alterations and additions comply with the NLEP 2012 maximum building height limit of 10m.

c) Street Frontage Appearance (3.02.03)

The proposal does not affect the street frontage presentation of the dwelling house.

d) Side/Rear Setbacks (Building Envelope) (3.02.04)

The existing building does not comply with current DCP Building Envelope Acceptable Solutions criteria in respect of:

i. Eastern boundary wall - height; and
ii. Western boundary wall - height.
The lot width of the site is 3.92m, which allows for building to both lot boundaries. The proposed addition exceeds the maximum building height allowable to both lot boundaries, as does the existing building.

The proposed rear addition will not be visible from the street and will not impact on the streetscape in any way. The proposed rear addition will not result in any change to the existing building footprint.

While noting the constraints of the overall size of the site, it is considered that the proposed development will not be out of character with its general location and has suitably responded to the attributes of the site, with its bulk, massing and scale being appropriate in the context of adjoining development.

It is considered that the proposed development will not adversely impact on the amenity of adjoining development with respect to natural light, sunlight and coastal breezes, and is satisfactory in accordance with relevant performance criteria of the DCP.

e) **Landscaping (3.02.05)**

There is an historic under-provision of landscaped area on site and within the locality generally. The proposed addition will not reduce the existing landscaped area. Furthermore, the proposal includes the provision of a ground level deck which is considered to improve the open space arrangements on site. The proposed landscaping elements of this development are considered satisfactory.

f) **Private Open Space (3.02.06)**

The private open space provision will be enhanced as a result of the erection of a deck at the rear of the property. The private open space provision is considered satisfactory.

g) **Privacy (3.02.07)**

The proposal has been designed to ensure that privacy is protected for the applicant and surrounding residents and is considered acceptable with no direct overlooking from the addition to neighbouring properties. Privacy provision is considered acceptable.

h) **Solar Access (3.02.08)**

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

i. **View Sharing (3.02.09)**
The proposed development will have minimal impact on existing views from neighbouring properties. Due to the scale and siting of existing surrounding properties, the proposed rear addition will not have any greater impact on views than the existing terraced properties. View sharing arrangements are considered satisfactory.

j) Car Parking and Vehicular Access (3.02.10)

The property has an historic under-provision of on-site car parking. This under-provision is replicated across all of the terraced properties on Alfred Street. Given the small lot size and the historic importance of this property (within the Newcastle East Heritage Conservation Area) it is considered impracticable for car parking to be provided on site. Accordingly, while the subject proposal does not include car parking on-site, this is considered acceptable in this instance.

k) Development within Heritage Conservation Areas (3.02.11)

In support of the proposed works, the applicants have submitted a comprehensive Statement of Heritage Impact (SoHI) that accords with the:

1. NSW Heritage Office publications, Assessing Heritage Significance and Statements of Heritage Impact, together with the Australia ICOMOS, The Burra Charter: The Australia ICOMOS Charter for Places of Cultural Significance 2013; and
2. NSW Heritage Manual booklet 2, “Assessing Heritage Significance” and the paper “Statement of Heritage Impact- a model” both published by the NSW Heritage Office, now known as the NSW Heritage Division of the Office of Environment & Heritage.

It is considered that the proposed alterations and additions to the dwelling will not adversely impact upon the established streetscape in this section of the Heritage Conservation Area or diminish its cultural heritage significance.

l) Ancillary Development (3.02.12)

The existing fence facing the laneway at the rear of the site is proposed to be replaced by a new timber paling fence. The materials, scale and colours of the proposed fence are considered to be more consistent with the heritage character of the setting, compared to the existing fence, and as such is supported.

m) Stormwater and Water Efficiency (7.06)

Stormwater is required to drain to the street gutter in accordance with the relevant aims and objectives of Section 7.06 of the DCP. Conditions of consent have been recommended to enforce this requirement.

n) Waste Management (7.08)
Demolition and waste management will be subject to conditions to be included in any development consent to be issued.

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 adverse social or economic impacts in the locality.

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

The site is not subject to any 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 of the application. The following additional comments are made in respect of issues raised in submissions:

   a) Concern that the proposal will reduce sea breezes and sunlight to surrounding properties

Officer’s comment: Submissions raised concerns that the proposed rear addition would have a noticeable adverse impact on the availability of sea breezes and sunlight to surrounding properties.

Having regard for the aspect of the site, the design of the works and the direction of prevailing sea breezes, it is considered that the proposal would have minimal impact in respect of overshadowing and sea breezes.

   b) The proposed boundary walls do not accord with Council's planning controls

Officer’s comment: A Submission noted that the proposed boundary walls do not accord with Council's DCP policies in respect of the height of boundary walls. This issue is discussed within Part 4.2 (DCP provisions) of this report. The amended proposal is considered to be satisfactory in respect of the proposed boundary wall height, being reasonably consistent with the established and recognised built form in the locality.

   c) The proposal exceeds the maximum permissible FSR for the site

Officer’s comment: Submissions noted that the proposal will result in an exceedance of the FSR for the site. This issue is discussed within Part 4.1 (NLEP 2012
provisions) of this report. The amended proposal is considered to be satisfactory in respect of the proposed FSR.

d) Concern that the proposal does not adequately address the lack of landscaping in the area

Officer's comment: A submission raised the concern that the proposal is not doing enough to improve the provision of landscaped area in the vicinity of the site. This aspect is discussed within Part 4.2 (DCP provisions) of this report. The amended proposal is considered to be satisfactory in respect of the provision of landscaped area.

e) Concern that the wall on the western boundary will reduce visual amenity - request that more interesting treatment of wall is made.

Officer's comment: A submission requested that the proposed western façade include detailing to make it more visually interesting. This matter is considered within Part 4.2 (DCP provisions) of this report.

The proposed eastern and western walls of the addition have been redesigned to improve presentation through the selection of materials, improving the visual appeal of the eastern and western walls of the proposed rear addition. The amended proposal is considered to be satisfactory in respect of the design of the proposed addition.

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 on the consent.
ATTACHMENTS

Attachment A: Submitted Plans - Under Separate Cover - 23 Alfred Street Newcastle East.

Attachment B: Draft Schedule of Conditions - 23 Alfred Street Newcastle East.

Attachment C: Processing Chronology - 23 Alfred Street Newcastle East.

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

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<td>Land:</td>
<td>Lot 1 DP 445072</td>
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<td>Property Address:</td>
<td>23 Alfred Street Newcastle East NSW 2300</td>
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### 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/Roof Plan</td>
<td>Z1621 DA-101 Issue F</td>
<td>Ziel Design</td>
<td>13/02/2017</td>
</tr>
<tr>
<td>Site Analysis Plan</td>
<td>Z1621 DA-102 Issue F</td>
<td>Ziel Design</td>
<td>13/02/2017</td>
</tr>
<tr>
<td>Existing Ground Floor Plan</td>
<td>Z1621 DA-103 Issue F</td>
<td>Ziel Design</td>
<td>13/02/2017</td>
</tr>
<tr>
<td>Existing First Floor Plan</td>
<td>Z1621 DA-104 Issue F</td>
<td>Ziel Design</td>
<td>13/02/2017</td>
</tr>
<tr>
<td>Ground Floor Plan</td>
<td>Z1621 DA-105 Issue F</td>
<td>Ziel Design</td>
<td>13/02/2017</td>
</tr>
<tr>
<td>First Floor Plan</td>
<td>Z1621 DA-106 Issue F</td>
<td>Ziel Design</td>
<td>13/02/2017</td>
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<tr>
<td>GFA Plans</td>
<td>Z1621 DA-107 Issue F</td>
<td>Ziel Design</td>
<td>13/02/2017</td>
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<tr>
<td>North &amp; South</td>
<td>Z1621 DA-201 Issue F</td>
<td>Ziel Design</td>
<td>13/02/2017</td>
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<tr>
<td>West</td>
<td>Z1621 DA-203 Issue F</td>
<td>Ziel Design</td>
<td>13.02.2017</td>
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<tr>
<td>Sections</td>
<td>Z1621 DA-301</td>
<td>Ziel Design</td>
<td>13.02.2017</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 COMMENCEMENT OF WORK AND DURING THE CONSTRUCTION PHASE

3. 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).

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

5. 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.

6. 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.

7. 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.

8. 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.

9. All demolition material incapable of being re-used in future redevelopment of the site is to be removed from the site and the site being cleared and levelled.

Note: Where reusable building materials are to be stored on site for use in future building works, such materials are to be neatly stacked at least 150 mm above the ground.

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

11. 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.

12. 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).

13. 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.

14. 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.

15. 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.

16. 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.

17. 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.

18. 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.

19. Stormwater is to be conveyed to the existing property stormwater drains by way of a sealed pipe system. The existing drains are to be checked for adequacy and cleared of any obstructions.

20. 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.

21. 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.

22. 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.

23. 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).

24. 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

25. 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.

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

ADVISORY MATTERS

27. 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 662 677 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.

28. 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.

29. 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.
30. 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).

31. 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.

32. 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 2017/00019 – 23 Alfred Street Newcastle East**

<table>
<thead>
<tr>
<th>Date</th>
<th>Event Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>10 January 2017</td>
<td>Development Application lodged</td>
</tr>
<tr>
<td>27 January 2017</td>
<td>Notification period closes, with three submissions received</td>
</tr>
<tr>
<td>7 February 2017</td>
<td>Request for additional information sent to applicant</td>
</tr>
<tr>
<td>14 February 2017</td>
<td>Response from applicant to additional information request, including the provision of amended plans</td>
</tr>
</tbody>
</table>
REPORTS BY COUNCIL OFFICERS

Attachment A - Plans  DA2017/00019 - 23 Alfred Street Newcastle East - Alterations and additions to dwelling
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Abn 98 591 678 044

Date
Description

Issue

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TOTAL GFA: 97.85m²

NOTE: THE DEFINITION IS DEFINED BY THE SUM OF THE FLOOR AREA OF EACH FLOOR OF A BUILDING MEASURED FROM THE INTERNAL FACE OF EXTERNAL WALLS, OR FROM THE INTERNAL FACE OF WALLS SEPARATING THE BUILDING FROM ANY OTHER BUILDING, MEASURED AT A HEIGHT OF 1.4M ABOVE THE FLOOR, AND INCLUDES:

(A) THE AREA OF A MEZZANINE, AND
(B) HABITABLE ROOMS IN A BASEMENT OR AN ATTIC, AND
(C) ANY SHOP, AUDITORIUM, CINEMA, AND THE LIKE, IN A BASEMENT OR ATTIC,

BUT EXCLUDES:

(D) ANY AREA FOR COMMON VERTICAL CIRCULATION, SUCH AS LIFTS AND STAIRS, AND
(E) ANY BASEMENT

(F) VEHICULAR ACCESS, LOADING AREAS, GARAGE AND SERVICES, AND
(G) PLANT ROOMS, LIFT TOWERS AND OTHER AREAS USED EXCLUSIVELY FOR MECHANICAL SERVICES OR OUTSIDE, AND

(H) GROUND PARKING TO MEET ANY REQUIREMENTS OF THE CONSENT AUTHORITY (INCLUDING ACCESS TO THAT GROUND PARKING), AND

(I) ANY SPACE USED FOR THE LOADING OR UNLOADING OF GOODS (INCLUDING ACCESS TO IT),

(J) TERRACES AND BALCONIES WITH OUTER WALLS LESS THAN 1.4M HIGH, AND

(K) VOID ABOVE A FLOOR AT THE LEVEL OF A STOREY OR STOREY ABOVE.

GROUND FLOOR GFA PLAN

FIRST FLOOR GFA PLAN
NORTH ELEVATION
1:100 @ A3
EXISTING ELEVATION REMAINS UNCHANGED

SOUTH ELEVATION
1:100 @ A3
EXISTING ELEVATION REMAINS UNCHANGED
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ABN 98 591 678 044

Date

Issue

Description

©

DCP BUILDING ENVELOPE

RAISED TIMBER DECK

GROUND FLOOR PLAN

EXISTING GROUND LEVEL

ELEVATION

1:100 @ A3

EXTENT OF PREVIOUS PROPOSAL

WINDOW HOOD, BLACK PAINT FINISH

FIRST FLOOR PLAN

EXISTING PARTY WALL

PAINT FINISH TO MATCH NEIGHBOURING RESIDENCE

PRIVACY SCREEN

PRELIMINARY

ZIEL DESIGN

ALFRED PHILLIPS & ZANNA FRANKS

NEWCASTLE EAST NSW 2300

PHILLIPS FRANKS ALFRED RESIDENCE

23 ALFRED STREET,

PRELIMINARY

EAST ELEVATION

Z1621

DA-202 F

DRAFT

PRELIMINARY
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