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 19 July 2016

**TIME:** Following the Briefings Committee

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

P Chystal
Acting Interim Chief Executive Officer

City Administration Centre
282 King Street
NEWCASTLE  NSW  2300

8 July 2016

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CONFIRMATION OF PREVIOUS MINUTES

MINUTES OF DEVELOPMENT APPLICATIONS COMMITTEE 21 JUNE 2016

RECOMMENDATION

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

ATTACHMENTS

Attachment A: 160621 Development Applications Committee Minutes

Note: The attached minutes are a record of the decisions made by Council at the meeting and are draft until adopted by Council. They may be viewed at www.newcastle.nsw.gov.au
PRESENT
The Lord Mayor (Councillor N Nelmes), Councillors T Doyle, J Dunn, M Osborne, S Posniak, L Tierney and S Waterhouse.

IN ATTENDANCE
F Cordingley (Interim Chief Executive Officer), G Cousins (Director Corporate Services), K Liddell (Acting Director Infrastructure), P Chrystal (Director Planning and Regulatory), M Blackburn-Smith (Manager Development and Building Services), F Giordano (Manager Legal and Governance), K Sullivan (Council Services/Webcasting) and A Leach (Council Services/Minutes).

PRAYER
The Lord Mayor read a prayer and a period of silence was observed in memory of those who served and died so that Council might meet in peace.

MESSAGE OF ACKNOWLEDGEMENT
The Lord Mayor read the message of acknowledgement to the Awabakal and Worimi peoples.

APOLOGIES

MOTION
Moved by Cr Posniak, seconded by Cr Osborne

The apologies submitted on behalf of Councillors Clausen, Compton, Crakanthorp, Luke, Robinson and Rufo be received and leaves of absence granted.  

DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTERESTS
Nil.

CONFIRMATION OF PREVIOUS MINUTES

MINUTES OF DEVELOPMENT APPLICATIONS COMMITTEE 17 MAY 2016

MOTION
Moved by Cr Tierney, seconded by Cr Posniak

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

Carried
DEVELOPMENT APPLICATIONS

ITEM-6 DAC - DA 2015/10123 - 3-13 CHARLES STREET, WICKHAM AND 14-22 WICKHAM STREET, WICKHAM - DEMOLITION OF INDUSTRIAL BUILDING AND ERECTION OF 10 STOREY MIXED USE COMMERCIAL / RESIDENTIAL BUILDING (122 RESIDENTIAL UNITS)

MOTION
Moved by Cr Doyle, seconded by Cr Osborne

That the development application be refused on the basis that it does not comply with the Newcastle Development Control Plan 2012 and is not in the public interest.

Councillor Tierney foreshadowed the Council officers' recommendation.

Following a question from Councillor Posniak the Manager Development and Building informed Councillors that there were no proposed affordable units within the development.

For the Motion: Councillors Doyle and Osborne

Against the Motion: Lord Mayor, Cr Nelmes and Councillors Dunn, Posniak, Tierney and Waterhouse.

Defeated

MOTION
Moved by Cr Tierney, seconded by Cr Waterhouse

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).

For the Motion: Lord Mayor, Cr Nelmes and Councillors Dunn, Posniak, Tierney and Waterhouse

Against the Motion: Councillors Doyle and Osborne.

Carried

The meeting concluded at 6.46pm.
DEVELOPMENT APPLICATIONS

ITEM-7  DA 2015/0759.01 - 121 CAMERON STREET, WALLSEND - ERECTION OF A TWO-STOREY DWELLING (DUAL OCCUPANCY), ASSOCIATED SITE WORKS AND ONE LOT INTO TWO LOT SUBDIVISION

APPLICANT: ROSS MCCANDLISH
OWNER: ROSS McCANDLISH
REPORT BY: PLANNING AND REGULATORY
CONTACT: DIRECTOR PLANNING AND REGULATORY / MANAGER DEVELOPMENT AND BUILDING SERVICES
TELEPHONE: 4974 2709 / 4974 2793

PART I

PURPOSE

An application has been received seeking consent for the erection of a detached two-storey dwelling in the rear yard of existing residential premises (proposed dual occupancy), associated site works and one lot into two lot subdivision.

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

The application was determined on 4 February 2016 by way of refusal. A copy of the Notice of Determination (refusal) is appended at Attachment B.

Subject Land: 121 Cameron Street, Wallsend
The applicant has submitted a request pursuant to Section 82A of the *Environmental Planning and Assessment Act 1979* seeking a review of Council's determination. Upon further review, Council may confirm or change the determination.

The proposal has been amended in response to concerns raised by Council officers and issues raised in public submissions, as described below:

- The principal private open space area (courtyard) originally proposed in the front setback of the existing dwelling has been relocated to the rear of that dwelling;

- Upper floor windows of the new dwelling now include obscure glazing and windows have been amended to be highlight feature windows to reduce potential for overlooking;

- A single driveway is now proposed instead of a double driveway and a carport in the front setback has been removed;

- Landscaping for the site has been increased; and

- The rear-dividing fence has been raised to a minimum height of 2.0m (at the request of the neighbour).

The Section 82A request was notified in accordance with Council's Public Notification Policy for a period of 14 days, during which two submissions were received. One submission raised 5 issues of concern including overshadowing, privacy, noise, car parking and property devaluation. The other submission advised that no objections were raised if the rear-dividing fence between the respective properties was raised to a minimum of 2.0m in height.

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 of Part II.

The application has been referred to Council's development Applications Committee for determination due to a 'call-in' request received 11 March 2016 from two Councillors.

**Issues**

- Whether the proposed design is acceptable in terms of height, bulk and scale.

- Whether the proposed development is acceptable having regard to potential adverse amenity impacts on adjoining premises.

- Whether the proposed development is acceptable in terms of the suitability of the site.
Conclusion

The proposal is consistent with the zoning objectives and compliant with the relevant planning provisions in terms of floor space ratio, height, building envelope, setbacks and landscaping. The proposed development is compatible with the scale and pattern of development in the area will not have unreasonable impacts on the residential amenity of neighbouring properties with regard to privacy and overshadowing. For these reasons, approval of the development is considered to be in the public interest.

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

RECOMMENDATION

That the application for the construction of a detached two-storey dwelling in the rear yard of existing residential premises (proposed dual occupancy), associated site works and one lot into two lot subdivision be approved and consent granted subject to compliance with the conditions set out in the Draft Schedule of Conditions (refer to Attachment C).

Political Donation / Gift Declaration

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

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

1.0 THE SUBJECT SITE

The subject property comprises Lot 7 DP 13487, known as 121 Cameron Street, Wallsend. The lot is a regular rectangular shaped allotment and has an overall site area of 726m².

A single-storey weatherboard dwelling currently stands in the front portion of the site. The site is relatively flat and there are no trees on the site. The general form of development in the immediate area consists of a mixture of single-storey and two-storey detached dwellings.

2.0 THE PROPOSAL

The application is seeks consent for the construction of a detached two-storey dwelling in the rear yard of existing residential premises (proposed dual occupancy), associated site works and one lot into two lot subdivision.

The plans have been amended in response to concerns raised by Council officers and issues raised in public submissions, as follows:

- The principal private open space area (i.e. courtyard) originally proposed in the front setback of the existing dwelling has been relocated to the rear of that dwelling.

- Upper floor windows of the new dwelling now include obscure glazing and windows have been amended to be highlight feature windows to reduce potential for overlooking.

- A single driveway is now proposed instead of a double driveway and a carport in the front setback has been removed.

- Landscaping for the site has been increased

- The rear-diving fence has been raised to a minimum height of 2.0m (at the request of the neighbour).

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

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

3.0 PUBLIC NOTIFICATION

The Section 82A request was notified in accordance with Council's Public Notification Policy for a period of 14 days, during which two submissions were received.
The concerns raised by the objectors in respect of the proposed development are summarised as follows:

**Amenity**

i. Privacy - Concern that the new dwelling will overlook the rear yard and swimming pool of an adjoining premises.

ii. Overshadowing - Concern that the proposed development will overshadow the backyard of an adjoining premises, particularly overshadowing of a swimming pool and its heating system.

iii. Noise - Potential for increased noise.

**Traffic / parking**

i. Parking - Not enough parking is provided and the new dwelling will result in additional demand for on-street parking.

**Urban Design**

i. The proposal is not in keeping with the older style of single storey dwellings in the area.

**Miscellaneous**

i. Concern regarding potential devaluation of properties in the area.

The other submission advised that no objection was raised if the rear-dividing fence was increased to a minimum height of 2.0m.

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

**4.0 ENVIRONMENTAL PLANNING ASSESSMENT**

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

**4.1 Statutory Considerations [Section 79C(1)(a)(i) and (ii)]**

**4.1.1 State Environmental Planning Policy No 55 - Remediation of Land**

In accordance with Clause 7 of the SEPP, land contamination has been considered in the assessment of the application. The land is currently being used for residential purposes and is not listed on Council’s contaminated lands register. The site is considered to not be potentially contaminated and therefore is suitable for the proposed development.
4.1.2 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

A BASIX assessment was completed and a BASIX Certificate was obtained and lodged with the application, demonstrating that the development has achieved the required water and energy reduction targets.

4.1.3 Newcastle Local Environmental Plan 2012

Clause 2.1 - Land Use Zones

The subject property is included within the R2 Low Density Residential zone under the provisions of the Newcastle Local Environmental Plan, 2012, within which the proposed development is permissible with Council's consent. The proposed development is consistent with the zone objectives.

Clause 4.1 - Minimum Subdivision lot size

The minimum lot size for the site is 450m$^2$. The development proposes one into two lot subdivision of 349m$^2$ and 278.15m$^2$ (excluding 98.85m$^2$ access handle). The development complies with clause 4.1A (Exceptions to minimum lot sizes for certain residential development) as a dwelling is provided on each resultant lot which is greater than 200m$^2$.

Clause 4.3 - Height of Buildings

The subject site is identified on the Newcastle LEP 2012 'Maximum Building Height Map' as having a prescribed maximum building height of 8.5m. The proposed dwelling has a side wall height of 5.6m, pitching to an overall maximum height of 6.8m, which complies.

Clause 4.4 - Floor Space Ratio

The subject site is identified on the Newcastle LEP 2012 'Floor Space Ratio Map' as having a prescribed floor space ratio of 0.6:1. The site measures 627.15m$^2$ (excluding 98.85m$^2$ access handle).

The existing dwelling has 152m$^2$ of gross floor area (GFA) and the new dwelling proposes an additional 140.73m$^2$ of GFA. This results in a total combined floor space of 292.73m$^2$ for the site, or 0.46:1 FSR, which complies. The proposed development is considered acceptable in this location and in the context of the R2 low density zone.
Clause 5.9 - Preservation of Trees and Vegetation

There are no trees on the site. There are, however, three trees along the rear boundary of an adjoining premises, adjacent to the proposed driveway, with the potential to be adversely affected. The submitted arborist report concludes that the trees would not be adversely affected by the proposed development (driveway) and suggests mitigation measures to ensure their protection during construction. An appropriate condition of consent has been recommended in this respect (refer to Attachment C). The impact on trees is considered to be acceptable.

Clause 5.10 - Heritage Conservation

The site does not include any heritage items and is not located in or in proximity to a heritage item or heritage conservation area.

Clause 6.1 - Acid Sulfate Soils

The site is identified as class 5 on the Acid Sulfate Soils map. Excavation greater than 1 metre is not proposed. It is considered that the proposal is acceptable in relation to Acid Sulfate Soils.

4.2 Statutory considerations [Section 82A]

Under section 82A of the Environmental Planning and Assessment Act 1979 an applicant may request Council to review the determination of a development application, other than for designated development, integrated development or an application made by the Crown. The application is not designated development, integrated development or an application made by the Crown.

The request for review must be made and determined within 6 months after the original date of determination of the application. In this case, the application was determined on 4 February 2016 and the request was submitted on 26 February 2016. The request has to be determined prior to 4 August 2016, or the ability to make a determination will lapse.

As a consequence of its review, Council may confirm or change the determination. In the event that the applicant has made amendments to the proposed development described in the original application, Section 82 (c) of the Act requires that the consent authority must be satisfied that the application as amended is substantially the same development as described in the original application. The amendments to the proposal are minor and the application as amended is substantially the same development as originally proposed.
4.3 Merit Considerations

4.3.1 Newcastle Development Control Plan [Section 79C(1)(a)(iii)]

3.01 - Subdivision

The application proposes one lot into two lot Torrens Title subdivision of 349m$^2$ and 278.15m$^2$ (excluding 98.85m$^2$ access handle). The lots are regular in shape. The proposed dwelling is located within the proposed rear lot and the existing dwelling in the proposed front lot. The existing dwelling on the front lot is setback a minimum of 900mm from the proposed subdivision boundary. This is considered acceptable.

7.01.04 - Streetscape and front setbacks

As indicated earlier in this report, Council's original determination of the development application was by way of refusal. A reason for refusal was given as:

‘The proposed front courtyard for the existing dwelling is not consistent with the provisions of Sections 7.01.04, 7.01.06 and 7.01.10 of the Newcastle Development Control Plan 2012, with respect to streetscape, open space, front fencing and walls.’

The proposed two-storey dwelling is located at the rear of the site and is largely hidden from view behind the existing dwelling. There is limited change to the existing streetscape, except for a 1.5m high timber picket fence, which is considered appropriate in this main road location, as it will provide privacy and increased amenity for occupants without detracting from the streetscape.

The principal private open space area (i.e. courtyard) for the existing dwelling is now located to the rear of that dwelling. As discussed below, the required car parking space for the existing dwelling remains at the front of the site to ensure maximum private open space at the rear of the existing dwelling. A carport as originally proposed has now been removed and the parking space relocated adjacent to the single driveway to minimise impact on the streetscape. This arrangement is considered to be acceptable.

7.01.05 - Side and rear setbacks

The proposed dwelling is within the prescribed building envelope allowed within the R2 low density zone. The proposed development complies with the setback provisions of the DCP for the R2 zone.

7.01.06 - Open space

As indicated earlier in this report, Council's original determination of the development application was by way of refusal. A reason for refusal was given as:

‘The proposed private open space for the development is not consistent with the provisions of Section 7.01.06 of the Newcastle Development Control Plan 2012, with respect to open space.’
The principal private open space was originally proposed in the front setback and this has now been relocated to the rear of the existing dwelling. Each dwelling is now provided with a 16m$^2$ (4 x 4m) principal area of private open space and a minimum 40m$^2$ of total private open space. Each courtyard is directly accessible from living rooms and is provided with adequate solar access.

7.01.07 - Building design and appearance

As indicated earlier in this report, Council's original determination of the development application was by way of refusal. A reason for refusal was given as:

‘The proposed development will have an unreasonable impact on the built environment in the locality.’

The proposed development is of a contemporary design comprising a low-pitched skillion roof that slopes away from the property boundaries. The external materials and finishes include a mix of face brickwork and vertical board cladding to walls and ‘colorbond’ steel roof cladding.

The new development is considered compatible with the existing scale, character and massing of development in the area and is considered an appropriate design outcome having regard to the allowable planning controls applying to the area.

7.01.08 - Solar access

The DCP requires that new buildings maintain at least three hours of sunlight to the north facing living room windows of adjacent dwellings between 9am and 3pm on 21 June. The living room windows of adjoining dwellings will not be affected by the new development and sunlight to the existing solar panels on the north facing roof of the adjoining premises, in respect of which a submission objecting to the proposal was received, remains unchanged.

The DCP also requires that the principle area of ground level private open space of adjacent dwellings receive at least two hours of sunlight between 9am and 3pm. In instances where adjoining properties currently do not receive this amount of sunlight, new development should not unreasonably reduce available sunlight.

Shadow diagrams have been provided showing the proposed shadow cast throughout the day at hourly intervals between 9am and 3pm on June 21. It is recognised that the new development will result in a loss of sunlight to the rear yard of an adjoining premises during the morning period. Notwithstanding this, any additional overshadowing will progressively decrease throughout the day and by afternoon the affected backyard will continue to receive full sunlight.

This assessment concludes that the rear yard of the adjoining property will continue to receive in excess of the minimum required two hours of sunlight between 9am and 3pm on June 21, which is compliant with the requirements of this control. The overall impacts are considered acceptable, having consideration to the site context and the overall impact of the development throughout the year.
The above assessment demonstrates that the proposed development will not result in unreasonable overshadowing impacts to the adjoining properties and is considered acceptable in this regard.

7.01.09 - Views and privacy

The development does not unreasonably impact on any views or the general outlook from surrounding properties, nor will it impact view corridors from the public domain. The impact on general outlook from adjoining properties is considered acceptable.

The first-floor level of the proposed dwelling includes bedrooms and bathrooms, with the exception of a rumpus at the front. The north-west facing windows of the upstairs rumpus room and a south-west facing window of the upper floor bedroom have been amended to be highlight feature windows to reduce the potential for overlooking to an adjoining premises. In addition to this, the vertically proportioned bedroom windows on the north-west facing elevation have been amended to include obscure glazing to a height of 1.7m above floor level. The impact on privacy and overlooking is considered acceptable.

7.02 - Landscape, open space and visual amenity

As indicated earlier in this report, Council's original determination of the development application was by way of refusal. A reason for refusal was given as:

‘The proposed landscaping for the development is not consistent with the provisions of Sections 7.02 and 3.02.07 of the Newcastle Development Control Plan 2012, with respect to landscaped area.’

The site measures 627.15sqm (excluding 98.85sqm access handle) and is located in a Limited Growth Precinct. The DCP requires 25% of landscaping and 15% of deep soil area for the whole site. This equates to a minimum collective total of 156.79m² landscaping and 94.07m² of deep soil for the site.

The plans have been amended to show 195m² (31%) of landscaped area and 120m² (19%) of deep soil area for the site, which complies with the control. Overall, the development provides a reasonably even distribution of landscaping for the resulting lots, with landscaped areas being of useable size and proportions.

7.03 - Traffic, parking and access

The proposal has been assessed by Council's Development Engineer as being acceptable, subject to recommended conditions of consent. The development has been amended to provide a combined driveway for the two dwellings and the driveway design includes a grass strip to reduce mass concreting.
The application proposes a parking space for the existing dwelling, located in the front setback, and a double garage for the proposed dwelling. This is considered to be adequate. Vehicles associated with the proposed dwelling can enter and exit the site in a forward direction. A right of carriageway is required along the front section of the driveway to benefit the existing dwelling. This is addressed by a recommended condition of consent.

The proposal does not result in the removal of any street parking spaces or changes to the kerb / footpath. The demand for parking is not expected to change as a consequence of the proposed development.

7.06 - Stormwater

The proposal has been assessed by Council's Development Engineers as being acceptable, subject to recommended conditions of consent. A revised stormwater plan has been provided. Rainwater tanks are provided for each dwelling with overflow directed to Cameron Street. An easement to drain water is required along the driveway in favour of the existing dwelling lot and burdening the proposed rear lot in order to facilitate this system. This is addressed by a recommended condition of consent.

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

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

The siting, scale, height and appearance of the proposed development is suitable for the site and the streetscape. Overall, the amended proposal is considered to have acceptable impacts given the site's context.

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

Sunlight, privacy and view loss have all been previously assessed in this report, whereby it was concluded that the impacts are considered to be acceptable. Appropriate conditions have been recommended to address potential impacts during construction.

4.3.3 Social and Economic Impacts in the Locality [Section 79C(1)(b)]

The concern raised by an objector regarding a possible reduction in property values in the vicinity of the site as a result of the proposed development is not considered to be justified. Notwithstanding that impacts on property values is considered to not be a valid planning consideration, the proposal is not likely to detract from current market values.

The proposed development would not result in any significant social or economic impacts in the locality.
4.3.4  **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.

4.3.5  **Submissions made in accordance with the Act or Regulations [Section 79C(1)(d)]**

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

4.3.6  **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 proposed development will not result in the disturbance of any endangered flora or fauna habitat or otherwise adversely impact on the natural environment.

- **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 - 121 Cameron Street, Wallsend
- **Attachment B:** Notice of Determination / Reasons for Refusal - 121 Cameron Street, Wallsend
- **Attachment C:** Draft Schedule of Conditions - 121 Cameron Street, Wallsend
- **Attachment D:** Processing Chronology - 121 Cameron Street, Wallsend
**NOTICE OF DETERMINATION**

**DEVELOPMENT APPLICATION**
Section 81, Environmental Planning and Assessment Act 1979

04 February 2016

Solfot Pty Ltd
264 Parkway Avenue
Hamilton East NSW 2303

Dear Sir/Madam

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<th>DA2016/0759</th>
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<td>Land:</td>
<td>Lot 7 DP 13487</td>
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<tr>
<td>Property Address:</td>
<td>121 Cameron Street Wallsend NSW 2287</td>
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<tr>
<td>Proposed Development:</td>
<td>Alterations and addition to dwelling; erection of detached two storey dwelling (dual occ); associated retaining walls and site works. One lot into two lot subdivision</td>
</tr>
</tbody>
</table>

**DETERMINATION**

The Development Application has been determined by REFUSAL for the reasons specified in Schedule 1.

**Rights of Appeal:**

- If you are dissatisfied with the determination of Council (including a determination on a review under section 82A of the Environmental Planning and Assessment Act 1979) you may appeal to the Land and Environment Court within 6 months after the date on which you receive notice of the determination of the application or review, if your development application was lodged after 27 February 2011. Otherwise the appeal period is 12 months after the date on which you receive this notice.

- The Environmental Planning and Assessment Act 1979 does not give a right of appeal against this determination to an objector.

If you are considering exercising your rights of appeal or lodging a request for a review, it may be advisable to obtain legal advice regarding the interpretation of your rights in relation to such matters.

**Review of Determination:**

- You have the right to request a review of this determination under Section 82A of the Environmental Planning and Assessment Act 1979, provided that this determination is not made in respect of integrated development. The determination cannot be reviewed after the time limited for making an appeal to the Land and Environment Court expires or after an appeal to the Land and Environment Court is disposed of by the Land and Environment Court.

______________________________

Tom Smith
Development Assessment Officer

4 February 2016

Date of Determination
SCHEDULE 1

REASONS FOR REFUSAL

1. The proposed front courtyard for the existing dwelling is not consistent with the provisions of Sections 7.01.04, 7.01.06 and 7.01.10 of the Newcastle Development Control Plan 2012, with respect to streetscape, open space, and front fencing and walls [Section 79C(1)(a) Environmental Planning and Assessment Act 1979].

2. The proposed private open space for the development is not consistent with the provisions of Section 7.01.06 of the Newcastle Development Control Plan 2012, with respect to open space [Section 79C(1)(a) Environmental Planning and Assessment Act 1979].

3. The proposed landscaping for the development is not consistent with the provisions of Sections 7.02 and 3.02.07 of the Newcastle Development Control Plan 2012, with respect to landscaped area [Section 79C(1)(a) Environmental Planning and Assessment Act 1979].

4. The proposed development will have an unreasonable impact on the built environment in the locality [Section 79C(1)(b) Environmental Planning and Assessment Act 1979].

5. The proposed development is contrary to the public interest with respect to amenity [Section 79C(1)(e) Environmental Planning and Assessment Act 1979].
Attachment C

DRAFT SCHEDULE OF CONDITIONS
DA 2015/0759.01 - 121 CAMERON STREET, WALLSEND

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>Versio n</th>
<th>Prepared by</th>
<th>Dated</th>
</tr>
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<tbody>
<tr>
<td>DA05 - Site Plan</td>
<td>E</td>
<td>Newcastle Building Designs</td>
<td>02/06/2016</td>
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<tr>
<td>DA - 08 Elevation (B) Plan</td>
<td>E</td>
<td>Newcastle Building Designs</td>
<td>02/06/2016</td>
</tr>
<tr>
<td>DA-09 Street Elevation</td>
<td>E</td>
<td>Newcastle Building Designs</td>
<td>02/06/2016</td>
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<tr>
<td>DA-12 Landscape Plan</td>
<td>E</td>
<td>Newcastle Building Designs</td>
<td>02/06/2016</td>
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<tr>
<td>DA-13 Subdivision Plan</td>
<td>E</td>
<td>Newcastle Building Designs</td>
<td>02/06/2016</td>
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<tr>
<td>C-01 Stormwater Plan</td>
<td></td>
<td>MPC Consulting Engineers</td>
<td>06/02/2016</td>
</tr>
<tr>
<td>Arborist Report</td>
<td></td>
<td>Advanced Treescape Consulting</td>
<td>03/11/2015</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 $2,800.00 is to be paid to Council, pursuant to Section 94A of the *Environmental Planning and Assessment Act 1979*, such contribution to be payable prior to the issue of a Construction Certificate in respect of the proposed development.

Note:

a) This condition is imposed in accordance with the provisions of *The City of Newcastle S94A Development Contributions Plan 2009* (updated version operational from 15 March 2011). A copy of the plan may be inspected at Council’s Customer Enquiry Centre, ground floor of the City Administration Centre, 282 King Street Newcastle 8.30 am to 5.00 pm, excluding public holidays.

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

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

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

<table>
<thead>
<tr>
<th>Indexation quarters</th>
<th>Approx release date</th>
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<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>
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</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. 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.
5. 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.

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

7. Letterboxes, landscaping and any other obstructions to visibility are to be kept clear of or limited in height to 1.2m in the 2 metre by 2.5 metre splay within the property boundary each side of the driveway entrance in accordance with AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking. Full details are to be included in documentation for a Construction Certificate application.

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

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

10. Overflows from the roof water tank and any additional discharge controls (if required) are to be directed to Council’s drainage system by means of an interallotment drainage line or underground pipe directly to the street gutter. Full details are to be included in documentation for a Construction Certificate application.
11. All stormwater runoff from the proposed development being managed in accordance with the requirements of Section 7.06 ‘Stormwater’ of Newcastle Development Control Plan 2012, as indicated on the stormwater management concept plan prepared by MPC Consulting Engineers Job No. 15-492 Stormwater Plan and Details, Issue 1 dated 16/02/2016. Full details are to be included in documentation for a Construction Certificate application.

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

13. 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.

14. 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.

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

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

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

17. 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).*

18. 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.

   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).*

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

20. 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.

21. 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.

22. A residential vehicular crossing is to be constructed across the road reserve, in accordance with the following criteria:

   a) Constructed in accordance with Council’s A374 – Driveway Crossings Standard Design Details.

   b) In the case of a double car garage/parking space, the driveway crossing, within the road reserve, shall be a maximum of 4.5 metres wide and is to be perpendicular to the kerb fronting the proposed garage. Pedestrian right of way over the driveway will need to be maintained.
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.

f) At least one new street tree is to be planted within the frontage.

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 commencement of works.

23. 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.

24. Any proposed paving works within the public footway are to be in accordance with the requirements of Council’s specifications and City Centre Public Domain Manual.

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

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

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

28. 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.
29. 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).

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

30. 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.

31. 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.

32. 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.

33. The common driveway is to be the subject of an appropriate reciprocal right-of-way and the necessary survey plan and accompanying instrument under Section 88B of the Conveyancing Act 1919 (NSW) is to be registered with NSW Government Land & Property Information prior to the issuing of an Occupation Certificate for the proposed development, it being noted that the instrument is to provide that the right-of-way is unable to be relinquished, varied or modified without the concurrence of The City of Newcastle.

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

A Maintenance Manual for all water quality devices is be prepared in accordance with Council's Stormwater and Water Efficiency for Development Technical Manual (Updated 2013). The Maintenance Manual is to address maintenance issues concerning the water quality devices including routine monitoring and regular maintenance and be kept on site at all times. Establishment and maintenance of the water quality devices in accordance with the Maintenance Manual prepared by the applicant is to be completed prior to occupation of this site for the intended use.
35. An application is to be made for a Subdivision Certificate. The application is to be supported by a survey plan of subdivision, five copies thereof and a Section 50 Certificate from the Hunter Water Corporation.

36. Reciprocal rights of carriageway and easements for services are to be created over the access corridor serving proposed Lot B in favour of proposed Lot A.

37. The vehicular access and car parking facility for the existing dwelling on proposed Lot A are to be constructed prior to issue of a Subdivision Certificate.

38. An appropriate notation is to be placed on the plan of subdivision and an instrument under Section 88B of the *Conveyancing Act 1919* (NSW) being submitted to Council setting out the terms of easements as required by this consent. Council in addition to the owner of the land benefited by the easement is to be a party whose consent is needed to release or vary easements.

39. Written evidence of arrangements being made with the Hunter Water Corporation for the provision of water supply and sewerage and with the electricity authority for the provision of overhead or underground electricity supply is to be submitted with an application for a Subdivision Certificate.

40. The approved development on the site is to be completed to at least lock-up stage prior to the issue of a Subdivision Certificate.

   Lock-up stage is taken to mean the stage at which a building’s external wall cladding and roof covering is fixed and external doors and windows are fixed (even if those doors and windows are only temporary).

**CONDITIONS TO BE SATISFIED DURING THE OPERATION AND USE THE DEVELOPMENT**

41. The landscaped areas are to be kept free of parked vehicles, stored goods, garbage or waste material and being permanently maintained.

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

43. 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.
ADVISORY MATTERS

44. 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.

45. 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.

END OF CONDITIONS
Attachment D

PROCESSING CHRONOLOGY
DA2015/0759.01 (request for review of determination)
- 121 CAMERON STREET, WALLSEND

18 February 2016 - Request for review lodged
4 March - 18 March 2016 - Public notification of review request