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 April 2016

**TIME:** Following the Public Voice Committee

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

Frank Cordingley
Interim Chief Executive Officer

City Administration Centre
282 King Street
NEWCASTLE NSW 2300

8 April 2016

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

MINUTES OF DEVELOPMENT APPLICATIONS COMMITTEE MEETING 16 FEBRUARY 2016

RECOMMENDATION

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

ATTACHMENTS

Attachment A: 160216 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
CITY OF NEWCASTLE

Minutes of the Development Applications Committee Meeting held in the Council Chambers, 2nd Floor City Hall on Tuesday 16 February 2016 at 8.06pm.

PRESENT

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

APOLOGIES

MOTION
Moved by Cr Osborne, seconded by Cr Posniak

The apologies submitted on behalf of Councillors Crakanthorp and Rufo be received and leave of absence granted.

Carried

DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTERESTS

Councillor Compton
Councillor Compton declared a non-pecuniary less than significant interest in the Development Applications process generally. He indicated that his company was a selective tenderer for architectural firms that operated in the Newcastle Local Government area that could be selected to undertake building projects from time to time.

CONFIRMATION OF PREVIOUS MINUTES

MINUTES OF DEVELOPMENT APPLICATIONS COMMITTEE MEETING 1 DECEMBER 2015

Councillor Clausen indicated that at the December meeting he had declared a significant pecuniary interest in respect to DA 2014/1441 - 52 Maitland Road, Mayfield. He advised that the minutes were a correct record, however, he meant to have said "non-pecuniary interest".
MOTION
Moved by Cr Osborne, seconded by Cr Clausen

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

DEVELOPMENT APPLICATIONS

ITEM-1 DA2015/0504 - 10 CHURCH STREET, NEWCASTLE - PROPOSED ALTERATIONS AND ADDITIONS TO DWELLING

MOTION
Moved by Cr Posniak, seconded by Cr Doyle

1. Council support the written request from the applicant seeking to vary the floor space ratio development standard pursuant to clause 4.4 of Newcastle LEP 2012; and

2. The application for alterations and additions to the existing dwelling at 10 Church Street Newcastle be approved and consent granted, subject to compliance with the conditions set out in the Draft Schedule of Conditions appended at Attachment B.

For the Motion: The Lord Mayor, Cr Nelmes, Councillors Clausen, Compton, Doyle, Dunn, Luke, Osborne, Posniak, Robinson, Tierney and Waterhouse.

Against the Motion: Nil. Carried
DEVELOPMENT APPLICATIONS

ITEM-2 DAC - DA 2013-1236 - 317 WHARF ROAD, NEWCASTLE - DEMOLITION OF BUILDINGS ERECTION EIGHT STORY HOTEL AND CONFERENCE CENTRE

APPLICANT: HOSKING MUNRO PTY LTD
OWNER: WHARF ROAD DEVELOPMENTS PTY LTD
REPORT BY: PLANNING AND REGULATORY
CONTACT: DIRECTOR PLANNING AND REGULATORY / MANAGER DEVELOPMENT AND BUILDING

PART I

PURPOSE

An application has been received seeking consent for the demolition and construction of a Hotel and Conference Centre (8 storeys) comprising 176 hotel rooms, conference facilities, restaurant/bar and on-site car parking (113 spaces) at 317 Wharf Road, Newcastle.

The proposal has been amended from the original scheme which proposed a nine (9) storey Hotel with 220 rooms and on-site car parking for 135 spaces.

In its original form the application was required to be determined by the Joint Regional Planning Panel (JRPP) based on the estimated value of development being over $20 million.

The current amended reduced scheme has resulted in the development having a capital investment value below $20 million and Council is now the determining authority.

A copy of the latest amended plans are included (refer to Attachment A).

The application is now referred to Council's Development Application Committee for determination under their delegations based on the value of development (over $10 million) and a total of twenty-six (26) submissions received (during two rounds of notification).
The original application was publicly notified in accordance with Council's Public Notification policy for a period of fourteen (14) days and fifteen (15) submissions were received in response and three (3) requests for mediation.

The reduced amended proposal was publicly re-notified and a total of eleven (11) submissions were received in response including two (2) Public Voice applications.

The concerns raised by the objectors in respect of both schemes included matters associated with Statutory and Policy; Amenity; Design and Aesthetics; Traffic and Infrastructure; Social and Community Issues.

The Public Voice meeting was held in Council's Chamber in February 2016 and all matters have been discussed in this report.

**Issues**

1. Whether the proposal is acceptable in this location
2. Whether the proposal is of an acceptable built form
3. Whether the proposal will have an acceptable impact on the local amenity

**Conclusion**

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

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

**RECOMMENDATION**

The Development Application 2013/1236 for the demolition of the existing buildings on-site and the subsequent construction a Hotel and Conference Centre (176 hotel rooms), Conference Facilities, Commercial Space, Restaurant/Bar and on-site car parking (113 spaces) be approved with consent granted, subject to compliance with 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 site comprises Lots 181-183 in DP 770006 and is known as 317 Wharf Road Newcastle. The land is generally rectangular, but slightly irregular in shape located on the southern side of Wharf Road. The land has a dual frontage to Wharf Road (approx. 102.9m width of frontage) and Centenary Road (approx. 106m width of frontage) and a total area of 4,090.9m² and is generally level across the site.

The site is currently partially developed with a commercial / industrial type building with sealed open areas primarily used for car parking and has no natural features on the site given the site was previously disturbed through development.

Existing development on adjoining sites comprises to the north an existing commercial/residential waterfront development. To the east is a heritage item known as 'Argyle House' being a single storey building that occupies the corner of Wharf Road and Argyle Street. To the west is an existing mixed use multi-storey building comprising commercial floor area and residential apartment with three street frontages due to its corner position. To the south are low rise industrial buildings.

The site is affected by the following land constraints:

1. Mine Subsidence
2. Flooding
3. Acid sulfate soils (Class 3)
4. Land contamination
5. Within a 'sensitive coastal location'
6. Within the Newcastle City Centre Heritage Conservation Area and adjoins a 'listed' heritage item known as Argyle House
7. Within the Newcastle City Centre Area Map, not an identified 'key site'

2.0 THE PROPOSAL

The original proposal involved the demolition of existing structures from the site and construction of a nine (9) storey Hotel and conference centre (220 hotel rooms), conference facilities, restaurant and bar and on-site car parking for 135 spaces.

The proposal was amended on several occasions during the assessment process and the applicant now seeks consent to demolish existing structures on site and construct an eight (8) storey Hotel and conference centre (176 rooms), conference facilities, commercial premise, restaurant and bar and associated on-site car parking for 113 spaces and associated site works.

The maximum height proposed is Reduced Level (RL) 31.25 which is less than the 30 metre height limit prescribed for the site.
A copy of the submitted amended plans is appended at Attachment A. A copy of a list of amendments is appended at Attachment B. This list notes the changes between amended plans - DA Issue of March 2014 and DA Issue 2 of May 2015. All amendments have been clouded on the current plan set - DA Issue 2 of May 2015 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 application was originally notified for a period of fourteen (14) days in accordance with Council's Public Notification Policy. A total of fifteen (15) submissions were received in response, of which three (3) submissions also requested mediation.

The concerns raised by the objectors in respect of the original scheme are summarised as follows:

1. Statutory and Policy Issues:
   i) Heritage - The building does not respect the heritage significance of the adjoining building or the conservation area
   ii) DCP - The development is non-compliant with the Newcastle DCP 2012
   iii) Height - The development is over the maximum building height set by the LEP 2012 for the site
   iv) No detail provided for outdoor advertising and signage or 3D imaging of the development is to be provided in accordance with the Newcastle DCP.

2. Amenity Issues:
   i) View loss - The proposal will block views from neighbouring properties
   ii) Loss of sea breezes - The proposal will block sea breezes to neighbouring properties.
   iii) Overshadowing - The proposal will overshadow adjoining developments.

3. Design and Aesthetic Issues:
   i) Visual presentation - The development provides poor visual presentation to both street frontages. The building should be setback in line with the neighbouring building.
   ii) Landscape plan indicates that mature trees will grow within a 600mm garden strip which is not possible.
   iii) A noise tunnel will be generated along Centenary Road.
   iv) A wind tunnel will be generated along Centenary Road.
   v) Waste management details.
4. Traffic and Infrastructure Issues:
   i) Parking - Not enough parking has been provided for the development.
   ii) Traffic impacts

5. Social and Community Issues:
   i) The 3.00am licence of the restaurant will increase late night violence in the CBD.

The proposal has been amended on several occasions in response to concerns raised by Council's Urban Design Consultative Group (UDCG), Council officers and previous public submissions and the last notified plans were from May 2014.

The current amended proposal was publicly re-notified and a total of eleven (11) submissions received in response. Two (2) Public Voice applications were also received. The amended proposal was presented to Council in February 2016 in conjunction with a Public Voice meeting.

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

1. Statutory and Policy Issues:
   i) Setbacks to boundaries - the development does not comply with the previous Honeysuckle Precinct 20 metre separation between buildings.
   ii) Signage needs to be identified in the application.

2. Amenity Issues:
   i) Noise - pedestrians accessing the building at night will increase intrusive noise. Location of the loading dock will increase noise impacts on adjoining property.
   ii) Loss of privacy and overlooking from the balconies and windows of the southern aspect of the proposed building into adjoining residential units.
   iii) Detrimental impact upon residential amenity and visual impact of the development.
   iv) Demolition - potential asbestos and hazardous materials in the building to be demolished.
   v) Construction traffic.

3. Design and Aesthetic Issues:
   i) Height, bulk and scale - unsympathetic to neighbouring developments. The massing of the development is toward the western boundary close to the existing mixed use - commercial / residential development.
   ii) Aesthetics - the building is not visually pleasing and is not in keeping with the area and provides too many blank walls. The blank fire stair wall will have an adverse visual impact.
iii) Streetscape - the building ignores Centenary Road.
iv) Heritage impacts - the building does not respect the heritage significance of Argyle House.
v) Check-in - the development does not have a readily identifiable entry point. Where are buses and other guests expected to stop and check-in.
vi) Setback from adjoining development - should mirror the 10 metre boundary setback over podium height as Harbour Pier has done. The reduced setback will create excessive shadowing, generate high winds and has an unsympathetic bulk impact on the adjoining property.
vii) Building setbacks and separation should be in accordance with SEPP 65.
viii) Landscaping and open space - green walls should be used in the development.

4) Traffic and Infrastructure Issues:
   i) Access - from Centenary Road to Wharf Road remains too restrictive. The development will also take Crown Plaza Hotel parking spaces.

5) Social and Community Issues:
   i) Safety and security - potential for anti-social behaviour in the walkway. Loss of security for the balconies of the existing dwellings on the western side of the development which are accessible from Level 3 of the proposed development.
   ii) Liquor Licence - the development will have the potential to increase noise and anti-social behaviour in the area.
   iii) Social impact and Crime prevention and public safety from lack of good design in Centenary Road, late night trading.

The concerns raised by the public are addressed as part of the Environmental Planning Assessment at Section 4.0.

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 Policies

a) State Environmental Planning Policy No.55 - Remediation of Land
The provisions of this SEPP apply to the entire Newcastle Local Government Area and in accordance with clause 7 potential land contamination is a matter for consideration.

The subject site is currently developed and is listed as potentially contaminated on Council's contamination lands register.
The applicant submitted a contamination report and Remedial Action Plan which have been reviewed by Councils Senior Environment Protection Officer who has advised that the site could be adequately remediated as per the requirements of the legislation and would be subject to a number of conditions to be imposed on any consent issued to ensure it is remediated in accordance with the documents and policy.

Having regard to the considerations of SEPP 55, and in the context of the proposal, no further consideration is required and the proposal is considered consistent with this State policy.

b) State Environmental Planning Policy Amendment (Newcastle City Centre) 2014 (City Centre SEPP)

The Newcastle Urban Renewal Strategy 2012 (the strategy) and City Centre SEPP were initially released for community consultation in March 2013 and aimed to provide ‘a long-term strategy with a clear implementation plan for the city centre, which identifies opportunities for growth and investment and responds to the need to accommodate up to 12,600 more residents and 10,000 extra workers by 2036’.

The strategy and City Centre SEPP (and associated NLEP amendments) were gazetted and commenced on 29 July 2014.

The site is located within the identified area for the City Centre and is consistent with the provisions of the SEPP. However, the site is not identified as a Key Site within the City Centre SEPP. The City Centre SEPP did not amend the planning controls in NLEP applying to the subject site.

c) State Environmental Planning Policy No.64 - Advertising and Signage

The proposal does not include any signage. Any future signage would require separate consent. No further consideration of the SEPP is required under this application.

A condition has been included in the Draft Schedule of Conditions in this regard (refer to Attachment C).

d) State Environmental Planning Policy No.71 - Coastal Protection

The site is within the coastal zone and located within a 'sensitive coastal location' under the provisions of the SEPP. The proposal is consistent with the provisions of Clause 8 Matters for consideration under the SEPP.
4.1.2 Local Environmental Plan

a) Newcastle Local Environmental Plan 2012 (LEP)

The subject property is located within B4 Mixed Use Zone under the provisions of the Newcastle Local Environmental Plan 2012. The proposal is defined as a 'hotel or motel accommodation' with 'commercial and retail premises' and 'food and drink premises' components of the application all of which are permissible land uses with consent. The proposed development is consistent with the zone objectives.

Clause 2.07 Demolition requires development consent

The existing building is proposed to be demolished to make way for redevelopment of the entire site. The demolition is considered acceptable. Relevant conditions have been included in the Draft Schedule of Conditions (refer to Attachment C).

Clause 4.3 and 7.9 - Height of Buildings

The site is located within the Newcastle City Centre Area, but is not a 'key site' within the Centre. The Height of Buildings Map referenced in NLEP 2012 nominates a maximum height limit of 30 metres for the site.

The development as originally proposed breached this height limit. However, the development was amended (reduced by one storey) and now complies fully with Council's 30 metre height limit control.

The maximum RL proposed is 31.25 (less than the 30 metre height limit (above existing ground level (at approximately RL 2.00)).

Clause 4.4 Floor Space Ratio and 7.10 Floor space ratio for certain development in Area A

The Floor Space Ratio Map referenced in NLEP 2012 nominates a maximum floor space ratio of 2.5:1 for the subject site. The property has a site area of 4,099m2.

The site whilst located within the Newcastle City Centre Area Map is not located within 'Area A' and therefore, Clause 7.10 does not apply.

Both the original proposal and current amended proposal complies with the maximum floor space ratio limit permitted for this site, with a maximum floor space ratio of 1.63:1.

Clause 5.5 Development within the coastal zone

The site is located within the coastal zone and within a 'sensitive coastal location' under the provisions of SEPP 71 - Coastal Protection. The proposal is consistent with the provisions of the SEPP and therefore, consistent with NLEP 2012.
Clause 5.10 Heritage conservation

The site is located within the Newcastle City Centre Heritage Conservation Area. The site is not listed as a heritage item, but adjoins to the east, 'Argyle House' a listed heritage item at 311 Wharf Road Newcastle.

The application was supported by a Statement of Heritage Impact which considered the heritage impacts the proposed development may have on both the heritage conservation area and adjoining listed heritage item. The report concluded that 'while the proposed works will have some negative heritage impact associated with the difference in height and scale between proposed hotel development and the heritage item, the impact is acceptable. The negative heritage impact has been mitigated to some extent by stepping the proposed hotel away from the Wharf Road boundary alignment at the north-eastern portion of the site and from the eastern boundary. Furthermore, the proposed hotel has been modulated and articulated by specifying a variety of materials and finishes to the facades. In light of this, we have assessed the proposed hotel would not adversely affect the identified heritage significance of the Conservation Area or the heritage item in close proximity. We recommend the heritage aspects of this application be approved.'

The proposal has been amended since this report in response to advice from the Urban Design Consultative Group and Council in respect to heritage considerations. The proposal remains consistent with the findings and recommendations of the original Heritage Impact Statement and in some respects has further improved these aspects of the proposal as it relates to both the conservation area and heritage item on adjoining land. Relevant amendments to design and increased setbacks from this eastern side boundary and provision of passive and active open space areas / forecourt areas with landscaping within the Wharf Road frontage has provided an acceptable response to the adjoining heritage item 'Argyle House' with primary frontage to Wharf Road.

The proposal has appropriately considered heritage matters and is consistent with this clause within NLEP 2012. Relevant conditions have been included in the Draft Schedule of Conditions (refer to Attachment C).

Clause 6.1 Acid Sulfate soils

The site is identified as Class 3 acid sulfate soils - Works more than 1 metre below the natural ground surface. Works by which the watertable is likely to be lowered more than 1 metre below the natural ground surface.

The development does not propose any significant ground works other than for excavation associated with footings and therefore, does not pose a threat to exposure of acid sulfate soils and is consistent with this clause.

Relevant conditions have been included in the Draft Schedule of Conditions (refer to Attachment C).
Clause 6.2 Earthworks

The proposal requires minimal earthworks other than for excavation associated with footings and there is no basement level proposed as part of this development. The proposal is consistent with this clause.

Relevant conditions have been included in the Draft Schedule of Conditions (refer to Attachment C).

Clause 6.5 Public safety - licensed premises

The proposal includes a licensed area associated with the operation of the hotel. The hotel will operate in accordance with relevant Liquor Licensing requirements. As confirmed within the Statement of Environmental Effects, there is no night clubs proposed as part of this application.

The application was also referred to both the Liquor Licensing Group and NSW Police and support was given to the proposal subject to conditions.

Relevant conditions have been included in the Draft Schedule of Conditions (refer to Attachment C).

Clause 7.5 Design excellence

The proposed development is affected by this clause and Council cannot grant consent to this development unless the building exhibits 'design excellence'.

The proposed development was originally considered by Council's Urban Design Consultative Group (UDCG) in November 2013, where the original proposal consisted of Demolition, Hotel and Conference Centre - 9 storeys (220 hotel rooms), conference facilities, restaurant and bar and on-site car parking for 135 vehicles.

The UDCG concluded that 'Whilst the basic tower/podium concept is reasonable and the development is compliant with the critical planning controls, there are significant issues to be resolved before the design could be supported. The concerns in particular relating to 'built form' need to be satisfactorily addressed and the design refined accordingly before the proposal proceeds. Key areas in respect to 'built form' relate to lack of street level activation, inappropriate façade design, its low level of response to the adjacent historic building and a lack of visual capping to the façade'.

The proposal was amended in March 2014 and again in April 2014 with key changes including:

1. Reduction in height by removing a storey - now an eight storey building (RL 31.25 which is less than the 30 metre height limit above existing ground level (approx. RL 2.00)
2. Reduction in hotel rooms - now 176 rooms
3. Reduction in car parking spaces - now 113 vehicle spaces
4. Other elements of design changes
The amended development was further considered by the UDCG in June 2014. The recommendations of the UDCG stated that 'the revised proposal included several changes that were an improvement in its function, performance and appearance in respect of SEPP 65 and urban design provisions. However, additional refinements were needed to the ground floor level, landscape design, and podium design. The application was supported by the UDCG subject to review of these elements to the satisfaction of Council'.

The proposal was amended in May 2015 and these plans remain the current plans the subject of this assessment. The proposal remains a Hotel and Conference Centre - 8 storeys (176 rooms), conference facilities, restaurant and bar and on-site car parking for 113 vehicles.

The list of amendments made are provided (refer to Attachment B). This list of amendments, relate to changes from the March 2014 plans and the current May 2015 plans the subject of this report to Council.

The amended proposal provides an acceptable level of amenity within the context of this area and is generally consistent with state and local guidelines relating to building design and amenity. As such, the amended proposal is considered to address the predominant concerns of the UDCG and Council's assessment, and is now considered an acceptable form of development within the context of the site and location.
The following table references the current design against the requirements of this clause:
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<th>Comment</th>
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<tr>
<td>(a) whether a high standard of architectural design, materials, and detailing appropriate to the building type and location will be achieved.</td>
<td>The building has been designed by a registered architect and the design reviewed by the UDCG.</td>
</tr>
<tr>
<td>(b) whether the form and external appearance of the development will improve the quality and amenity of the public domain.</td>
<td>The proposal will provide a consistent street presence and improve the public domain in both Wharf Road and Centenary Road through consistency of setbacks, activation of the streetscape and good surveillance.</td>
</tr>
<tr>
<td>(c) whether the development detrimentally impacts on view corridors identified in the <em>Newcastle City Development Control Plan 2012</em>.</td>
<td>The proposal is not considered to pose a threat to view corridors given the context of the site and surrounding lands.</td>
</tr>
<tr>
<td>(d) how the development addresses the following matters:</td>
<td>The Statement of Heritage Impact submitted with the application concludes that the development will have minimal negative impact on the heritage significance of the Newcastle City Heritage Conservation Area or heritage item in close proximity on adjoining land.</td>
</tr>
<tr>
<td>(i) heritage issues and streetscape constraints.</td>
<td>Further amendments to the proposal were also made during the assessment of the application in response to UDCG and Council advice.</td>
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<td>(ii) the location of any tower proposed, having regard to the need to achieve an acceptable relationship with other towers (existing or proposed) on the same site or on neighbouring sites in terms of separation, setbacks, amenity and urban form.</td>
<td>No tower is proposed as part of this application.</td>
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<td>(iii) bulk, massing and modulation of buildings.</td>
<td>The proposed building, as amended now complies with the maximum height limit of 30 metres and is below the maximum floor space ratio for the site. The bulk and massing of the building is considered to appropriately address adjoining land uses and the context and character within which the site is located.</td>
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<td>(iv) street frontage heights.</td>
<td>The proposed building maintains and enhances the established street frontage height in this location and provides good street presence as well as active and passive surveillance of the public domain.</td>
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<td>(v) environmental impacts such as sustainable design, overshadowing, wind and reflectivity.</td>
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<td>(vi) the achievement of the principles of ecologically sustainable development.</td>
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<td>(vii) pedestrian, cycle, vehicular and service access, circulation and requirements.</td>
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<td>(viii) the impact on, and any proposed improvements to, the public domain.</td>
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The proposed development is considered a reasonable response to redevelopment of this site and has adequately ameliorated potential issues relating to amenity, privacy and solar access. Materials for the building are not likely to create unnecessary reflectivity.

The architecturally designed building is considered to have achieved reasonable levels of natural ventilation and natural light and in turn reducing energy consumption for heating and cooling.

The proposal has adequately catered for traffic, parking and access to and from the site and on-site for the development.

The proposed development incorporates commercial tenancies and cafe on the ground floor fronting Wharf Road providing activation of this frontage.

An open public pedestrian connection from Centenary Road through to Wharf Road has been provided within the building design, with an active commercial / retail space accessed through this connection.

Upper level balconies and windows provide opportunities for passive surveillance of the public domain on both Wharf Road and Centenary Road frontages.

The proposal is considered to achieve the provisions of this clause with NLEP 2012.

4.2 Merit Considerations

4.2.1 Relevant Strategic Policies

a) Section 94A Development Contribution Plan 2009

The development is affected by Part B (City Centre) of the plan. It is considered that the carrying out of the development would result in an increased demand for public amenities and public services within the area. Based on a 2% levy, a contribution of $398,594.28 would be required for the development. A condition requiring this contribution to be paid has been included in the Draft Schedule of Conditions (refer to Attachment C).
4.2.2 Newcastle Development Control Plan [Section 79C(1)(a)(iii)]

The following provisions of Newcastle Development Control Plan 2012 (NDCP) are relevant to the proposal:

Section 3.09 Tourist and Visitor Accommodation

The proposal is consistent with the aims of this section insofar as being a permissible form of development which ensures minimal effect on surrounding development and the environment.

Section 3.10 Commercial Uses

The proposal incorporates tourist and visitor accommodation, conference facilities and restaurant and bar facilities and is consistent with the aims and objectives and relevant controls within this section. The proposal contributes to the enhancement of the economic viability of commercial centres and contributes to the provision of tourist and visitor accommodation services and commercial mixed use services within the Newcastle City Centre location.

The proposal is considered to achieve the objectives and controls within this section of NDCP 2012. These include: activation of street frontages, promotion of uses that attract pedestrian traffic along ground floor street frontages for commercial and food and drink premises, and is compatible with other redevelopment sites within this context and location.

4.01 Flood Management

The site is identified as being affected by flooding with a flood hazard level of RL 2.90m AHD. On-site flood refuse is not required on this development site. Council’s Development Engineers have reviewed the proposal and advised the proposal demonstrates that all floor levels will be above the required flood hazard level of RL 2.90m. No other concerns exist in relation to flooding.

Relevant conditions for both flooding and drainage have been included in the Draft Schedule of Conditions (refer to Attachment C).

4.03 Mine Subsidence

The site is identified as being within a Proclaimed Mine Subsidence District. The Mine Subsidence Board granted approval to the original proposal and issued their concurrence to the proponent dated 14 November 2013, prior to lodgement of the development application.

Given multiple amendments have been made during the assessment process and the lapsing of the Board’s original approval the proponent resubmitted the latest amended plans to the Board for their approval.
The Mine Subsidence Board have issued a letter confirming "conditional approval" of the amended proposal subject to a number of conditions requiring various engineering requirements to be fulfilled.

A condition that requires the plans for the Construction Certificate Application to be reviewed and approved by the Mine Subsidence Board prior to lodgement of a Construction Certificate Application has been included in the Draft Schedule of Conditions (refer to Attachment C).

4.04 Safety and Security

The proposal has been designed to adequately address safety and security and is considered to be consistent with this section.

The proposal achieves good surveillance by providing clear sight lines between private and public spaces, effective lighting of public places, attractive landscaping adjacent to Wharf Road and activation of the Wharf Road street frontage. This activation is due to the following:

1. location of retail space and main entry to the Hotel and conference centre;
2. proposed CCTV to the car park areas and entry foyers of the Hotel and external cameras to the at-grade car parking areas;
3. restricted access to internal high-risk areas; and
4. an overall building design and functionality with frontage to two public streets which allows increased casual surveillance of all surrounding footpath areas;
5. the provision of a public pedestrian connection through the site from Centenary Road through to Wharf Road which provides for good connectivity and safety and security for pedestrian connection through street blocks.

Relevant conditions have been included in the Draft Schedule of Conditions (refer to Attachment C).

4.05 Social Impact

The proposal will contribute to increased activity to and from the site and along both Centenary Road and Wharf Road and as a destination will activate the public domain in these locations, specifically supporting the City Centre by providing economic and employment opportunities as well as redevelopment of a currently underutilised site within this key location.

The application was referred to NSW Police who have supported the proposal with recommended conditions relating to hours of operation, patron numbers, CCTV surveillance and plan of management.

Relevant conditions have been included in the Draft Schedule of Conditions (refer to Attachment C).

5.01 Soil Management

The proposal utilises at-grade and above ground car parking which has the effect of limiting potential site impacts resulting from excavation. Excavation is limited to piers required to support the structure, which results in minimal earthworks required across the ground level of the site. Therefore the proposal is consistent with this clause.
Relevant conditions relating to sediment and erosion control have been included in the Draft Schedule of Conditions (refer to Attachment C).

5.02 Land Contamination

As discussed in section 4.1.1 (a) the site is listed as being potentially contaminated in Council Land Contamination Register. The applicant has provided adequate information in order to ensure that the land could be adequately remediated. Conditions of consent are imposed to this effect.

5.05 Heritage Items

The site is not listed as a heritage item. The adjoining property to the east is a listed heritage item known as 'Argyle House'. This building is single-storey and is within close proximity to the front Wharf Road boundary.

A Heritage Impact Statement (HIS) was submitted with the application which concluded that the proposal was acceptable in maintaining the setting of the item and its contribution to the streetscape.

Whilst greater in scale the development's built form is setback a greater distance from the front boundary than the adjoining item. This enables the item to remain legible from the street when viewed from both the eastern and west sectors of Wharf Road. The proposal adopts a stepped façade to prevent views of the item from the public being lost. Additional amendments were made during the assessment of the application to further enhance and protect the adjoining heritage item within the context of the site, streetscape and other development within the area.

5.07 Heritage Conservation Area

As discussed above and elsewhere within this report, the Heritage Impact Statement lodged with the application has considered the Newcastle Heritage Conservation Area and has concluded that the proposal is an acceptable form of development within the context of the site and the broader conservation area.

6.01 Newcastle City Centre

The proposed development is for the redevelopment of the site and is generally consistent with this section. A summary of compliance with the relevant controls of this section is provided below.

6.01.02 Character Area

The subject site is within the Civic character area. The sub-section outlines that - The Civic is the administrative, cultural and educational centre of Newcastle. It includes facilities that reflect Newcastle’s importance as a major regional city such as Newcastle Museum, Newcastle Regional Art Gallery and City Hall. It is the location of major public assets such as Wheeler Place and the Civic Theatre.

The relocation of the courts to Civic and the introduction of more educational facilities associated with the University of Newcastle will have a major effect on the future character and activity within this area. Smaller commercial spaces will redevelop as support services for the courts and the university, and an increased student population will create flow-on demand for housing, retail and other services.
A number of key principles for the Civic character area are outlined within this section and whilst a number do not have direct relevance to the proposed site, overall the proposal is consistent with the Civic character area.

6.01.03 General Controls

**Building Form**

*A1. Street wall height* - The site does not have an identified street wall height as shown on the *street wall height plan* within this section. However, a typical street wall height of 16 metres and typical 6 metre upper level setback is intended to assist in ensuring a consistent building scale in streets that have a mix of uses, heritage items and infill development.

The development is not proposed to be built to the street boundary at any point and has an articulated setback along both street frontages in Wharf Road and Centenary Road consistent with other development within the streetscape. Increased setbacks both from Wharf Road and along the eastern side boundary in respect to the heritage item 'Argyle House' have been provided to lessen the impact and give respect to the value of the heritage item. Argyle House is well forward of the proposed building in close proximity to the Wharf Road boundary. The proposal also maintains a consistent front setback from Wharf Road to the adjoining property to the west to ensure some consistency with built form along this road frontage and without significant adverse impact to this adjoining mixed use development on the western side property.

*A2. Building setbacks* - The controls require a minimum setback for side and rear boundaries - *Below street wall height: requirement is zero set back and between street wall height and 45m: requirement is 6 metre setback.*

The proposal provides an articulated design with varying setbacks along both side and rear boundaries. A zero setback along the western side boundary (toward the Wharf Road front portion of the site) is provided for wall lengths ranging from 7 metres - Level 1 Ground Floor up to 13.02 metres - Level 2 Floor Plan, then decreases to 8.970 metres - Level 3 & Level 4 Floor Plan and decreases to 4.600 metres - Level 5 & 7 and Level 6 & 8 Floor Plans. Essentially the zero setback for Level 5 & 7 and Level 6 & 8 relates to the stair well only. The remainder of the building is setback along the western boundary 2.6 metres with the maximum wall length at this setback being 20.015 metres.

The proposal does seek a variation to the western side setback, as it relates to *Between street wall height and 45m*, as the building when it reaches 16 metres up to approximately 28 metres (outermost point of roofline) is only setback 2.6 metres. The typical street wall height diagram within the NDCP 2012 suggests a 6 metre setback.

Setbacks are provided along the eastern side boundary (adjoining Argyle House) without any part of the building located with a zero setback. The minimum setback to this side boundary is 11.230 metres (to stair well 8.590 metres) and the maximum wall length along the boundary provided with setbacks as outlined is 13.340 metres. These increased setbacks and reduced built form is to assist in respecting the heritage item on the adjoining site which is located in close proximity to both Wharf Road and the side boundary.
The minimum rear (Centenary Road) boundary setback is 3.450 metres toward the eastern end of the site and increases to approximately 19 metres at its closest point and increases to approximately 33 metres for upper Levels 5 & 7 and Levels 6 & 8 at the western end of the site.

Whilst the proposal does not meet the 6 metre setback requirement for building height 'Between street wall height and 45m', the proposal provides an increased setback for the majority of the building rather than zero 'Below street wall height' and varies in building depth along the western boundary to ensure adequate separation is achieved between the site and the adjoining mixed use / residential development at 319 Wharf Road, Newcastle.

Overall in considering the built form and massing, setbacks provided and articulation and depth of building along this boundary, the reduced setback is considered acceptable.

A4. Building depth and bulk - the proposal is consistent with this element as the design of the building has provided articulation and has the building increases in height, the depth and floor plate of the building reduces.

A5. Building exteriors - the proposal is consistent with this element providing a building design with materials and finishes that are in keeping with the character of this precinct.

A6. Heritage buildings - The site is located within the Newcastle City Heritage Conservation Area, but is not a listed heritage item. The adjoining property to the east is a listed heritage item known as Argyle House.

A Statement of Heritage Impact was lodged with the application, and subsequent amendments were made to the proposed plans which seen an increased setback to both Wharf Road and along the eastern boundary so as not to detrimentally affect the heritage item.

The proposal is considered acceptable within the existing streetscape and context within which the site is located.

A7. Awnings - There are no awnings proposed within the public footpath area. Acceptable awnings and treatments are proposed within the development site to encourage useable open space, covered entry to building and for articulation and design purposes.

A8. Design of parking structures - The proposal makes provision for at grade and above ground carparking within the building accessed from the rear (Centenary Road) site frontage.

The majority of car parking is incorporated into the building, with only seventeen (17) spaces outside along the (rear) Centenary Road frontage. This section of carparking has been appropriately incorporated into the landscape design for the entire site. The primary frontage to the site is the Wharf Road frontage and no access, traffic or parking is proposed off Wharf Road. However, the Centenary Road frontage is proposed to facilitate access, parking and service vehicles as well as achieving presentation to this street frontage with pedestrian entry into the lobby area and also public access through a terrace walkway through the building to gain access to the retail premise and out onto the forecourt at street level on Wharf Road. The provision of this pedestrian public connection between Centenary and Wharf Road is a positive contribution and of public benefit.
Public Domain

B1. Access network - The proposed development will not impact on the city access network.

The development does make a positive contribution to public pedestrian access by providing through-site connections in the form of an arcade / terrace within the site / building from Centenary Road onto Wharf Road being the main frontage. This connection complies with the minimum width requirement, open to the air and is both a connection and active frontage for the proposed café and retail premise within the main building on the site.

B2. Views and vistas - The proposed development will not significantly impact on existing views or vistas.

B3. Active street frontages - The site is not identified on the active street frontages plan contained within this section. However, the development incorporates an active street frontage along the full length of the primary frontage of Wharf Road and also provides public / pedestrian connection from Centenary Road through an arcade / terrace area through the building to the active café and retail premises and out onto the forecourt and public domain on Wharf Road.

B4. Addressing the street - The development is considered to positively address both Wharf Road as its main frontage and Centenary Road and responds to the acceptable solutions outlined in this section.

7.01 Building Design Criteria

It is considered that this section applies with respect to the character associated with design and appearance.

The overall floor space ratio, height and character of the development is considered to be acceptable in the context of the area and the site, as previously discussed elsewhere in this report.

The design and appearance of the building is contemporary, reflecting the uses of the proposed development and also the larger redevelopment which has occurred within adjoining sites and the broader area in this location.

7.02 Landscape, Open Space and Visual Amenity

The proposed landscaping scheme for the development is consistent with the relevant aspects of this section by providing landscaping appropriate within the context of the site and setting and also appropriate for the nature of the development. Open at grade car parking spaces along the Centenary Road frontage have been appropriately paved and landscaped achieving the requirements of this section.

7.03 Traffic, Parking and Access

Based on the requirements of Section 7.03.02 (A. Parking Rates) of the NDCP 2012, at a rate of 1 per 60m2 GFA the proposed development meets the requirements for on-site parking provision with provision of 113 car parking spaces.
A Traffic Impact Assessment Report (October 2013) was submitted in support of the proposal, with a revised Traffic Impact Assessment Report (April 2014) submitted to accompany the amended proposal which reached the same conclusions as the original report.

Key findings of the report include:

1. Except for residential development, car parking for development in 'the City Centre' is provided at a rate of one space per 60m² gross floor area.
2. The local road network has sufficient spare capacity to cater for the development without the need for any road upgrading works.
3. SIDRA modelling of the localised intersections within the vicinity of the development confirmed that the intersections will still act at acceptable levels of service post development.
4. Construction traffic generated by the development will not impact on the road network.
5. A Construction Traffic Management Plan be prepared and implemented prior to commencement of construction activities on the site.

It is noted that since the original traffic report was conducted, the proposed development reduced in size from 220 hotel rooms to 176 hotel rooms and associated reduction in on-site car parking spaces from 135 to 113. In accordance with the rates prescribed by the RTA Guide to Traffic Generating Developments, the estimated peak hour traffic generation from the development has also reduced from 130 to 101 vehicle trips per hour (vtp/h). The proposed development will also reduce the number of vehicular crossings to the site from 4 to 1, representing a net gain in on-street parking available along the site's frontages.

The Development Engineering assessment undertaken concurs with the findings of the revised Traffic Impact Assessment Reports submitted with the application.

Relevant conditions have been included in the Draft Schedule of Conditions (refer to Attachment C).

7.05 Energy Efficiency

The proposal achieves the provisions of this section, most of which are required under the provisions of the Building Code of Australia.

7.06 Storm water Management

The site is currently only partially developed, though extensive hardstand surfaces cover the majority of the site. The amended Stormwater Management Plan submitted with the application is considered to meet the requirements of Section 7.06 "Stormwater' of Newcastle Development Control Plan 2012.

Conditions have been included in the Draft Schedule of Conditions (refer to Attachment C) requiring all works to comply with the Development Control Plan 2012 and associated Stormwater Technical Manual.
7.07 Water Efficiency

The proposal includes the provision of water efficient fixtures and appliances and will meet the requirements of the section and Hunter Water Corporation.

7.08 Waste Management

Adequate provisions have been made on the ground floor for loading / unloading facilities, garbage and store rooms and housekeeping facilities to ensure waste storage and disposal achieves key principles of reducing, reusing and recycling of waste is incorporated into the development. Therefore, the proposal is consistent with this section.

Appropriate conditions have been included in the Draft Schedule of Conditions (refer to Attachment C) requiring a Site Waste Minimisation Management Plan be prepared relating to demolition / construction waste and on-going waste services for the site.

7.09 Outdoor Advertising and Signage

The proposal does not include any signage.

A condition has been included in the Draft Schedule of Conditions (refer to Attachment C) requiring separate approval for any signage in accordance with State Environmental Planning Policy No.64 - Advertising and Signage and Newcastle Development Control Plan 2012.

7.10 Street Awnings and Balconies

The proposal does not include any street awnings that project out over the public domain along either the Wharf Road or Centenary Road street frontages. All proposed awnings and balconies are setback within the private site boundaries and are considered to impact positively internally within the development and externally through the promotion of improved amenity through activation of street frontages on-site, good passive surveillance over the public domain and assist with building articulation and façade interest in design.

8.0 Public Participation

The proposal was originally notified in accordance with the requirements of this section and fifteen (15) submissions were received, with requests for mediation and Public Voice. The proposal was re-notified upon receipt of the main changes to the development and eleven (11) submissions were received, with requests for Public Voice.

Issues raised within submissions are outlined and discussed within various sections of this report.

A Public Voice Report was forwarded to Council on 16 February 2016.
4.2.3 Impacts on the Natural and Built Environment [Section 79C(1)(b)]

a) Noise and vibration

An Acoustic Assessment Report and plan of management was prepared and submitted with the application addressing matters of but not limited to: plant and equipment; the hotel's licensed area and conference facilities; deliveries and servicing.

This assessment has been reviewed by Council's Regulatory Services Section, who has indicated that the proposal can be supported subject to adoption of the report's recommendations.

Appropriate conditions have been included in the Draft Schedule of Conditions (refer to Attachment C).

Submissions received have expressed concern regarding the potential impact of noise from traffic and use of the facilities on-site inclusive of proposed operating hours.

Appropriate conditions have been included in the Draft Schedule of Conditions (refer to Attachment C) in relation to reduced operating hours to ensure appropriate noise levels are maintained and to reduce the potential for anti-social behaviour associated with late night extended trading hours. A condition will also be imposed which will not permit any amplified music to be undertaken as part of the development.

Construction and operation of the proposed development is not considered to pose a significant adverse impact from a noise or vibration perspective.

b) Demolition and construction impacts

Demolition and construction works associated with the proposal have the potential to cause short term environmental and amenity impacts on neighbouring properties. A number of conditions have been included in the Draft Schedule of Conditions (refer to Attachment C) to ensure that any potential impacts are minimised and/or ameliorated.

c) Overshadowing

Shadow diagrams have been submitted with the application indicating that whilst some overshadowing will occur during any given day, an acceptable level of solar access will be maintained to adjoining properties consistent with relevant requirements.

d) Privacy

The proposal is not considered to pose a significant adverse impact on the visual or acoustic privacy of any adjoining property. The mixed use residential apartments on the property adjoining to the west will continue to be afforded a reasonable level of privacy through setback both on and off site, articulation and building design so as
not to introduce intrusive openings within this elevation of the building. As the proposed building increases in height, the building mass and depth reduces which also provides greater relief in terms of privacy provision.

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

The proposal will have a positive short term economic impact by providing construction industry employment. The proposal is likely to have broad positive economic and social impacts in that it will create additional employment opportunities, social activity and street activation within this central City location close to existing amenities and public transport services.

Any concerns that were raised in submissions, in respect to loss of property values as a result of the proposed development is not a valid planning consideration.

The proposed development is unlikely to result in any significant social or economic impacts in the locality.

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

The site is known to be affected by Mine Subsidence, Flooding and Acid Sulfate Soils (Class 3). No other hazards are known to impact the property.

These hazards have been discussed elsewhere in this report. The site is considered suitable for the proposed development in the context of hazards that affect the site.

Appropriate conditions have been included in the Draft Schedule of Conditions (refer to Attachment C).

4.2.6 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 and/or referral procedures under the Act and Regulation.

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

- **Sustainability**

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

The proposal is consistent with Council’s urban consolidation objectives, making more efficient use of the established public infrastructure and services.

The proposed development will not result in the disturbance of any endangered flora or fauna habitat or otherwise adversely impact on the natural environment.
Given the nature of the proposal and the site context and location, it is considered unlikely that the site could be redeveloped for a reasonable end use by utilising existing buildings/structures on site. Therefore, the proposal to demolish exiting buildings/structures on-site is considered acceptable in this instance.

- 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 development / as amended - 317 Wharf Road, Newcastle

**Attachment B:** List of Amendments made - 317 Wharf Road, Newcastle

**Attachment C:** Draft Schedule of Conditions - 317 Wharf Road, Newcastle

**Attachment D:** Processing Chronology - 317 Wharf Road, Newcastle
LEVEL 3 FLOOR PLAN

CAR PARKING (45 SPACES)
This list of amendments notes the changes between DA issue of March 2014 and DA issue 2 of May 2015.

We note all amendments have been clouded on the drawings.

- **LEVEL 1 - GROUND FLOOR + SITE PLAN DA 1101C-DA1101E**
  - Car spaces 1-17 have been changed from bitumen to concrete pavers.
  - Additional landscaping provided adjoining driveway ramp.
  - Outdoor deck added to café.
  - Wharf Road forecourt updated including additional landscaping, planters, seating, light posts, sculpture and awnings.
  - Patterned backlit glass to shopfront of housekeeping area.
  - New disabled access ramp to rear entry.
  - New awning to public access walkway on Centenary Road side.
  - New lighting to public access pathway.

- **LEVEL 2 FLOOR PLAN DA 1102C-DA1102E**
  - Awning above main entry amended.
  - Awnings shown each side of undercover public access way.

- **LEVEL 3 FLOOR PLAN DA1103C-DA1103E**
  - New parapet wall and balustrade along northern wall.

- **LEVEL 4 FLOOR PLAN DA1104C-DA1104E**
  - Entry lobby, bar and kitchen to restaurant amended.

- **LEVELS 5 & 7 TYPICAL FLOOR PLAN DA1105C-DA1105D**
  - No changes.

- **LEVELS 6 & 8 TYPICAL FLOOR PLAN DA1106C-DA1106D**
  - No changes.

- **ROOF PLAN DA1107C-DA1107D**
  - Awning to lower levels amended.

- **NORTH + SOUTH ELEVATION DA1201C-DA1201E**
  - Disabled access ramp to entry shown on South Elevation.
  - Additional items added to legend.
  - Glazing to central core amended on Levels 2, 3 & 4.

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Prepared by Hosking Munro Pty Ltd - Architects, Interior and Landscape Designers
8/10/55 Miller St Pymont 2009 T 9660 1055 F 9692 9290 E hmn@hoskingmunro.com.au
May 2015
- Amendments to North Elevation forecourt including planters, awnings, sculpture and glazing.
- New balustrade to Level 3 car parking.

**EAST + WEST ELEVATION** DA1202C-DA1202D
- Additional planters to forecourt on East Elevation.
- New awnings to East Elevation.
- Balustrade and awning shown to Level 3 parking on West Elevation.

**SECTIONS AA, BB & CC** DA1301C-DA1301D
- Section AA. Amendments to restaurant layout on Level 4.
- Section BB. Front awning and glazing change to lift lobby. Accessible ramp to rear.
- Section CC. New awnings to forecourt and each side of terrace.
- Finishes legend amended for additional finishes.

**FINISHES SCHEDULE** DA1F01B-DA1F01C
- Legend updated.
- General revisions to forecourt level and façade.

**LANDSCAPE CONCEPT PLAN** DA1101B-DA1101D
- Stormwater pits and retention tanks added to plan.
- General revisions to forecourt and parking areas to match plan changes.
LEVEL 1 - (GROUND FLOOR) PLAN
- Service areas relocated to western end of floor
- Dock access and car parking changed to single entry point off Centenary Road
- Ground level car parking amended from 41 cars to 21 cars. Extent of landscaping increased
- Access to upper level parking changed with new dock
- Retail relocated to the eastern end of floor and reduced in area
- Colonnade provided along Wharf Road frontage to western end. Glazing provided to lower façade
- Building setback to eastern end increased from 7.48m to 12.0m
- Building setback from eastern boundary increased from 4.6m to 11.23m
- Front landscaped area changed to open forecourt. Impact on heritage item (No. 311) reduced
- Through access from Centenary Road to Wharf Road and lobby entry provided through site
- Main entry podium increased

LEVELS 2 + 3 - CAR PARKING LEVELS
- Access ramp amended
- Parking amended. Level 2 (45 to 47) and Level 3 (49 to 45)
- Setback of eastern end increased from Wharf Road and eastern boundary

LEVEL 4 PLAN
- Eastern end (restaurant) set back further from Wharf Road and eastern boundary
- Lobby area adjusted to include toilets
- Terrace to function rooms moved to Wharf Road elevation
- Small terrace added to restaurant
- Function rooms increased from 3 to 4

LEVELS 5-8 PLANS
- One level of hotel rooms has been deleted lowering building by one storey
- Number of rooms reduced from 220 rooms to 176 rooms. Remains as 44 rooms/level
- Western wing moved closer to Wharf Road and western boundary (6m and 10m to 2.6m and 7.18m)
- Eastern wing moved further away from Wharf Road and the eastern boundary (7.48m and 6.00m to 12.0m and 11.19m)
- Small extended balconies have been added to each room

Prepared by Hoskins Munro Pty Ltd. Architects, Interior and Landscape Designers
3.19/55 Miller St, Pyrmont 2009. T (02) 9660 1055 F 9662 9290 E hm@hoskins-munro.com.au
11 April 2014
• ROOF PLAN
  o Metal sloping roof shown in lieu of ridge

• NORTH + SOUTH ELEVATION
  o Generally to reflect changes to plans
  o Balconies to hotel rooms
  o One level removed to reduce from 9 to 8 storeys
  o New roof form showing inward sloping roof
  o More articulation to façade including recesses to Level 1-3
  o Increased setbacks to eastern boundary

• EAST + WEST ELEVATION
  o Reflect reduction in one storey, increased setbacks to Wharf Road and change in colonnade at street level

• SECTIONS
  o As for changes to plans and elevations

• FINISHES SCHEDULE
  o Change in façade articulation
  o Increased range of finishes/colours to hotel rooms and façade

• LANDSCAPE CONCEPT PLAN
  o Extent of landscaping to eastern end of site on Centenary Road increased with public access to site upgraded
  o Front landscaped area on Wharf Road changed to formal forecourt
ATTACHMENT C – DRAFT SCHEDULE OF CONDITIONS
DA 2013/1236 - 317 WHARF ROAD, NEWCASTLE

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.

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Hosking Munro Pty Ltd

May 2015
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<td>9am, 10am, 10.30am</td>
<td>Landscape Concept Plan - Finishes Schedule</td>
<td>Rev D, DA1L01</td>
<td>MPC Consulting Engineers Pty Ltd</td>
<td>6 May 2015</td>
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<td></td>
<td>Sediment and Erosion Control Plan &amp; Stormwater Plan</td>
<td>Rev C, DA1F01</td>
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<td></td>
<td>Statement of Environmental Effects</td>
<td></td>
<td>Andrew Martin Planning</td>
<td>October 2013</td>
</tr>
<tr>
<td></td>
<td>Email Advice</td>
<td></td>
<td>Michael Munro</td>
<td>13/01/2016</td>
</tr>
<tr>
<td></td>
<td>Plan of Management &amp; Security Management Plan</td>
<td>Job No. HM 1243</td>
<td>Hosking Munro Pty Ltd</td>
<td>October 2013 &amp; Amended 15/04/2014</td>
</tr>
<tr>
<td></td>
<td>Site Waste Minimisation Management Plan</td>
<td>13/053, Issue F</td>
<td>Michael Munro</td>
<td>15/10/2013</td>
</tr>
<tr>
<td></td>
<td>Amended Traffic Impact Assessment</td>
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<td>Intersect Traffic</td>
<td>April 2014</td>
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<td></td>
<td>Statement of Heritage Impact</td>
<td>Reports/131017_SHI_Final</td>
<td>NBRs+ Partners</td>
<td>17/10/2013</td>
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<td>Geotechnical Report</td>
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<td></td>
<td>Proposal for Contamination Site Audit</td>
<td>P14387 Version 1</td>
<td>ES Environmental Strategies</td>
<td>16/01/2015</td>
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<td>Remedial Action Plan</td>
<td>Project No. 19356/6535C Report No.16/0237</td>
<td>STS GeoEnvironment Pty Ltd</td>
<td>February 2016</td>
</tr>
</tbody>
</table>

In the event of any inconsistency between conditions of this development consent and the plans/supporting documents referred to above, the conditions of this development consent prevail.
CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

3. A total monetary contribution of $398,594.28 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>
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<th>Indexation quarters</th>
<th>Approx release date</th>
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<tr>
<td>September</td>
<td>Late October</td>
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<tr>
<td>December</td>
<td>Late January</td>
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<tr>
<td>March</td>
<td>Late April</td>
</tr>
<tr>
<td>June</td>
<td>Late July</td>
</tr>
</tbody>
</table>

Any party intending to act on this consent should contact Council’s Customer Enquiry Centre for determination of the indexed amount of contribution on the date of payment.

4. The building is to be provided with adequate means of access for persons with disabilities, to the extent necessary to comply with the Commonwealth Disability (Access to Premises - Buildings) Standards 2010. Full details are to be included in documentation for a Construction Certificate application.
5. On-site parking accommodation is to be provided for a minimum of 112 vehicles and such be set out generally in accordance with the minimum parking layout standards indicated in Element 7.03 ‘Traffic, Parking and Access’ of Council’s adopted Newcastle Development Control Plan 2012. Full details are to be included in documentation for a Construction Certificate application.

6. The 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.

7. Opposing traffic flows on car park ramps are to be separated by the provision of an appropriate kerb and/or safety barrier. Full details are to be included in documentation for a Construction Certificate application.

8. A loading bay with capacity to accommodate the largest delivery vehicles likely to deliver goods to or from the premises, is to be provided in a position adjacent to the proposed roller shutter in a manner which does not cause obstruction to the vehicular access driveway or parking area. Full details are to be included in documentation for a Construction Certificate application.

9. All proposed driveways, parking bays, loading bays and vehicular turning areas are to be constructed with a basecourse of adequate depth to suit design traffic, being sealed with either bitumen seal, asphaltic concrete, concrete or interlocking pavers and being properly maintained. The driveways are to be constructed in accordance with Council’s Standard Drawing A374 (Driveway Crossing Standard Design Details). Full details are to be included in documentation for a Construction Certificate application.

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

11. Runoff from paved surfaces and exposed carpark area is to be directed to an underground on-site detention (minimum capacity of 44,600L). Roof water from the proposed new work is to be directed to a rain water tank (minimum capacity of 34,000L) and being reticulated there from to any new toilet cisterns and cold water washing machine taps, with a mains water top up being installed to maintain between 10% and 15% of the tank capacity. Alternatively, an electronically activated mechanical valve device is to be installed to switch any new toilet cisterns and laundry taps to mains water when the tank falls below 10% capacity. The water tank and plumbing is to be installed in accordance with Australian Standard AS 3500, the relevant plumbing regulations and the requirements of the Hunter Water Corporation. Full details are to be included in documentation for a Construction Certificate application.

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

13. All stormwater runoff from the proposed development being managed in accordance with the requirements of Element 7.06 ‘Stormwater’ of Newcastle Development Control
Plan 2012, the associated Technical Manual and the latest issue of AS 3500.3 as applicable, as indicated on the stormwater management concept plan prepared by MPC Consulting Engineers (Job No. 14-155, Issue: 5, dated 6 May 2015). Full details are to be included in documentation for a Construction Certificate application.

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

15. The floor level of all proposed buildings or building additions is to be not below 2.90m AHD Australian Height Datum and being indicated on plans for a Construction Certificate application. The finished floor level of all car parking spaces is to be not below 2.50m AHD Australian Height Datum. The finished floor levels are to be certified by a registered Surveyor prior to the placement of the floor material and a copy of the Surveyor’s Certificate is to be forwarded to the Principal Certifying Authority.

16. The whole of the proposed structure below known 2.90m AHD Australian Height Datum is to be constructed in materials and finishes that are resistant to damage from floodwaters/tidal waters. Any new machinery or equipment, electrical fixtures (such as power points, light fittings and switches), storage units or similar items likely to be damaged by floodwaters/tidal waters being installed above the said height or alternatively being of materials and functional capability resistant to the effects of floodwaters/tidal waters. Full details are to be included in documentation for a Construction Certificate application.

17. All proposed planting and landscape elements indicated on the submitted landscape concept plan or otherwise required under the conditions of this consent are required to be detailed on a comprehensive landscape design plan and specification. The required comprehensive landscape design plan and specifications is to be in accordance with the provisions of Newcastle Development Control Plan 2012 and is to include details of the following:

   a)  cross sections through the site where appropriate  
   b)  proposed contours or spot levels  
   c)  botanical names  
   d)  quantities and container size of all proposed trees  
   e)  shrubs and ground cover  
   f)  details of proposed soil preparation  
   g)  mulching and staking  
   h)  treatment of external surfaces and retaining walls where proposed  
   i)  drainage, location of taps and  
   j)  appropriate maintenance periods.

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

18. 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.
19. The applicant is to comply with the requirements of the Hunter Water Corporation in respect of any building or structure proposed to be erected over any services or drain under the Corporation's control. Details addressing any requirements of the Hunter Water Corporation are to be included in documentation for a Construction Certificate application.

20. Adequate facilities are to be provided in a screened location within the premises for the storage of garbage, discarded or returnable packaging or other forms of trade wastes and arrangements being made for regular removal and disposal of same. The required garbage facility is to be suitable for the accommodation of Council approved wheel type bins or bulk waste containers. Full details are to be included in documentation for a Construction Certificate application.

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

In particular ensure:

a) All walls are of solid construction.
b) Ceilings are to be non-perforated and finished smooth, free from open joints, cracks and crevices.
c) Mechanical ventilation is provided and designed and installed in accordance with AS 1668pts 1 and 2 (AS 4674-2004 (2.3.2).
d) All waste water from the food processing areas must be disposed of to the sewer via a grease arrestor. The grease arrestor shall not be located in any areas where food, equipment or packaging is handled or stored. The great arrestor will be located outside with direct vehicle access for cleaning purposes.
e) All garbage bins holding putrescible waste and recyclable materials shall be stored externally from food areas. The garbage storage area shall be finished in an impervious material, graded and drained to the sewer and provided with a hose tap connected to the water supply.

Full specifications are to be included in the documentation for the Construction Certificate application.

22. A dilapidation report prepared by a suitability qualified person shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate. The dilapidation report shall document and photograph the current structural condition of the adjoining buildings, infrastructure and roads.

23. Working drawings and specifications of the proposed building are to be submitted to the NSW Mine Subsidence Board for approval prior to an application for a Construction Certificate and any requirements of the Board are to be included in the documentation for a Construction Certificate application.

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

a) Constructed in accordance with Council’s A1300 - Driveway Crossings
Standard Design Details.

b) The driveway crossing, within the road reserve, shall be a maximum of 7.3 metres wide.

c) Letterboxes, landscaping and any other obstructions to visibility should be kept clear of or limited in height to 1.2 metre, in the 2 metre by 2.5 metre splay within the property boundary each side of the driveway entrance.

d) The proposed driveway shall be a minimum of 3 metres clear of the trunk of any tree within the public reserve.

e) The proposed driveway shall be a minimum of 750mm clear of the centre of any pole or obstruction within the public reserve and 1 metre clear of any drainage pit.

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

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

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

26. Prior to the issue of a Construction Certificate, the proponent is to prepare and submit to the PCA and Council a Construction Environmental Management Plan (CEMP) for construction/demolition works on the site, which is to be kept on site and made available to authorised Council officers upon request. The CEMP is to include but not be limited to:

a) A site management strategy, identifying and addressing issues such as environmental health and safety, site security, and traffic management.

b) A water management strategy, detailing erosion and sediment control, management of soil stockpiles, control and management of surface water, groundwater and process water. Procedures should also be included to ensure that all roads adjacent to the site are kept free and clear from mud and sediment.

c) A dust management strategy, detailing procedures to minimise dust generation, with particular reference to control techniques and operational limits under adverse meteorological conditions. This strategy should be cross-referenced with the water management strategy.
d) A soil management strategy, detailing measures to be implemented to manage the identification and control and disposal of any acid sulphate soils or soil contamination identified during site works.

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

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

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

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

27. 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).

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

29. 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.

30. 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.

31. 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).

32. If construction / demolition work is likely to cause pedestrian or vehicular traffic in a
public place to be obstructed or rendered inconvenient, or involves the need to enclose a public place, a hoarding or fence must be erected between the work site and the public place. If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place. Any such hoarding, fence or awning is to be removed when the work has been completed.

33. An application is to be made to and approved by Council for the erection of a hoarding or part closure of the footway prior to construction being commenced. Such overhead structure or protective fence shall comply with the Work Health and Safety Act 2011 (NSW), Work Health and Safety Regulation 2011 (NSW) and any relevant approved industry code of practice. Notice of intention of commencement must be given to WorkCover New South Wales.

34. 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.

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

36. 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.

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

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

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

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

38. Any proposed paving works within the Centenary Road, Wharf Road and public
footways are to be in accordance with the requirements of Council’s specification (Form PLE/SOO9).

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.

39. Prior to commencement of site works the developer is to submit to Council for approval a Construction Traffic Management Plan addressing traffic control measures to be utilised in the public road reserve during the construction phase.

40. 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.

41. All parking bays are to be permanently marked out on the pavement surface.

42. The vehicular entrance and exit driveways and the direction of traffic movement within the site are to be clearly indicated by means of reflectorised signs and pavement markings.

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

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

44. 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.

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

46. Any fill material imported into the site is to be Virgin Excavated Natural Material or material subject to a Resource Recovery Exemption that is permitted to be used as a fill material, in accordance with the provisions of the Protection of the Environment Operations Act 1997 (NSW) and the Protection of the Environment (Waste) Regulation 2005 (NSW).

47. Any fill material subject to a Resource Recovery Exemption received at the site must
be accompanied by documentation demonstrating that material’s compliance with the conditions of the exemption, and this documentation must be provided to Council officers or the Principal Certifying Authority on request.

48. 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.

49. 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 the Erosion and Sediment Control Plan submitted with the application, and with the below requirements:

   a) Control over discharge of stormwater and containment of run-off and pollutants leaving the site must be undertaken through the installation of erosion control devices such as catch drains, energy dissipaters, level spreaders and sediment control devices such as hay bale barriers, filter fences, filter dams and sediment basins and controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover.


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

51. A temporary protective crossing is to be provided over the footway for vehicular traffic before demolition or building operations are commenced. This approval does not permit access to the property over any adjacent private or public land.

52. All necessary measures are to be undertaken to control dust pollution from the site. These measures must include, but not are limited to:

   a) Restricting topsoil removal

   b) Regularly and lightly watering dust prone areas (note: prevent excess watering as it can cause damage and erosion

   c) Alter or cease construction work during periods of high wind and

   d) Erect green or black shadecloth mesh or similar products 1.8m high around the perimeter of the site and around every level of the building under construction.
53. Proposed landscape works are to be carried out generally in accordance with the details indicated on the submitted landscape design plan except as required to be modified under the terms of this consent.

54. 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).

55. The premises are to be constructed, including the installation of all equipment, fixtures and fittings, in accordance with the requirements of Australian Standard 4674:2004 - Design, construction and fit-out of food premises.

56. 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).

57. The development and associated works must be undertaken in accordance with the Statement of Heritage Impact prepared by NBRS+ Partners (Final) and dated 17 October 2013.

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

58. 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.

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

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

60. A copy of the stormwater drainage design plans approved with the Construction Certificate with ‘work as executed’ levels indicated, shall be submitted to the Principal Certifying Authority and to The City of Newcastle prior to the issue of an Occupation Certificate. The plans shall be prepared by a Practising Professional Engineer or Registered Surveyor experienced in the design of stormwater drainage systems.
61. 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.

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

63. Appropriate acoustic treatment is to be implemented in accordance with the recommendations set out in the Noise Assessment prepared by Atkins Acoustics Pty Ltd, dated April 2014. Written final certification confirming the recommended acoustic treatment has been implemented in accordance with the requirements of the above report is to be submitted to the Principal Certifying Authority and Council prior to the issue of an Occupation Certificate.

Note: The acoustic consultant may need to be involved during the construction process in order to ensure final certification is achieved.

64. A post construction dilapidation report prepared by a suitability qualified person shall be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate, to ascertain if any structural damage has occurred to the adjoining buildings, infrastructure and roads. The reports shall be forwarded to Council and will be made available in any private dispute between neighbours regarding damage arising from construction works.

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

Note: To arrange notification of the food business with Council go to www.newcastle.gov.au and download a copy of the ‘Council Food Business Notification Form’ or contact Council’s Environmental Health Services on (02) 4974 2525. To notify with the NSW Food Authority go to www.foodnotify.nsw.gov.au and follow the instructions.

66. Prior to the issuing of the Occupation Certificate or occupation of the premises, the following documents are to be submitted to the Principal Certifying Authority and Council’s Environmental Services unit:

a) A Validation Report confirming the site achieves the contamination remediation goals given in the report: Remedial Action Plan prepared by STS GeoEnvironmental Pty Ltd dated February 2016; and

b) A Site Audit Statement (and associated report) prepared by a NSW accredited site auditor certifying the site is suitable for the proposed land use.
CONDITIONS TO BE SATISFIED DURING THE OPERATION AND USE THE DEVELOPMENT

67. The hours of operation or trading of the premises are to be not more than from:

<table>
<thead>
<tr>
<th>Use / Component</th>
<th>START</th>
<th>FINISH</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hotel and Carpark</td>
<td>24 Hours</td>
<td>24 Hours</td>
</tr>
<tr>
<td>Function Centre / Restaurant</td>
<td>7.00am</td>
<td>12.00 midnight</td>
</tr>
<tr>
<td>Function Centre Terrace / Café / Café Terrace</td>
<td>7.00am</td>
<td>10.00pm</td>
</tr>
</tbody>
</table>

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

68. The maximum number of persons permitted in the café, restaurant/bar and function rooms are not exceed the following maximums persons:

   a) Café: 50 persons
   b) Restaurant: 80 Persons
   c) Function Centre: 200 Persons

   A sign must be displayed in a prominent position in the building stating the maximum number of persons that are permitted in the building.

69. The use and occupation of the premises, including all plant and equipment installed thereon, is not to give rise to any offensive noise, as defined under the Protection of the Environment Operations Act 1997 (NSW).

   Should Council consider offensive noise has emanated from the premises, the owner/occupier of the premises will be required to submit an acoustic assessment prepared by a suitably qualified acoustical consultant recommending appropriate acoustic measures necessary to ensure future compliance with this condition and will be required to implement such measures within a nominated period. Furthermore, written certification from the said consultant confirming the recommended acoustic measures have been satisfactorily implemented will be required to be submitted to Council prior to the expiration of the nominated period.

70. The use and occupation of the premises is not to give rise to the emission of any ‘air impurity’ as defined under the Protection of the Environment Operations Act 1997 (NSW), that interferes unreasonably with the amenity of neighbouring premises and/or other sensitive receivers.

   Should Council consider that unreasonable levels of air impurities have been emitted from the premises, the owner/occupier will be required to engage a suitably qualified consultant to recommend measures to control emissions of air impurities to an acceptable level and such measures being implemented within a nominated time period. Furthermore, written certification from the suitably qualified consultant will be required to be submitted to Council confirming that air impurity emissions from the
premises do not interfere unreasonably with the amenity of neighbouring premises and/or other sensitive receptors before the expiration of the nominated period.

71. No goods or advertising signs are to be displayed or allowed to stand on the public footpath or street.

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

73. A Landscape Establishment Report is to be submitted to Council following completion of a three month maintenance period, verifying that satisfactory maintenance of the landscape works has been undertaken and any necessary rectification measures have been carried out to a high professional standard; copy of report format attached.

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

75. Vehicles are to be loaded or unloaded standing wholly within the premises and within loading bays designated on the submitted plans or as otherwise provided in accordance with the conditions of this consent and under no circumstances are vehicles to be loaded or unloaded at the kerbside, across the public footpath or in a manner which obstructs vehicular access to the site.

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

77. The installation of CCTV system is required to the minimum Industry standard shall be undertaken in order to monitor and detect unacceptable behaviour inside and outside the venue. The following must be undertaken to ensure adequate quality of CCTV and in accordance with CCTV guidelines:

   a) The licensee shall install cameras that will monitor and record patron movements into and throughout the licensed premises whilst the premise is open to the public in the following manor;

      i) A minimum of one camera with a field of view covering each patron’s entrance and exit. Each shall be positioned to identify beyond a reasonable doubt each person’s face upon entering and leaving the premise from the recording.

      ii) A minimum of one camera with a field of view covering the external vicinity of each entry/exit point to the premise to a radius of approximately ten (10) metres.

   b) All video equipment and cameras are to be of superior quality, the camera is to record at a minimum of ten (10) frames per second at a storage ratio of 720 x 480 pixels being medium resolution, so as to facilitate identification of patrons, offenders and incidents occurring in and around the licensed premises. The footage is to display the correct time, date and camera identification (Number) embedded on all recordings which is to be readable upon being played back without interfering with the captured image.

   c) Where mood or low lighting is installed in areas of the licensed premises,
all surveillance cameras must be capable of producing acceptable video images in which patrons and offenders can be clearly identified.

d) All surveillance cameras must be operational one (1) hour prior to when the licensed premise opens to trade and continues to record for at least thirty (30) minutes after the licensed premise ceases to trade.

e) All surveillance images stored are to be retained for a minimum period of thirty (30) days before the storage device can be re used or destroyed.

f) All surveillance images stored are to be made available for viewing immediately whenever the licensed premise is trading and a copy supplied to police or an inspector upon request, within forty-eight (48) hours.

g) The licensee is to ensure that the electronic recording device for the CCTV system is located in an accessible position and placed in a secure location to prevent unauthorised access.

h) Prior to the commencement of trade each day the CCTV system shall be checked to ensure the equipment is in full operating order. If during the check or at any other time, it is discovered that the equipment is not in full operating order, the licensee or his delegate is to notify the Local Area Commander or his delegate within two (2) hours. All reasonable steps must be undertaken to repair the system as soon as practicable.

78. The premises must be operated in accordance with the Management Plan submitted with the application and as amended by conditions of this consent. This Management Plan, and as amended by any conditions must be readily available for staff to view and adhere to, at all times.

79. Musical entertainment and amplified sound within the restaurant and function areas being restricted to between 7:00am and 10:00 pm.

80. The proposed remediation work being carried out in accordance with the requirements set out in the submitted Remedial Action Plan (RAP) prepared by dated February 2016, the requirements of the appointed NSW Department of Environment and Conservation (DEC) accredited Site Auditor and the conditions of this consent.

ADVISORY MATTERS

81. Any proposed business identification sign or advertising sign should be designed in accordance with the provisions of Newcastle Development Control Plan 2012 and be the subject of a separate Development Application approved prior to erection or placement in position.

82. 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.
83. 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.

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

85. Prior to commencing any construction works, the following provisions of the *Environmental Planning and Assessment Act 1979* (NSW) (the ‘Act’) are to be complied with:

   a) A Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act

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

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

86. A Construction Certificate application for this project is to include a list of fire safety measures proposed to be installed in the building and/or on the land and include a separate list of any fire safety measures that already exist at the premises. The lists must describe the extent, capability and basis of design of each of the measures.

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

88. 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).

89. A copy of the final Fire Safety Certificate (together with a copy of the current fire safety schedule) is to be given to the Commissioner of NSW Fire Brigades and a further copy of the Certificate (together with a copy of the current fire safety schedule) is to be prominently displayed in the building.

90. An annual Fire Safety Statement in the form described in Clause 175 of the *Environmental Planning and Assessment Regulation 2000* (NSW) is to be submitted to Council and a copy (together with a copy of the current fire safety schedule) is to be given to the Commissioner of New South Wales Fire Brigades. A further copy of the Statement (together with a copy of the current fire safety schedule) is to be
prominently displayed in the building.

91. For the purpose of applying the provisions of the Building Code of Australia for class 1, 2, 3, 4, 9a (health care) and 9c (aged care) buildings, it is advised that the proposed building is located in a Flood Hazard Area and the:

a) Defined Flood Level (DFL) is 2.50m Australian Height Datum (AHD)

b) Flood Hazard Level is 2.90m AHD (Freeboard is 500mm above DFL)

c) Maximum Flow Velocity of floodwaters for the Defined Flood Event is 0.60m/s

END OF CONDITIONS
**Attachment D: Processing Chronology - 317 Wharf Road Newcastle**

**PROCESSING CHRONOLOGY**  
**DA 2013/1236 – 317 WHARF ROAD, NEWCASTLE**

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>23 October 2013</td>
<td>Development application lodged with Council</td>
</tr>
<tr>
<td>25 October 2013</td>
<td>Application registered on the Joint Regional Planning Panel website</td>
</tr>
<tr>
<td>25 October 2013</td>
<td>External and Internal referrals of the application undertaken</td>
</tr>
<tr>
<td>29 October 2013</td>
<td>Public Notification undertaken - exhibition period 29 October to 12 November 2013</td>
</tr>
<tr>
<td>11 December 2013</td>
<td>Meeting with Council's Urban Design Consultative Group</td>
</tr>
<tr>
<td>16 January 2014</td>
<td>Request for additional information and provision of concerns raised in public submissions sent to applicant</td>
</tr>
<tr>
<td>31 January 2014</td>
<td>Some revised sketch plans received</td>
</tr>
<tr>
<td>16 April 2014</td>
<td>Formal Amendment to Application - Amended Plans received</td>
</tr>
<tr>
<td>1 May 2014</td>
<td>Reminder Letter - Request for additional information sent to applicant</td>
</tr>
<tr>
<td>2 May 2014</td>
<td>Public Notification undertaken - exhibition period 5 May to 19 May 2014</td>
</tr>
<tr>
<td>12 May 2014</td>
<td>Advice sent to Joint Regional Planning Panel to advise of change in proposal and reduction in 'estimated value of development'</td>
</tr>
</tbody>
</table>
ITEM-3 DAC - DA 2015-10094 - 15 TINONEE ROAD, WARATAH - DEMOLITION OF BUILDINGS, ERECTION OF TWO STOREY AGED CARE FACILITY (72 ROOMS) PLUS BASEMENT PARKING AND ASSOCIATED SITE WORKS

APPLICANT: TINONEE GARDENS THE MULTICULTURAL VILLAGE LIMITED
OWNER: TINONEE GARDENS THE MULTICULTURAL VILLAGE LIMITED
REPORT BY: PLANNING AND REGULATORY SERVICES
CONTACT: DIRECTOR PLANNING AND REGULATORY / MANAGER DEVELOPMENT AND BUILDING SERVICES

PART I

PURPOSE

An application has been received seeking consent to demolish the existing buildings and erect a two storey aged care facility (seventy two rooms) plus basement parking at Tinonee Gardens, Waratah.

The proposal includes the formation of two crossovers to Christo Road, one for waste disposal access and one for vehicular access to the basement parking area.

The proposal has been notified in accordance with Council’s Public Notification policy. No letters of objection were received by Council.

The application is referred to Council's Development Application Committee for determination under their delegations due to the Capital Investment Value exceeding $10 million ($16.075 million).

Issues

- Whether the scheme would have an adverse impact on the streetscape.

- Whether the proposed street access arrangements are acceptable including the loss of 1 on-street car parking space.
Amendments have been received to the basement parking arrangements and alterations to the waste collection and basement car parking access arrangements from Christo Road.

Conclusion

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

Accordingly, it is recommended that the application be approved subject to the nominated conditions of consent (refer to Attachment B).

RECOMMENDATION

That DA 2015/10094 for the demolition of buildings, erection of two storey aged care facility (seventy two rooms) plus basement parking and associated site works be approved subject to compliance with the conditions set out in the Draft Schedule of Conditions (refer to Attachment B)

Political Donation / Gift Declaration

Under Section 147 of the Environmental Planning and Assessment Act 1979, the applicant, and any person related to this Development Application must report any political donation and/or gift to a Councillor and/or any gift to a Council employee 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 22 DP 1178276 and is an irregular shaped property located between Tinonee Road and Christo Road, Waratah. The site has a frontage of 233m fronting Tinonee Road and a frontage of 110m along Christo Road. The site has a total area of 24,150m². The site contains a through vehicular and pedestrian link road between Tinonee and Christo Road and contains a number of single and two storey buildings associated with seniors living.

Hunter Health’s Waratah Campus is located to the east of the site and to the west a large single storey residential complex. To the south of the site are residential properties at no's 88 to 104 Christo Road. The development slopes north to south by approximately 5m. There are a large number of mature trees at the site. The general form of development in the immediate area consists in residential / seniors living.
2.0 THE PROPOSAL

The proposal seeks to demolish "Waratah" a seniors living block fronting Christo Road (this forms part of a pair with "Bluegum" on the opposite side of the access road), "Magnolia" a seniors living block to the northern extent of the development site boundary and "Cedars" a demountable building to the north of the "Waratah" block. The proposal will include the removal of 6 on-site car parking spaces, 1-2 off-street car parking spaces together with a waste collection point centrally located on the site. A total of 29 on-site trees are proposed to be removed with 6 on / off site trees retained.

The demolished blocks will be replaced with a two storey (plus basement) "high care" facility comprising two distinct building forms accessed by an entrance lobby / lift core link. Both elements are constructed in brickwork with a blockwork plinth with metal hipped roofs. The block varies in height from 11.8m - 8.2m responding to site topography. The block incorporates glazed lobbies with flat roofs linked the main elements of the building.

The facility provides 72 bedrooms for residents, kitchens, lounges and dining areas, ancillary offices together with a salon, gym and therapy centre. It is envisaged that the facility will enable a transition for existing residents at the site from "low" to "high" care as part of an aging in place model. This model has a number of social benefits of residents, staff and the family of residents by enabling social connections to remain intact during the aging process with minimal disruption to resident's lives. There is a secure courtyard to the north and another to the south which sits above the entrance to the basement car park. A mechanical plant area is centrally located on the roof screened by fixed glass panels.

The basement car park has capacity for 33 cars which including 4 disabled spaces and there are two external spaces proposed. The area contains a number of ancillary rooms including maintenance stores, sprinkler rooms, waste stores and offices. The waste collection zone is located adjacent to Christo Road with separate street access, and sharing same egress to the basement car parking.

The proposal includes an extensive landscaping scheme with 16 mature trees (8 - 12m in height), 16 smaller trees (4 - 7.5m in height), 6 planter trees, extensive shrubs screen planting, planter beds climbers and other hard and soft landscaping. The scheme includes provision for 9 new trees along the Christo Road frontage. Substantial screen planting of approximately 3m in height is proposed to screen residences at the Waratah campus. This continues with a new 1.8m high timber fence with climbers along the remainder of the boundary. New 1.8m high palisade fencing is proposed along the Christo Road frontage.

New footpaths are proposed along the buildings frontage along Christo Road, including footpath access to an existing bus-stop. The vehicular gate to Christo Road is to be relocated 17m back from the road frontage to enable unrestricted access for waste vehicles.
Amendments have been received to basement parking arrangements and alterations to the waste collection and basement car parking access arrangements from Christo Road further to comments from Council's Traffic Officer.

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

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

3.0 PUBLIC NOTIFICATION

The application was publicly notified in accordance with Council's Public Notification policy for a period of 14 days and no submissions were received in response.

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 Policies

State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (SEPP SH)

The development is proposed under the provisions of the SEPP SH. The proposed development is permissible under the provisions of the SEPP SH on land zoned primarily for urban purposes which allows dwelling-houses, residential flat buildings, hospitals and special uses. It is noted that the development is not proposed on land which would require a site compatibility certificate under Clause 24 of the SEPP SH.

Clause 10 of the SEPP SH allows for several types of housing for seniors including the proposed residential care facilities. ‘Residential care facilities’ is defined in Clause 11 of the SEPP as:

‘residential accommodation for seniors or people with a disability that includes:
(a) meals and cleaning services, and
(b) personal care or nursing care, or both, and
(c) appropriate staffing, furniture, furnishings and equipment for the provision of that accommodation and care, not being a dwelling, hostel, hospital or psychiatric facility.

The proposal’s compliance with the requirements of the SEPP SH are summarised in the below table.
<table>
<thead>
<tr>
<th>Applicable Clause</th>
<th>Discussion</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clause 26 Location and access to facilities</td>
<td>The clause states that:</td>
</tr>
<tr>
<td></td>
<td>'(1) A consent authority must not consent to a development application made pursuant to this Chapter unless the consent authority is satisfied, by written evidence, that residents of the proposed development will have access that complies with subclause (2) to:</td>
</tr>
<tr>
<td></td>
<td>(a) shops, bank service providers and other retail and commercial services that residents may reasonably require, and</td>
</tr>
<tr>
<td></td>
<td>(b) community services and recreation facilities, and</td>
</tr>
<tr>
<td></td>
<td>(c) the practice of a general medical practitioner.’</td>
</tr>
<tr>
<td></td>
<td>Some limited information has been provided to assess the development under Clause 26 of the SEPP to satisfy the provisions of (iii).</td>
</tr>
<tr>
<td></td>
<td>The nearest shops to the site are located at Waratah Village located 650m from the Christo Road entrance. This has an ATM and post office and pharmacy. There is a 235 bus stop to the shopping centre outside the site on Christo Road and pedestrian improvements to this bus stop are proposed as part of the development.</td>
</tr>
<tr>
<td></td>
<td>However, the premises is a for &quot;high-care&quot; facility where, depending upon the level of their care needs, residents will be either confined to the premises or bedrooms. The proposal includes on site, therapy and gym and given the nature of the use, the applicants confirm the presence of intensive on-site medical care.</td>
</tr>
<tr>
<td></td>
<td>In this regard the proposal is consistent with this clause.</td>
</tr>
<tr>
<td>Clause 27 Bush fire prone land</td>
<td>The site is not within bushfire prone land.</td>
</tr>
<tr>
<td>Clause 28 Water and sewer</td>
<td>The proposal can be adequately serviced with water and sewer.</td>
</tr>
<tr>
<td>Clause 29 Consent authority to consider certain site compatibility criteria for development applications to which clause 24 does not apply</td>
<td>This clause requires the consent authority to consider whether the proposed development is compatible with the surrounding land uses having regard to (at least) the following criteria:</td>
</tr>
<tr>
<td></td>
<td>'(i) the natural environment (including known significant environmental values, resources or hazards) and the existing uses and approved uses of land in the vicinity of the proposed development,</td>
</tr>
<tr>
<td></td>
<td>(iii) the services and infrastructure that are or will be available'</td>
</tr>
</tbody>
</table>
to meet the demands arising from the proposed development (particularly, retail, community, medical and transport services having regard to the location and access requirements set out in clause 26) and any proposed financial arrangements for infrastructure provision,

(v) without limiting any other criteria, the impact that the bulk, scale, built form and character of the proposed development is likely to have on the existing uses, approved uses and future uses of land in the vicinity of the development’

In terms of consideration (i), the site is suitable for low density residential development, including 'Seniors Housing'.

Services and infrastructure appear adequate to satisfy clause (iii). Some improvements will be made to provide additional footpath provision to the nearby bus-stop on Christo Road, which could stimulate additional public transport usage.

In considering sub clause (v) the building is within its 11m permitted height envelope specified within the NLEP. The works involve excavations to create basements with new ground levels and these are technically not variations.

The proposed building at the southern elevation to Christo Road measures approximately 11.8 - 12.2m maximum height above (revised) ground level. However, the southern elevation is set back 12m from the street boundary, is screened by proposed and existing trees and the building has an acceptable impact within the street-scene.

The building also has a height of 12.2m due to the excavation for the basement along the western boundary. However, the building is set back 4m from the boundary which will be heavily screened with shrubs and small trees and green walls, and has an acceptable impact on this neighbouring property.

In conclusion, the bulk, scale and character of the building is consistent with the character of the site and surrounding area and complies with this clause.

<table>
<thead>
<tr>
<th>Clause 30 Site analysis</th>
<th>The applicant prepared a site analysis in accordance with sub clause (4) and accordingly would be consistent.</th>
</tr>
</thead>
</table>
| Clause 33 Neighbourhood amenity and streetscape | This clause specifies:  
‘The proposed development should:  
(a) recognise the desirable elements of the location’s current character (or, in the case of precincts undergoing a transition, |
where described in local planning controls, the desired future character) so that new buildings contribute to the quality and identity of the area'

The existing site contains a large number of single and two storey buildings of differing ages and scale. The proposed seeks to demolish "Waratah" a 1960's / 1970's era seniors living block fronting Christo Road (this forms part of a pair with "Bluegum" on the opposite side of the access road). Neither building are considered to have any particular architectural or historic merit nor make a distinctive contribution to the street-scene.

Similarly, the proposal includes demolition of "Magnolia" a seniors living block to the northern extent of the development site boundary and "Cedars" a demountable building to the north of the "Waratah" block. These appear of a similar era and have little architectural merit.

This site is identified as a "moderate growth" precinct with the DCP 2012 and a "medium density" residential zone with the NLEP 2013.

The maximum FSR for the entire site of 0.9:1. The entire site has an existing FSR of 0.43:1. Including the proposed development, the FSR is 0.65:1 which is well within the desired FSR for the site.

The DCP 2012 specifies a 4m setback to boundary for walls over 6m in height. The proposed building complies with this provision. There is also a minimum setback of 5m to the street but more generally, that the building makes a positive contribution to the local context. The proposed building has a setback of between 9-16m to the street.

The applicant has highlighted the increased demand for "high care" facilities and the use of the building is consistent with existing use. The building proposes intensification in the use of the site. Given the proposed FSR, broad compliance with height limits and setback controls it is considered that the proposal is consistent with this sub clause.

'(b) retain, complement and sensitively harmonise with any heritage conservation areas in the vicinity and any relevant heritage items that are identified in a local environmental plan’

The Hunter Health Waratah Campus to the east of the site contains the ‘Former Western Suburbs Hospital’ and ‘Remnant Plantings’ which are listed as local Significance in the NCC LEP 2012 Schedule 5, Heritage Items.
The applicant has submitted a heritage impact statement in support of the development proposal which identifies the former hospital building located at substantial distance from the proposed building. Also that none of the remanent plantings with heritage values are impacted.

At its nearest point, the former hospital building is located 170m from the proposed building. Its historical setting is not impacted by the proposed building. Council concur with these findings and the development would be consistent with this clause.

'(c) maintain reasonable neighbourhood amenity and appropriate residential character by:

(i) providing building setbacks to reduce bulk and overshadowing, and
(ii) using building form and siting that relates to the site’s land form, and
(iii) adopting building heights at the street frontage that are compatible in scale with adjacent development, and
(iv) considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours

(d) be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line’

As explored in subclause (a), the existing buildings have no particular architectural merit and their removal is considered acceptable. The proposed scale and character of the building is consistent with the character of the site and also sympathetic to the character and appearance of the surrounding area.

(e) embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape, and

(f) retain, wherever reasonable, major existing trees, and

The applicant has submitted an arborist report and identified a total of 29 on-site trees are required to be removed. Of these, 6 native trees have a moderate retention value, the rest being of "low" or "very low" value.

The proposed landscaping scheme by "Xeriscapes" has detailed x 16 medium canopy trees of >8m in height, and 16
smaller trees 4 - 8m in height to be planted across the site. Of these 12 medium and small trees are proposed within the sites frontage to complement 5 existing trees. In addition there are extensive hard and soft landscaped areas including a first floor podium garden to the sites frontage.

The planting scheme is considered of high quality and meets both sub-clauses.

Clause 34 Visual and acoustic privacy

The development is situated within the larger site and it is considered that the proposal is generally acceptable in relation to visual and acoustic privacy considerations.

Clause 35 Solar access and design for climate

The proposed building is orientated in an approximate east-west orientation.

The solar diagrams illustrate that the residential premises at the Hunter Health Waratah campus to the west of the site would be impacted. Proposed internal and external courtyards are impacted by the proposal.

The applicant has demonstrated that this impact is acceptable and the Council would concur. This clause is met.

Clause 36 Stormwater

Council's Stormwater Engineer has reviewed the proposal, and it is considered to be satisfactory subject to suitable conditions.

Clause 37 Crime prevention

It is considered that the proposal is satisfactory.

Clause 38 Accessibility

Notwithstanding the limited information provided regarding the greater accessibility available to the site (as per clause 26) and subject to the detailed considerations that would normally occur with a Construction Certificate, the proposal is acceptable.

Clause 39 Waste management

A waste management plan and strategy has been submitted by the applicant. It is envisaged that garbage will be collected via private contractor.

A waste collection vehicle will enter the site via the existing site access onto Christo Road onto a newly built access point. Waste will then be collected within a designated storage room within the basement. The waste vehicle will then leave the site on Christo Road. Amended plans have been received indicating the access point is to be shared with vehicles utilising the basement car-parking. Traffic control measures are proposed to ensure there is no conflict between vehicles and pedestrians. This arrangement is satisfactory.
Clause 40
Development standards - minimum sizes and building height

This clause specifies development standards, as discussed below:
- Site size - The site provides the minimum requirement of 1,000 square metres.
- Site frontage - The site provides the minimum site frontage of 20 metres wide, when measured at the building line.
- Height in zones where residential flat buildings are not permitted - This sub-clause is not relevant.

Clause 48
Standards that cannot be used to refuse development consent for residential care facilities

This clause specifies that a consent authority must not refuse consent on specific grounds, which are discussed below:

'(a) building height: if all proposed buildings are eight metres or less in height (and regardless of any other standard specified by another environmental planning instrument limiting development to two storeys)'

The proposed building is higher than 11 metres due to the building being partially sunken below existing ground level. The merits of the built form including height have been explored under Clauses 29 and 33 above and found to be acceptable.

'(b) density and scale: if the density and scale of the buildings when expressed as a floor space ratio is 1:1 or less'

The application proposes an FSR of less than 1:1. Accordingly, the consent authority is not able to refuse this development on the basis of FSR.

'(c) landscaped area: if:
if a minimum of 25 square metres of landscaped area per residential care facility bed is provided,

The proposal complies with this requirement as 47.1m² landscaping has been provided per hospital bed.

(d) parking for residents and visitors: if at least the following is provided:

(i) 1 parking space for each 10 beds in the residential care facility (or 1 parking space for each 15 beds if the facility provides care only for persons with dementia), and
(ii) 1 parking space for each 2 persons to be employed in connection with the development and on duty at any one time, and
(iii) 1 parking space suitable for an ambulance.

Adequate parking has been proposed for the development.
which has taken into consideration the existing site wide requirements.

The proposal complies with this requirement.

Adequate information has been provided by the applicant in order to appropriately assess whether the development would satisfy the requirements of the SEPP.

The development proposal was found to comply with the SEPP in regard to the impact the development will have to the character of the area, streetscape, waste management and servicing arrangements, its impact on traffic congestion and on street parking, accessibility to public transport and its impact upon existing and proposed trees and landscaping.

State Environmental Planning Policy No 55 — Remediation of Land
The proposal has been considered in accordance with the requirements of Clause 7 - Contamination and remediation to be considered in determining development applications. Council's records do not indicate any known contamination issues, and it is considered that the proposal is satisfactory having regard to this SEPP.

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

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

Clause 2.1 Land Use Zones

The subject property is included within a "Medium Density Residential" zone under the provisions of the NLEP 2012. Whereas, "seniors housing" is permissible with consent, as previously discussed, the SEPP SH prevails over the NLEP.

Clause 4.3 Heights of Buildings

The permitted height of buildings is 11m. The proposal complies with this provision.

Clause 4.4 Floor Space Ratio

The maximum FSR for the entire site of 0.9:1. The entire site has an existing FSR of 0.43:1. Including the proposed development, the FSR is 0.65:1 which complies with this provision.

Clause 5.9 Preservation of Trees and Vegetation

The proposal includes the removal of 29 on site trees as a consequence of the building work. Of these 6 trees are indigenous of moderate amenity value. As part of the proposed landscaping scheme 4 off-site and 4 on-site trees are proposed to be retained and 32 medium and small trees are to be planted. The landscaping scheme
is of high quality is considered an enhancement to the site and the proposal complies with this provision.

Clause 5.10 Heritage Conservation

The proposal does not impact adversely upon buildings of heritage value and complies with this provision.

Clause 6.1 Acid Sulfate Soils

The site is impacted by Class 5 Acid Sulfate Soils. As the proposed building is not located within 500m of adjacent Class 1 - 4 land below 5m AHD, the site is not impacted by this clause.

Clause 6.2 Earthworks

The proposal includes the partial sinking of the building below the existing ground level of the site and the excavation of a basement area. The Councils Engineer has advised the building is acceptable subject to conditions and the proposal complies with this provision.

4.2 Merit Considerations

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

3.08 - Seniors Housing

The section requires seniors housing to be developed in accordance with the requirements of the SEPP SH. The compliance has been considered in 4.1.1 above.

4.04 Safety and Security

The proposed development is within a self-contained managed site. The new building will provide for high level care. The application is considered to be in accordance with this section.

4.05 Social Impact

The proposed development would have a positive social impact in that additional high level residential care facility will be provided as a service to the population of the local community and enables aging in place provisions for residents. The additional population on the site would further stimulate the local economy. The application is considered to be in accordance with this section.

5.01 Soil Management

The proposed development involves cut and fill and excavation to be undertaken on the site. The works are not likely to affect the drainage requirements, any cut and fill
would be subject to Council’s standards controls. Reference is made to the previous comments in relation to SEPP 55.

5.05 Heritage Items

The site is in close proximity to the Hunter Health Waratah Campus to the east of which contains the ‘Former Western Suburbs Hospital’ and ‘Remnant Plantings’ which are listed of local significance. The applicant has submitted a heritage statement in support of the development proposal which identifies the former hospital building located at significant distance from the proposed building. Also that none of the remanent plantings are impacted.

At its nearest point, the former hospital building is located 170m from the proposed building. Its historical setting is not impacted by the proposed building. Council concur with these findings and the development would be consistent with this clause. The proposal was supported with a heritage statement which assessed the proposal in regard to the context of the items. Council staffs are satisfied that the proposal will not adversely impact upon the heritage items.

7.01 Building Design Criteria

The two storey "high care" facility comprising two distinct building forms accessed by an entrance lobby / lift core link. Both elements are constructed in brickwork with a block-work plinth with metal hipped roofs. The block varies in height from 11.8 - 8.2m above existing ground level, responding to site topography. The block incorporates glazed lobbies with flat roofs linked the main elements of the building. An extensive landscaping scheme is proposed which includes a first floor roof garden and green wall systems. The buildings frontage to Christo Road includes extensive tree coverage and landscaping which enhances the street-scape. The scheme involves compliant setbacks to adjoining occupiers, the street and adjoining buildings.

In conclusion, the bulk, scale and character of the building is considered of high quality and consistent with the character of the site and surrounding area.

7.01 Landscape, Open Space and Visual Amenity

The proposal includes the removal of x 29 trees to enable the development to proceed, but involves compensatory planting of x 32 trees plus substantial high quality landscaped areas which are considered an enhancement to the site.

7.03 Traffic, Parking and Access

The application was supported by a traffic statement which concluded that the proposed development would have minimal impact on the surrounding road network and the internal workings of the site. Car parking provision has been calculated in accordance with the requirements of the SEPP SH.

Council’s engineers have reviewed this report in the context of the proposed development and are satisfied with the conclusions.
Presently vehicles enter the site to a waste collection point centrally located on the development site. This waste location will be removed and re-located adjacent to the entrance on Christo Road with its own dedicated access road. All waste storage will also be stored undercover within the footprint of the building. This arrangement will result in less conflict between waste vehicles, pedestrians and other vehicular traffic, reduce associated noise and disturbance to residents and improve the overall environment at the site by having all waste storage enclosed.

7.05 Energy Efficiency

The application is not affected by the BASIX requirements. The Statement of Environmental Effects identifies that the development has been constructed to be energy efficient. The proposal generally complies with this section.

7.06 - 7.07 Stormwater and Water Efficiency

The site is not affected by flooding.

The subject site falls north to south from Tinonee Road to Christo Road. The site currently benefits from a range of stormwater controls and discharge controls related to previous development consents. The proposed new development will introduce the additional hard surface area that would require stormwater control. The applicant proposes two 62.KL reuse tanks and an OSD tank. Council's engineers have reviewed this detail and are satisfied that this would comply with this Section.

7.08 Waste Management

A waste management plan been provided. Access and Waste arrangements have been considered in 7.03 (above).

8.0 Public Participation

The proposal was notified in accordance with the requirements of this section. No submissions were received from neighbouring properties.

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

The proposal is considered to have an acceptable impact on the natural and built environment as detailed above.

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

The proposed development would have significant social and environmental benefits through providing a high care aging in place facility for residents

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

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

No submissions were received in response to the Public Notification and no referrals were required under the Act and Regulation.

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

Sustainability

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

The proposal is consistent with Council’s urban consolidation objectives, making more efficient use of the established public infrastructure and services, notwithstanding the comments regarding the buildings height, bulk and scale discussed within this report.

The proposal falls within a use class that would be exempt from BASIX requirements.

The decommissioned buildings would be demolished and re-used where possible.

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, elevations and photo montages of the proposed development – 15 Tinonee Road, Waratah

Attachment B: Draft Schedule of Conditions - 15 Tinonee Road, Waratah

Attachment C: Processing Chronology - 15 Tinonee Road, Waratah
ATTACHMENT B – DRAFT SCHEDULE OF CONDITIONS
DA 2015/10094 - 15 TINONEE ROAD, WARATAH

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.

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<tr>
<th>Plan No / Supporting Document</th>
<th>Reference / Version</th>
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<th>Dated</th>
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In the event of any inconsistency between conditions of this development consent and the plans/supporting documents referred to above, the conditions of this development consent prevail.

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

3. The building is to be provided with adequate means of access for persons with disabilities, to the extent necessary to comply with the Commonwealth Disability (Access to Premises - Buildings) Standards 2010. Full details are to be included in documentation for a Construction Certificate application.

4. On-site parking accommodation is to be provided for a minimum of 62 vehicles and such be set out generally in accordance with the minimum parking layout standards indicated in Element 7.03 ‘Traffic, Parking and Access’ of Council’s adopted Newcastle Development Control Plan 2012. Full details are to be included in documentation for a Construction Certificate application.

5. The proposed additional car parking is to be designed to comply with AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking and AS/NZS 2890.6:2009 - Parking facilities - Off-street parking for people with disabilities. Full details are to be included in documentation for a Construction Certificate application.

6. All proposed driveways, parking bays, loading bays and vehicular turning areas are to be constructed with a basecourse of adequate depth to suit design traffic, being sealed with either bitumen seal, asphaltic concrete, concrete or interlocking pavers and being properly maintained. Full details are to be included in documentation for a Construction Certificate application.
7. 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.

8. 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.

9. All stormwater runoff from the proposed development being managed in accordance with the requirements of Element 7.06 ‘Stormwater’ of Newcastle Development Control Plan 2012, the associated Technical Manual and the latest issue of AS 3500.3 as applicable, as indicated on the Concept Stormwater Management Plans prepared by Northrop Consulting Engineers (Job No. W0150073, Drg. Nos. C04DA and C05DA, Revision 1, dated 18/09/15). Drawings are to be revised to indicate the provision of one vehicular access point to Christo Road full details are to be included in documentation for a Construction Certificate application.

10. All proposed planting and landscape elements indicated on the submitted landscape concept plan or otherwise required under the conditions of this consent are required to be detailed on a comprehensive landscape design plan and specification. The required comprehensive landscape design plan and specifications is to be in accordance with the provisions of Newcastle Development Control Plan 2012 and is to include details of the following:

   a) cross sections through the site where appropriate
   b) proposed contours or spot levels
   c) botanical names
   d) quantities and container size of all proposed trees
   e) shrubs and ground cover
   f) details of proposed soil preparation
   g) mulching and staking
   h) treatment of external surfaces and retaining walls where proposed
   i) drainage, location of taps and
   j) appropriate maintenance periods.

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

11. 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.

12. The garbage facility is to be suitable for the accommodation of Council approved wheel type bins or bulk waste containers. Full details are to be included in documentation for a Construction Certificate application.
13. The design and construction of the proposed development is to be in accordance with the relevant requirements of Australian Standard 4674:2004 - Design, Construction and Fit-Out of Food Premises. Full details are to be included in the documentation for the Construction Certificate application.

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

15. A vehicular crossing is to be constructed across the road reserve, in accordance with the following criteria:
   a) Constructed in accordance with Council’s A1300 - Driveway Crossings Standard Design Details
   b) The driveway crossing, within the road reserve, shall be a maximum of 6.0 metres wide
   c) Letterboxes, landscaping and any other obstructions to visibility should be kept clear of or limited in height to 1.2 metre, in the 2 metre by 2.5 metre splay within the property boundary each side of the driveway entrance
   d) The proposed driveway shall be a minimum of 3 metres clear of the trunk of any tree within the public reserve
   e) The proposed driveway shall be a minimum of 750mm clear of the face of any pole or obstruction within the public reserve and 1 metre clear of any drainage pit.

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

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

17. All onsite stormwater detention or water quality treatment systems are to be individually identified and sign posted in accordance with Council’s Stormwater and Water Efficiency for Development Technical Manual (Updated 2013). Full details are to be included in documentation for a Construction Certificate application.

18. Trees numbered 1, 2, 3, 33, 34 and 35 within the approved Arborist Report (Abacus Tree Services - dated 06/10/2015) and other un-numbered off site trees on Christo Road, are to be preserved and all such trees being indicated on the required comprehensive landscape design plan and being adequately protected against damage during the building construction period. Full details are to be included in
documentation for a Construction Certificate application.

19. The use hereby approved shall be used as a Seniors Living development and shall not be used as a separate use at any time.

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

20. 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)*.

21. 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.

22. 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.

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

24. 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.

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

26. 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.

27. Waste management shall be implemented in accordance with the approved Waste Management Plan and Waste Management Addendum (dated 08/01/2016 SECA Solutions). 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).
28. If construction / demolition work is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or involves the need to enclose a public place, a hoarding or fence must be erected between the work site and the public place. If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place. Any such hoarding, fence or awning is to be removed when the work has been completed.

29. An application is to be made to and approved by Council for the erection of a hoarding or part closure of the footway prior to construction being commenced. Such overhead structure or protective fence shall comply with the Work Health and Safety Act 2011 (NSW), Work Health and Safety Regulation 2011 (NSW) and any relevant approved industry code of practice. Notice of intention of commencement must be given to WorkCover New South Wales.

30. The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

31. A rigid and durable sign is to be erected on any site on which building 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.

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

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

34. 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.

35. 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.

36. Prior to commencement of site works the developer is to submit to Council for approval
a Construction Traffic Management Plan addressing traffic control measures to be utilised in the public road reserve during the construction phase.

37. The Construction Traffic Management Plan is to be prepared by a Roads & Maritime Services accredited person with a Design and Audit Traffic Control Plans Certificate in accordance with Australian Standard 1742.3:2009 - Manual of uniform traffic devices - traffic control for works on roads. The plan is to ensure the provision for safe, continuous movement of traffic and pedestrians within the road reserve.

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

39. On-site car parking accommodation is to be provided for a minimum of 35 vehicles and such being set out generally in accordance with the details indicated on the submitted plans except as otherwise provided by the conditions of consent.

40. All parking and loading bays are to be permanently marked out on the pavement surface, with loading bays and visitor parking facilities being clearly indicated by signs.

41. The vehicular entrance and exit driveways and the direction of traffic movement within the site are to be clearly indicated by means of reflectorised signs and pavement markings.

42. Construction/demolition work that generates noise that is audible at residential premises is to be restricted to the following times:

   a) Monday to Friday, 7:00 am to 6:00 pm and
   b) Saturday, 8:00 am to 1:00 pm.

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

43. 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.

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

45. Any fill material imported into the site is to be Virgin Excavated Natural Material or material subject to a Resource Recovery Order that is permitted to be used as a fill material under the conditions of the associated Resource Recovery Exemption, in accordance with the provisions of the Protection of the Environment Operations Act 1997 and the Protection of the Environment (Waste) Regulation 2014.
46. Erosion and sediment control measures are to be implemented prior to the commencement of works and maintained during the period of demolition and/or construction in accordance with the requirements of Managing Urban Stormwater: Soils and Construction 4th Edition - Vol. 1 (the ‘Blue Book’) published by Landcom, 2004. Controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover.

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

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

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

50. The premises are to be constructed, including the installation of all equipment, fixtures and fittings, in accordance with the requirements of Australian Standard 4674:2004 - Design, construction and fit-out of food premises.

51. All external items of air conditioning plant are to be screened or positioned in such a manner as to not detract from the visual presentation of the building.

52. 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.

53. 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.
CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE, A SUBDIVISION CERTIFICATE OR A STRATA CERTIFICATE

54. 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.

55. 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.

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

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

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


59. The premises are to be identified by the provision of house numbers on the building exterior and mailbox such that they are clearly visible from the road frontage. The minimum numeral height shall be 75mm.

60. The Developer designing and constructing concrete foot paving 1.2m wide across the Christo Road frontage of the site and linking to the existing bus stop in accordance with Council’s Standard A 1401, such works to be implemented prior to any occupation of the premises:

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

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

CONDITIONS TO BE SATISFIED DURING THE OPERATION AND USE THE DEVELOPMENT

61. The proposed seniors housing is to be occupied exclusively by ‘seniors or people who have a disability, people who live within the same household with seniors or people who have a disability or staff employed to assist in the administration of and provision of services’ as defined under Clause 18(1) of State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004 (NSW).

62. The use and occupation of the premises, including all plant and equipment installed thereon, is not to give rise to any offensive noise, as defined under the Protection of the Environment Operations Act 1997 (NSW).

63. Should Council consider offensive noise has emanated from the premises; the owner/occupier of the premises will be required to submit an acoustic assessment prepared by a suitably qualified acoustical consultant recommending appropriate acoustic measures necessary to ensure future compliance with this condition and will be required to implement such measures within a nominated period. Furthermore, written certification from the said consultant confirming the recommended acoustic measures have been satisfactorily implemented will be required to be submitted to Council prior to the expiration of the nominated period.

64. The use and occupation of the premises is not to give rise to the emission of any ‘air impurity’ as defined under the Protection of the Environment Operations Act 1997 (NSW), that interferes unreasonably with the amenity of neighbouring premises and/or other sensitive receivers.

65. Should Council consider that unreasonable levels of air impurities have been emitted from the premises, the owner/occupier will be required to engage a suitably qualified consultant to recommend measures to control emissions of air impurities to an acceptable level and such measures being implemented within a nominated time period. Furthermore, written certification from the suitably qualified consultant will be required to be submitted to Council confirming that air impurity emissions from the premises do not interfere unreasonably with the amenity of neighbouring premises and/or other sensitive receptors before the expiration of the nominated period.

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

67. A Landscape Establishment Report is to be submitted to Council following completion of a three month maintenance period, verifying that satisfactory maintenance of the
landscape works has been undertaken and any necessary rectification measures have been carried out to a high professional standard; copy of report format attached.

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

69. Vehicles are to be loaded or unloaded standing wholly within the premises and within loading bays designated on the submitted plans or as otherwise provided in accordance with the conditions of this consent and under no circumstances are vehicles to be loaded or unloaded at the kerbside, across the public footpath or in a manner which obstructs vehicular access to the site.

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

71. 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.

72. Any washing, degreasing or steam cleaning of vehicles, plant, engines, mechanical equipment or parts is to be carried out within a wash bay or dedicated cleaning unit connected to the sewers of the Hunter Water Corporation in accordance with an approved Trade Waste Agreement or to a waste collection system for disposal by a licensed waste transport contractor in accordance with the Department of Environment and Climate Change ‘Waste Classification Guidelines Part 1: Classifying Waste’. Under no circumstances are such activities to be carried out elsewhere on site.

73. Any liquid wastes from the premises, other than stormwater are to be either discharged to the sewers of the Hunter Water Corporation in accordance with an approved Trade Waste Agreement or collected and disposed of by a licensed waste transport contractor in accordance with the Department of Environment and Climate Change ‘Waste Classification Guidelines Part 1: Classifying Waste’.

74. Any hazardous substances or dangerous goods stored on or within the premises are to be stored, labelled and handled, with appropriate Material Safety Data Sheets maintained on site for each dangerous good or hazardous substance, in accordance with the requirements of WorkCover NSW.

75. A current hard copy register of all hazardous substances and dangerous goods, including appropriate individual Material Safety Data Sheets, is to be maintained on site in an appropriate secure area.

76. All proposed water-cooling air handling systems are to be designed and installed in accordance with the requirements of AS/NZS 3666.1:2002 - Air-handling and water systems of buildings - Microbial Control Part 1: Design, installation and commissioning.

77. All overflow or drainage discharge waters from the water-cooling air handling system tray or sump are be directed to the sewers of the Hunter Water Corporation or collected for disposal by a licensed waste transport contractor in accordance with the Department of Environment and Climate Change ‘Waste Classification Guidelines Part 1: Classifying Waste’.

78. All water-cooling air handling systems and associated water treatment systems are to have monthly maintenance checks performed by a suitably qualified contractor or
person with cleaning of the system conducted in accordance with AS/NZS 3666.2:2002 - Air-handling and water systems of buildings - Microbial Control Part 2: Operation and maintenance. A copy of all monthly inspection, cleaning and water analysis reports, including an annual certification of the process designed to control microbial growth prepared by a competent person, is to be forwarded to Council’s Environmental Health Services Unit on a quarterly basis for assessment.

79. An operation and maintenance manual is to be kept on site at all times for the proposed water-cooling air handling systems, water treatment equipment and other associated equipment and systems in accordance with AS/NZS 3666.2:2002 - Air-handling and water systems of buildings - Microbial Control Part 2: Operation and maintenance. The operating and maintenance manual is to include (but not be limited to) the following:

a) Physical details of the plant, equipment and systems and pre-treatment carried out
b) Recommendations on maintenance including water treatment maintenance and management
c) Recommended cleaning, disinfection and emergency contamination procedures
d) Start-up, operating and shut-down procedures
e) Particulars of the maintenance management program including plan servicing and cleaning schedules and up-to-date maintenance reports.

80. The water treatment chemicals associated with the proposed water-cooling air handling system(s) are to be suitably bunded and covered to prevent escape of liquids into the stormwater system.

ADVISORY MATTERS

81. Any proposed business identification sign or advertising sign should be designed in accordance with the provisions of Newcastle Development Control Plan 2012 and be the subject of a separate Development Application approved prior to erection or placement in position.

82. 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.

83. 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.

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

85. 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.

86. A Construction Certificate application for this project is to include a list of fire safety measures proposed to be installed in the building and/or on the land and include a separate list of any fire safety measures that already exist at the premises. The lists must describe the extent, capability and basis of design of each of the measures.

87. 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).

88. A copy of the final Fire Safety Certificate (together with a copy of the current fire safety schedule) is to be given to the Commissioner of NSW Fire Brigades and a further copy of the Certificate (together with a copy of the current fire safety schedule) is to be prominently displayed in the building.

89. An annual Fire Safety Statement in the form described in Clause 175 of the Environmental Planning and Assessment Regulation 2000 (NSW) is to be submitted to Council and a copy (together with a copy of the current fire safety schedule) is to be given to the Commissioner of New South Wales Fire Brigades. A further copy of the Statement (together with a copy of the current fire safety schedule) is to be prominently displayed in the building.

90. 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.

91. 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.

92. (i) Wall & ceiling construction and finish

The plans indicate a service area which prepares and serves food such as coffee. Construction details of the ceiling above the food handling area required to ensure compliance with the Australian Standards.

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

(ii) Ventilation

Your plans have not detailed any ventilation in the kitchens. If there is to be any cooking or cleaning equipment installed within the kitchen that will generate heat, steam or grease, please provide further information regarding the type and capacity of the ventilation system to comply with the Australian Standards and the Building Code of Australia (AS 4674-2004 (2.5)).

(iii) Disposal of waste -

(a) Grease Arrestor

Your proposal will involve the production of waste water from the handling and preparation of food and for the purpose of cleaning and sanitising equipment. Hunter Water may require the all waste water to be disposed of via a grease arrestor if the business undertakes hot food preparation.

The Australian Standards 4674-2004 (2.3.1 & 2) requires:

a) The grease arrester shall not be located in areas where food, equipment or packaging materials are handled or stored.
b) The grease arrester shall be located outside the food handling area with direct vehicle access for cleaning purposes.

If a grease arrestor is required to be installed, please indicate on the plans the location of the grease arrestor and how it will be accessed for cleaning.

(b) Garbage and Recyclable - Waste storage room

Your plans indicate a waste room used for the storage of putrescible material generated by the food production.

The Australian Standard 4674-2004 requires all internal rooms used to store garbage and garbage bins to be mechanically ventilated. The room shall be paved in an impervious material, graded and drained to the sewer and provided with a hose tap connected to the water supply in accordance with AS 4674-2004 (2.4).

END OF CONDITIONS
<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
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<tbody>
<tr>
<td>15 October 2015</td>
<td>Development application lodged with Council.</td>
</tr>
<tr>
<td>21 October 2015</td>
<td>Public exhibition (14 days).</td>
</tr>
<tr>
<td>1 December 2015</td>
<td>Applicant advised of issues raised after technical assessment of the application.</td>
</tr>
<tr>
<td>08 January 2016</td>
<td>Response received from applicant.</td>
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<tr>
<td>18 January 2016</td>
<td>Meeting at Council Offices to discuss vehicular access issues.</td>
</tr>
<tr>
<td>11 February 2016</td>
<td>Applicant advised to revise scheme to provide one vehicular crossover to Christo Road and to avoid storm drain and power pole.</td>
</tr>
<tr>
<td>16 February 2016</td>
<td>Revised full plans received.</td>
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<tr>
<td>18 March 2016</td>
<td>Revised landscaping drawings received.</td>
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</table>