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 13 December 2016
TIME: Following the Ordinary Council Meeting
VENUE: Council Chambers
2nd Floor
City Hall
290 King Street
Newcastle NSW 2300

P Chrystal
Interim Chief Executive Officer
City Administration Centre
282 King Street
NEWCASTLE NSW 2300

7 December 2016

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## EXTRAORDINARY DEVELOPMENT APPLICATIONS COMMITTEE
### 13 December 2016

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

Nil

DEVELOPMENT APPLICATIONS

ITEM-17 DA 2016/00820 - 14 AND 16 UNION STREET TIGHES HILL - ERECTION OF TWO ATTACHED TWO STOREY DWELLINGS ASSOCIATED SITE WORKS AND ONE LOT INTO TWO LOT SUBDIVISION

APPLICANT: M JAMES

OWNER: F L ROBERTS, L S MOORE, D A HENDRICKS, E J SCHUMANN

REPORT BY: PLANNING AND REGULATORY

CONTACT: DIRECTOR PLANNING AND REGULATORY / MANAGER DEVELOPMENT AND BUILDING SERVICES

PART I

PURPOSE

The purpose of the report is to present a development application to the Development Assessment Committee for determination. The application was 'called in' on the 8 September 2016 by Councillor Osbourne and Councillor Doyle.

The proposed development seeks consent for the construction of residential accommodation (two attached two storey dwellings), associated site works and one into two lot subdivision.

A copy of the submitted plans for the proposed development is included in Attachment A.
The application was notified in accordance with Council’s Public Notification Policy for a period of 14 days to adjoining property owners. One submission was received in response. The submission raised 21 issues of concern including permissibility, density, building height, overshadowing, bulk and scale, privacy, view loss, social impact, cut and fill, building envelope, building appearance, streetscape, landscaping, rear setbacks, fencing, parking, traffic, stormwater, sewerage, subdivision and trees.

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

- Independent stormwater provision between resultant lots; and
- Improved on-site access to comply with Australian Standards.

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

Issues

- Height, bulk and scale.
- Amenity impacts to the adjoining property at 12 Union Street.
- Suitability of the site for the development.

Conclusion

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

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

RECOMMENDATION

A) THAT the application for the construction of two attached two storey dwellings, associated site works and one into two lot subdivision be approved and consent granted by way of deferred commencement subject to compliance with the conditions set out in the Draft Schedule of Conditions (refer to Attachment B); and

B) THAT those persons who made submissions be advised of the Council determination.
Political Donation / Gift Declaration

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

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

PART II

1.0 THE SUBJECT SITE

The subject property (Lot C) comprises part of Lot 38 DP 32507, known as 14 Union Street, Tighes Hill and part of Lot 37 DP 32507, known as 16 Union Street, Tighes Hill. The lot is regular in shape and has an overall site area of 739.65m².

The current vacant site (Lot C) is located at the end of a battle-axe handle behind the two existing single storey attached dwellings at 16 Union Street (Lot A) and 14 Union Street (Lot B). The access handle is located between the dwelling at 16 Union Street and the northern side boundary with the commercial office building at 20 Union Street, which is occupied by the Institute of the Sisters of Mercy Australia.

The access handle (currently under construction) and vacant Lot C were approved and created by Council as part of development application consent DA 2015/10284 dated 15 April 2016, which was modified on 29 April 2016 and 19 August 2016. The application was approved for alterations and additions to dwellings and a two lot into three lot subdivision.

To date, an application for subdivision certificate has not been submitted to Council for the creation of the subject site (Lot C).

The site slopes approximately 4.5m from front to back and there are no trees on-site. The general form of development in the immediate area consists of a mixture of single storey and two storey detached dwellings.

2.0 THE PROPOSAL

The proposal is seeking consent for the construction of residential accommodation (two attached two storey dwellings), associated site works and one into two lot subdivision.

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

a). The roof form has been amended to ensure each dwelling drains independently of each other.

b) The roof pitch has been amended to maintain the building height and ensure the building remains within the building envelope.

c) The vehicle circulation space has been amended to provide additional width.
d). The entry portico to Unit 1 of Lot 4 has been reduced to allow for the above drainage and site access changes.

e). The laundry and toilet at the ground floor of Unit 1 of Lot 4 has been reduced to increase the depth of the adjacent turning bay.

f). The landscaped area has been modified and increased due to the removal of the rear steps.

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

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

3.0 PUBLIC NOTIFICATION

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

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

Statutory and Policy Issues

- **Permissibility** - The development should be defined as multi-dwelling rather than dual occupancy.
- **Density** - There are too many dwellings proposed resulting in an overdevelopment of the site.
- **Building Height** - The application fails to demonstrate that the proposed development complies with the 8.5m building height maximum.

Amenity Issues

- **Overshadowing** - overshadowing of 12 Union Street located to the south of the site and sterilising the future development potential of this neighbouring property.
- **Bulk and scale** - incompatible with neighbouring development, visually intrusive and dominates adjoining properties.
- **Privacy** - overlooking of neighbouring properties, exacerbated by the design which fails to adequately respond to existing site topography.
- **View loss** - obstruction of views and loss of outlook to neighbouring properties.
- **Social impact** - development will obscure surveillance of Islington Park with potential for increased crime and anti-social behaviour.

Design and Aesthetic Issues

- **Cut and fill** - design fails to adequately respond to existing site topography with and unacceptable impact on 12 Union Steep which is downslope. Development should be stepped.
- **Building envelope** - development exceeds building envelope.
- **Building appearance** - southern elevation facing no.12 Union Street is large, dominating, blank and devoid of articulation.
• **Streetscape - scale** and design of the development is incompatible with the existing streetscape.

• **Landscaping** - lack of landscaping provided within the development.

• **Setback to rear western boundary** - incompatible with natural line of neighbouring properties and will set a precedent that will be to the detriment of the adjacent Islington Park.

• **Fencing** - lack of detail on boundary fencing.

**Traffic and Infrastructure Issues**

• **Parking** - multi-dwelling development requires on-site visitor parking.

• **Traffic** - Union Street is narrow and is not designed to support an increase in traffic movements and increased parking. Sufficient parking must be provided on-site as the road is not wide enough to have vehicles parked on the western side of the street adjacent to the property.

• **Stormwater** - the proposed stormwater management system is inadequate for the development.

• **Sewerage** - building over existing Hunter Water sewer.

**Miscellaneous**

• **Subdivision** - development is inconsistent with DCP subdivision controls. Battle-axe handles do not support more than two lots unless proposals are strata or community title subdivision.

• **Trees** - trees in Islington Park will reduce solar access to the development.

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

**4.0 ENVIRONMENTAL PLANNING ASSESSMENT**

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

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

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

In accordance with Clause 7 of the SEPP, land contamination has been considered within the assessment of the application. The land is currently being used for residential purposes and is not listed on Council’s contaminated lands register. The site is not considered to be potentially contaminated and therefore is suitable for the proposed development.

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

A BASIX assessment was completed and a BASIX Certificate was obtained and lodged with the application that demonstrates the development has achieved the required water and energy reduction targets. A condition will be imposed on the consent reflecting this Certificate.
Clause 2.1 Land Use Zones

The subject property is included within the R2 Low Density Residential zone under the provisions of the Newcastle Local Environmental Plan 2012. The proposed residential accommodation (dual occupancy) is permissible with Council consent and is consistent with the zone objectives.

Clause 4.1 Minimum Subdivision lot size

The minimum lot size for the site is 400m². The development proposes one into two lot subdivision of 285.69m² and 277.53m² (excluding 176.38m² access handle). The development complies with 4.1A (Exceptions to minimum lot sizes for certain residential development) as a dwelling is provided on each resultant lot which is greater than 200m².

Clause 4.3 Height of Buildings

The subject site is identified on the Newcastle LEP 2012 'Maximum Building Height Map' as having a prescribed maximum building height of 8.5m. The new dwellings have a side wall height of between 3m and 7m, pitching to an overall maximum height of 8.5m, which complies with the maximum height limit for the site.

Clause 4.4 Floor Space Ratio

The subject site is identified on the Newcastle LEP 2012 'Floor Space Ratio Map' as having a prescribed floor space ratio of 0.6:1. The site measures 563.22m² (excluding 176.38m² access handle).

Unit 1 proposes 177.3m² of gross floor area (GFA) and Unit 2 proposes 163.5m² of GFA. This results in a total combined floor space of 340.8m² for the site, or 0.60:1 FSR, which complies with the DCP. The proposed development is considered acceptable in this location and in the context of the R2 low density zone.

Clause 5.9 Preservation of Trees and Vegetation

There are no trees on-site. However, there are two trees along the southern side boundary of 20 Union Street adjacent to proposed Unit 1 with the potential to be adversely affected. The submitted arborist report concludes that the trees would not be adversely affected by the proposed development and suggests adequate mitigation measures to ensure their protection during construction. A condition has been placed on the consent in this regard.

Clause 5.10 Heritage Conservation

The site does not include any heritage items and is not located in a heritage conservation area. The site is located adjacent to Islington Park which is a local heritage item. The proposed development is compatible with the existing scale, character and massing of development in the area and has an appropriate design outcome having regard to the allowable planning controls applying to the area. As such it is considered the proposal will not alter the heritage significance of the area or impact on the adjacent heritage item.
Clause 6.1 Acid Sulfate Soils

The site is identified as class 5 on the Acid Sulfate Soils map. Excavation greater than one metre is not proposed and thereby an Acid Sulfate Soils Management Plan is not required.

4.2 Merit Considerations

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

An assessment of the application has been made under the DCP, with the key requirements discussed in the table below.

<table>
<thead>
<tr>
<th>Section of DCP</th>
<th>Comment</th>
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<tr>
<td>3.01 Subdivision</td>
<td>The application proposes one lot into two lot Torrens Title subdivision of 285.69m² and 277.53m² (excluding 176.38m² access handle). The lots are regular in shape. The new dwellings are located within each new lot with reciprocal rights of carriageway to facilitate access for the existing dwelling on Lot 1 (16 Union Street) and proposed Units 1 and 2, and easements to facilitate drainage for the existing and proposed dwellings on Lots 1 to 4. This is considered acceptable.</td>
</tr>
<tr>
<td>4.03 Mine Subsidence</td>
<td>The site is located within a Proclaimed Mine Subsidence District. The Mine Subsidence Board has assessed the proposal and has issued their General Terms of Approval subject to conditions of consent.</td>
</tr>
<tr>
<td>4.04 Safety &amp; Security</td>
<td>The development is considered to be consistent with the principles of Crime Prevention Through Environmental Design (CPTED) as appropriate measures are in place in regards to allowing for casual surveillance, access control, territorial reinforcement and space management. A condition has been placed on the consent for suitable fencing to be provided on site.</td>
</tr>
<tr>
<td>4.05 Social Impact</td>
<td>The development is consistent with the zone objectives and will have a positive social impact through the provision of additional housing in a residential area.</td>
</tr>
<tr>
<td>5.01 Soil management</td>
<td>A maximum of approximately one metre of excavation and fill is proposed. This is considered acceptable.</td>
</tr>
<tr>
<td>5.02 Land Contamination</td>
<td>The proposal is acceptable in terms of land contamination as detailed under the discussion on SEPP 55.</td>
</tr>
<tr>
<td>7.01.04 Streetscape and front setbacks</td>
<td>The new two storey dwellings are located at the rear of the site approximately 45m from the front boundary and are largely hidden from view behind the existing single storey semi-detached dwellings (which occupy the full width of the street frontage except for the approximately 4m wide driveway entry). Site topography also further reduces apparent bulk and scale of the development from the public street as the site falls approximately 4.5m from front to back. This is considered acceptable.</td>
</tr>
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<td>7.01.05 Side and rear setbacks</td>
<td>The building envelope is within the prescribed building envelope allowed within the R2 low density zone. The proposed development complies with the setback provisions of the DCP for the R2 zone, with the dwellings having a setback of between</td>
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<tr>
<td>Section</td>
<td>Description</td>
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<td>7.01.06 Open space</td>
<td>Each new dwelling is provided with a 16m² (4 x 4m) principle area of private open space and a minimum 40m² of private open space. Each courtyard is directly accessible from living rooms and is provided with adequate solar access.</td>
</tr>
<tr>
<td>7.01.07 Building design and appearance</td>
<td>The proposed development is of a contemporary design comprising a low-pitched hipped roof that slopes away from the property boundaries. The external materials and finishes include a mix of rendered brickwork, horizontal board cladding with a colourbond roof. The new development is considered compatible with the existing scale, character and massing of development in the area and is considered an appropriate design outcome having regard to the allowable planning controls applying within the area.</td>
</tr>
<tr>
<td>7.01.08 Solar access</td>
<td>The DCP requires that new buildings maintain at least three hours of sunlight to the north facing living room windows of adjacent dwellings between 9am and 3pm on 21 June. The DCP also requires that the principle area of ground level private open space of adjacent dwellings receive at least 2 hours of sunlight between 9am and 3pm on 21 June. Shadow diagrams have been provided showing the proposed shadow cast throughout the day at hourly intervals between 9.00am and 1.00pm on 21 June and also at 3.00pm on 21 June. The living room windows and principal area of ground level open space of adjoining dwellings will not be affected by the new development. This includes the single storey rear addition development proposed at 12 Union Street which has yet to be submitted to Council. This is considered acceptable.</td>
</tr>
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<td>7.01.09 Views and privacy</td>
<td>The development does not unreasonably impact on any views or the general outlook from surrounding properties, nor will it impact view corridors from the public domain. The impact on the general outlook from the adjoining properties is acceptable. The first-floor level of the new dwellings includes bedrooms and bathrooms, with the exception of a study room at the southern side of Unit 2. A condition of consent will require the south facing window of the upstairs study to be amended to be a highlight feature window to reduce the potential for overlooking to 12 Union Street. The south and north facing balconies at the rear of Units 2 and 3 propose full height fixed privacy screens to reduce the potential for overlooking to 12 and 20 Union Street and each other. The impact on privacy and overlooking is considered acceptable in this regard.</td>
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</tbody>
</table>
| 7.02 Landscape, open space and visual amenity | The site measures 563.22m² (excluding 176.38m² access handle) and is located in a Limited Growth Precinct. A comprehensive landscape plan has been provided prepared by a landscape designer. The DCP requires 70m² per dwelling of landscaping and 15% of deep soil area for the whole site. This equates to a minimum collective total of 140m² landscaping and 84.48m² of deep soil for the site. As subdivision is proposed, the
DCP also requires 10% landscaping on each resultant lot. The plans have been amended to show approximately 140.2m² of landscaped area and approximately 129.2m² (22.94%) of deep soil area for the site, which complies with the control. Furthermore, Lot 3 provides 73.8m² of landscaping (26.59% of new lot excluding 94.87m² access handle) and resultant Lot 4 provides 66.4m² of landscaping (23.24% of new lot excluding 81.52m² access handle). Overall, the development provides a reasonably even distribution of landscaping for the resulting lots, with landscaped areas being of useable size and proportions.

<table>
<thead>
<tr>
<th>7.03 Traffic, parking and access</th>
<th>The proposal has been assessed by Council's Development Engineer as being acceptable, subject to conditions of consent. The development has been amended to increase vehicle circulation space. The application proposes a double garage for each new dwelling. This is considered adequate. Vehicles for the new dwellings and the existing dwelling at 16 Union Street can enter and exit the site in a forward direction in accordance with AS2890.1. A reciprocal right of carriageway is required to allow vehicles to access proposed parking on Lots 3 (Unit 2) and 4 (Unit 1) and existing parking on Lot 1 (16 Union Street). This is addressed by a condition of consent. The proposal does not result in the removal of any street parking spaces or changes to the kerb / footpath. The demand for parking is not expected to change as a consequence of the proposed development.</th>
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<th>7.05 Energy Efficiency</th>
<th>The proposal complies with the requirements of BASIX.</th>
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<tr>
<th>7.06 Stormwater</th>
<th>The proposal has been assessed by Council's Development Engineers as being acceptable, subject to conditions of consent. A revised stormwater plan has been provided to confirm the offset of the dispersion trench from boundaries and buildings. Rainwater tanks are provided for each new dwelling with overflow from this and guttering from existing dwellings at 14 and 16 Union Street directed to a dispersion trench at the rear of the site. An easement to drain water is required along the side boundaries of the site in favour of the existing dwelling Lots 1 and 2 and burdening the proposed Lots 3 and 4 in order to facilitate this system. This is addressed by a condition of consent.</th>
</tr>
</thead>
</table>

| 8.00 Public Participation | As previously discussed one submission was received during the notification period. The issues raised in the submission have been adequately addressed during the assessment of the application. |
4.2.3 Impacts on the Natural and Built Environment [Section 79C(1)(b)]

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

The siting, scale, height and appearance of the proposed development is suitable for the site and the streetscape. The proposed development is appropriate in terms of its scale and built form. Overall, the amended proposal is considered to be aesthetically appropriate, of a contemporary design and environmentally sustainable.

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

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

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

The application will have positive social and economic impacts as it is provide additional residential accommodation in a suitable location. The proposal will not adversely impact on the amenity of the neighbourhood and will have a positive economic impact during the construction period due to additional employment.

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

The site is within a Mine Subsidence District. Approval for the development from the Mine Subsidence Board has been granted prior to lodgement with Council. Conditions of consent will be imposed in the determination to ensure the detailed design is approved by the Board prior to the issue of the construction certificate. The site is not subject to any other known risk or hazard that would render it unsuitable for the proposed development.

The site is located in a residential area with access to local services and facilities and is suitable for the proposed development.

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 under the Act and Regulations.

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

- Sustainability

The proposed development is satisfactory having regard to the principles of ecologically sustainable development. The proposed development will not result in the disturbance of any endangered flora or fauna habitat or otherwise adversely impact on the natural environment.

- General

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

**Attachment A:** Plans and elevations of proposed amended development / as amended - 14 & 16 Union Street, Tighes Hill

**Attachment B:** Draft Schedule of Conditions - 14 & 16 Union Street, Tighes Hill

**Attachment C:** Processing Chronology - 14 & 16 Union Street, Tighes Hill
ATTACHMENT B - DRAFT SCHEDULE OF CONDITIONS
14 & 16 UNION STREET TIGHES HILL

DEFERRED COMMENCEMENT

This is a deferred commencement approval under Section 80(3) of the Environmental Planning and Assessment Act 1979 (as amended). This consent does not become operative until the requirements listed below (Schedule 1) of this consent have been satisfied.

Upon compliance with the issues under Schedule 1, and written confirmation from Council to that effect, the consent shall become operative form the date of endorsement included in the written notification subject to the conditions listed in Schedule 2 and any other conditions arising from the requirement of Schedule 1.

SCHEDULE 1

This consent does not operate until:

1. Compliance with all conditions of the Notice of Development Consent dated 15 April 2016 as modified on 29 April 2016 and 19 August 2016, issued in relation to development application 2015/01284 for a subdivision of Lot 38 DP 32507 and Lot 37 DP 32607 into three lots, including but not limited to the following:
   a) The completion of all subdivision civil works,
   b) The issue of a Subdivision Certificate by The Council of The City of Newcastle,
   c) The creation and registration of all necessary easements and restrictions, and
   d) The registration of all titles with NSW Land and Property Information.

   Documentary evidence of compliance is to be provided to The Council of The City of Newcastle within 12 months of the date of this Notice of Determination.
SCHEDULE 2

REASONS FOR CONDITIONS

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

APPROVED DOCUMENTATION

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

<table>
<thead>
<tr>
<th>Plan No / Supporting Document</th>
<th>Reference / Version</th>
<th>Prepared by</th>
<th>Dated</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site Plan - 01</td>
<td>B</td>
<td>Murray James</td>
<td>30.09.16</td>
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<tr>
<td>Floor Plans - 02 &amp; 03</td>
<td>B</td>
<td>Murray James</td>
<td>30.09.16</td>
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<td>Elevation Plans - 04 &amp; 05</td>
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<td>Murray James</td>
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<td>Driveway Levels Plan - 08</td>
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<td>Subdivision Plan - 11</td>
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<td>3D Images Plan - 12</td>
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<td>30.09.16</td>
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<tr>
<td>Landscape Plan - 1</td>
<td>B</td>
<td>Dirty Girl Designs</td>
<td>30.09.16</td>
</tr>
<tr>
<td>Stormwater Management Plans - 1 &amp; 2</td>
<td>D</td>
<td>Land Development Solutions</td>
<td>07.09.16</td>
</tr>
<tr>
<td>Arborist Report</td>
<td>-</td>
<td>Abacrus Tree Services</td>
<td>28.10.16</td>
</tr>
<tr>
<td>BASIX Certificate - 744077M</td>
<td>2.3</td>
<td>Building Sustainability Assessments</td>
<td>14.07.16</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 $7,488.21 is to be paid to Council, pursuant to Section 94A of the Environmental Planning and Assessment Act 1979, such contribution to be payable prior to the issue of a Construction Certificate in respect of the proposed development.

Note:

a) This condition is imposed in accordance with the provisions of The City of Newcastle S94A Development Contributions Plan 2009 (updated version operational from 15 March 2011). A copy of the plan may be inspected at Council’s Customer Enquiry Centre, ground floor of the City Administration Centre, 282 King Street Newcastle 8.30 am to 5.00 pm, excluding public holidays.
b) The City of Newcastle S94A Development Contributions Plan 2009 permits deferred or periodic payment of levies in certain circumstances. A formal modification of this condition will be required to enter into a deferred or periodic payment arrangement. Refer to the S94A Development Contributions Plan 2009.

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

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

<table>
<thead>
<tr>
<th>Indexation quarters</th>
<th>Approx release date</th>
</tr>
</thead>
<tbody>
<tr>
<td>September</td>
<td>Late October</td>
</tr>
<tr>
<td>December</td>
<td>Late January</td>
</tr>
<tr>
<td>March</td>
<td>Late April</td>
</tr>
<tr>
<td>June</td>
<td>Late July</td>
</tr>
</tbody>
</table>

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

4. The proposed garage door openings are to be a minimum width of 4.8m clear. Full details are to be included in documentation for a Construction Certificate application.

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

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. The driveways are to be constructed in accordance with AS2890 - (Off street parking) and Council design specifications. Full details are to be included in documentation for a Construction Certificate application.

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

10. Overflows from the roof water tank and any additional discharge controls (if required) are to be directed to a properly constructed dispersion trench measuring 600mm x 600mm x 9.5m in length. The required dispersion trench is to be constructed in accordance with Element 7.06 ‘Stormwater’ of Newcastle Development Control Plan 2012. Full details are to be included in documentation for a Construction Certificate application.

11. All stormwater runoff from the proposed development being managed in accordance with the requirements of 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 Land Development Solutions (Job No. 5162, Draw No. 1, Sheet 1 of 2, Rev. D, Dated 07.09.18). Full details are to be included in documentation for a Construction Certificate application.

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

13. 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.

14. 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.
15. 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.

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

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

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

19. 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.

20. 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). Full details are to be included in documentation for a Construction Certificate application.

21. The window serving the study room within the south elevation of Unit 2 (facing no. 12 Union Street) is to be amended to a highlight window having a minimum sill height of 1.5m above the finished floor level of the proposed room. Full details are to be included in documentation for a Construction Certificate application.

22. 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 April 2015). Full details are to be included in documentation for a Construction Certificate application.

23. A durable sign, made from etched brass and similar is to be installed on the side wall of the sand filter chamber to indicate its intended purpose and to mark the level to which sand should be placed consistent with Council’s requirements, see Figure 4.3.3, Stormwater and Water Efficiency for Development Technical Manual (Updated April 2015). Full details are to be included in documentation for a Construction Certificate application.

24. All filter media used in stormwater treatment measures is to meet the current specifications of the Bioretention Filter Media Guidelines produced by the Facility for Advancing Water Biofiltration or demonstrated equivalent and verified by a soil laboratory registered by the National Association of Testing Authorities. Full details are to be included in documentation for a Construction Certificate application.
CONDITIONS TO BE SATISFIED PRIOR TO THE COMMENCEMENT OF WORK AND DURING THE CONSTRUCTION PHASE

25. 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).

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

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

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

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

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

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

27. 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.

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

30. 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.

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

32. 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.

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

34. 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.

35. 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.

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

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

37. 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.

38. 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.

39. 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.
40. Documentation demonstrating the compliance with the conditions of the appropriate Resource Recovery Order and Resource Recovery Exemption must be maintained for any material received at the site and subsequently applied to land under the conditions of the Resource Recovery Order and Exemption. This documentation must be provided to Council officers or the Principal Certifying Authority on request.

41. 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.

42. 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.

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

   a) Restricting topsoil removal
   b) Regularly and lightly watering dust prone areas (note: prevent excess watering as it can cause damage and erosion
   c) Alter or cease construction work during periods of high wind and
   d) Erect green or black shade cloth mesh or similar products 1.8m high around the perimeter of the site and around every level of the building under construction.

44. 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.

45. The existing dividing fence on the southern boundary with no.12 Union Street is to be extended in height and/or otherwise being suitably modified or rebuilt in consultation with the adjoining owners involved to provide the equivalent of a 1.8 m high lapped timber paling fence and at full cost to the Developer, notwithstanding the provisions of the Dividing Fences Act 1991 (NSW).

   Note: Any disputation which may arise between the developer and the adjoining property owners in respect of this matter is to be resolved in accordance with the provisions of the Dividing Fences Act 1991 (NSW).

46. 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).

47. The development and required tree protection zone being carried out in accordance with AS 4970 (2009) and the recommendations set out in the Arborist Report prepared by Abacus Tree Services dated 28 October 2016.

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

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

49. 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.

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

51. 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.

52. 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.

53. 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.

54. 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.

55. An application is to be made for a Subdivision Certificate. The application is to be supported by a survey plan of subdivision, seven copies thereof and a Section 50 Certificate from the Hunter Water Corporation.

56. Reciprocal rights of carriageway and easements for services are to be created over the access corridor serving Lots 3 and 4 in favour of Lot 1.

57. The vehicular access on proposed Lots 3 and 4 for the existing dwelling on Lot 1 (no. 16 Union Street) is to be constructed prior to issue of a Subdivision Certificate.

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

59. Written evidence of approval by the Mine Subsidence Board is to be obtained and submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

60. The approved residential development on the site is to be completed to at least lock-up stage prior to the issue of the Subdivision Certificate.
Lock-up stage is taken to mean the stage at which a building’s external wall cladding and roof covering is fixed and external doors and windows are fixed (even if those doors and windows are only temporary).

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

The minimum numeral heights shall be:

   a) Exterior of the building = 75mm and
   b) Group mailbox - street number = 150mm
      - house number = 50mm

62. Reciprocal rights of carriageway and easements for services are to be created over the access corridor serving Lot 3 in favour of Lot 4.

63. Reciprocal rights of carriageway and easements for services are to be created over the access corridor serving Lot 4 in favour of Lot 3.

64. The Developer designing and constructing the following works in the public road reserve, across 14 Union Street and 16 Union Street frontages, adjacent to the site, at no cost to Council and in accordance with Council’s guidelines and design specification, such works to be implemented prior to any occupation of the premises:

   a) Full width footway paving concrete in accordance with NCC Standard Drawing A1402.
   b) Kerb and gutter reconstruction in accordance with NCC Standard Drawings - A1000 Series.

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.

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

CONDITIONS TO BE SATISFIED DURING THE OPERATION AND USE THE DEVELOPMENT

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

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

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

68. The premises are allocated the following street addresses in accordance with Council’s House Numbering Policy and the Surveying and Spatial Regulation.
A Maintenance Manual for all water quality devices is to be prepared in accordance with Council’s Stormwater and Water Efficiency for Development Technical Manual (Updated 2013). The Maintenance Manual is to address maintenance issues concerning the water quality devices including routine monitoring and regular maintenance and be kept on site at all times. Establishment and maintenance of the water quality devices in accordance with the Maintenance Manual prepared by the applicant is to be completed prior to occupation of this site for the intended use.

ADVISORY MATTERS

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

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

C. 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.

D. 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.

E. 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).

F. 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:

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

ii) 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

iii) 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
G. 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.

H. 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).

I. 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.

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

**END OF CONDITIONS**
### ATTACHMENT C - PROCESSING CHRONOLOGY
**DA 2016/00820 - 14 & 16 Union Street, Tighes Hill**

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
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<tbody>
<tr>
<td>27 July 2016</td>
<td>Application lodged with Council (includes General Terms of Approval from Mine Subsidence Board and Hunter Water Corporation).</td>
</tr>
<tr>
<td>03 August - 17 August</td>
<td>Public Notification / Advertised in Newcastle Herald.</td>
</tr>
<tr>
<td>14 August &amp; 17 August</td>
<td>One public submission submitted (provided in 3 separate emails).</td>
</tr>
<tr>
<td>05 September 2016</td>
<td>Further information requested.</td>
</tr>
<tr>
<td>08 September 2016</td>
<td>Application called-in by Councillor Osborne and Councillor Doyle</td>
</tr>
<tr>
<td>04 October 2016</td>
<td>Additional information submitted (amended architectural, engineering and landscape plans).</td>
</tr>
<tr>
<td>02 November 2016</td>
<td>Additional information submitted (arborist report).</td>
</tr>
</tbody>
</table>
ITEM-18 DA 2015/0540 - 18 NERIGAI CLOSE ELERMORE VALE - ERECTION OF TWENTY FIVE ATTACHED TWO STOREY DWELLINGS, ASSOCIATED WORKS AND TWENTY SIX LOT STRATA SUBDIVISION

APPLICANT: MONTEATH & POWYS PTY. LTD.
OWNER: NERIGAI DEVELOPMENTS PTY. LTD.
REPORT BY: PLANNING AND REGULATORY
CONTACT: DIRECTOR PLANNING AND REGULATORY / MANAGER DEVELOPMENT AND BUILDING

PART I

PURPOSE

The purpose of the report is to present a development application to the Development Applications Committee for determination, due to the large number of public submissions received.

The proposed development seeks consent for the construction of twenty-five (25) two-storey townhouses, strata subdivision, tree removal, associated site works and a new roadway that will connect Kerry Avenue to Nerigai Close.

The proposed development is 'integrated' development and requires approval from the Department of Primary Industries (NSW Office of Water), Mine Subsidence Board and NSW Rural Fire Service.

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

The original application was publicly notified for a period of 30 days in accordance with Council's Public Notification Policy. A total of eighty-two (82) public submissions were received objecting to the proposal.

The proposal was amended after the exhibition period to address a number of concerns raised by Council officers. The amended application was publicly re-notified for a period of 14 days and a total of thirty-four (34) submissions were received in response, which included three (3) Public Voice requests.

The application was presented to Council for Public Voice on the 18th October 2016.
Details of the submissions received are summarised at Section 3.0 of Part II of this report and the concerns raised are addressed as part of the Environmental Planning Assessment at Section 4.0.

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Issues

Compliance with the relevant provisions of the Newcastle Local Environmental Plan 2012 and Newcastle Development Control Plan 2012.

- Density and character of the development.
- Privacy and visual amenity.
- Impact on the existing road network and local traffic.
- Environmental impacts of the development including loss of vegetation, flora and fauna.

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 and the General Terms of Approval issued by the NSW Rural Fire Service and NSW Department of Primary Industries (Water).

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

i) THAT the application for the erection of 25 two-storey dwellings, strata subdivision, tree removal and associated site works at 18 Nerigai Close, Elermore Vale be approved and consent granted, subject to compliance with the conditions set out in the Draft Schedule of Conditions (refer to Attachment B); and

ii) THAT those persons who made submissions be advised of the Council determination.

Political Donation / Gift Declaration

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

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

PART II

1.0 THE SUBJECT SITE

The subject site is known as 18 Nerigai Close (Lot 7 DP 842408) and has frontage to both Nerigai Close and Kerry Avenue. It is located at the end of the Nerigai Close cul-de-sac and has an area of 8,370.9m². The site is located approximately one kilometre west of the Elermore Vale Shopping Centre.

The site is currently vacant and consists of partially cleared native forest and woodland with mature trees and some undergrowth. A classified waterway runs through the western corner of the lot. At the end of Nerigai Close, bordering the subject site is a footpath that extends south towards Robinia Close, alongside a large vegetated reserve.

The site naturally slopes downwards towards the north eastern and western corner of the site and is bordered by a drainage reserve to the east. The land to the west is also a drainage reserve, which runs from the south of the site (Robinia Close) to the north of the site (Willow Close). The waterway running through the site drains into this system along the northern boundary. The waterways appear to have been modified as a result of previous developments in the area.

2.0 THE PROPOSAL

The applicant seeks consent for the construction of 25 two-storey townhouses, strata subdivision, tree removal and associated site works.

The proposal has been amended in response to concerns by both the community and Council officers to include a 5.5m wide roadway, with a 1.2m wide footpath that will connect Kerry Avenue to Nerigai Close.
The proposed development is 'integrated' development and requires approval from Department of Primary Industries (Water), Mine Subsidence Board and NSW Rural Fire Service.

A copy of the submitted plans is appended at Attachment A. The various steps in the processing of the application to date are outlined in the Processing Chronology appended at Attachment B.

3.0 PUBLIC NOTIFICATION

The application was originally publicly notified for a period of 30 days in accordance with Council's Public Notification Policy. A total of 82 public submissions were received objecting to the proposal.

The proposal has been subsequently amended in response to concerns raised by both the community and Council officers. The amended application was publicly re-notified for a period of 14 days and a total of 34 submissions were received in response, which included three Public Voice requests.

The concerns raised in respect of the amended development are summarised as follows:

- **Density** - There are too many dwellings proposed resulting in an overdevelopment of the site.

- **Land zoning** - Inappropriate form of multi-dwelling development in the R2 Low Density Zone.

- **Overshadowing** - Overshadowing of properties located to the south of the site in Robinia Close.

- **Privacy** - Overlooking of properties in Robinia Close.

- **View loss** - Obstruction of views and loss of outlook to neighbouring properties.

- **Noise** - Higher density housing will lead to noise pollution.

- **Social impact** - Potential for increased crime and anti-social behaviour in the area.

- **Open space** - Developers should provide a safe play area for residents and surrounding neighbours.

- **Building appearance** - Box like design with skillion metal roofing is not compatible with the existing built form character of surrounding homes.

- **Building separation** - There is a lack of separation between the dwellings.

- **Open space** - Lack of communal and open space provided within the development.

- **Setback to southern boundary** - Minimal setback to the shared rear boundary of existing homes in Robinia Close.
• **Traffic** - Nerigai Close and Kerry Avenue are narrow streets and are not designed to support an increase in traffic movements and parking. The road is not wide enough to have vehicles parked on the road and have traffic entering at the same time.

• **Traffic safety** - Internal traffic movements and the need for traffic calming measures.

• **Parking** - Increase pressure for on street parking. There is not enough parking for future residents with only single garages provided for each dwelling.

• **Pedestrian safety** - Concerns regarding pedestrian safety.

• **Garbage and servicing** - There will be difficulty for heavy vehicles entering the site.

• **Stormwater and sewerage** - Increased pressure on existing stormwater infrastructure due to reduced bushland and increased hard surface area for site.

• **Flooding** - Clearing and excavation will create a flood plain. Increased risk of flooding to downstream properties.

• **Garbage refuse area** - Associated smells and odours of garbage enclosure.

• **Emergency evacuation** - Adequacy of only having one entrance and exit to cope with emergency evacuation in case of fire.

• **Loss of bushland and vegetation** - Concern regarding the destruction of the natural bush corridor and riparian zone.

• **Flora and Fauna** - Impact on wildlife and natural habitat including bandicoots, possums, lizards and native birds.

• **Waterway** - The waterway flowing through the site will be reduced in size. This along with the increased hard surface runoff (paths, sealed roads and roof area) will increase the risk of flooding to downstream properties.

• **Microclimate** - Increase in heat, glare and chemical emissions.

• **Wind tunnel** - The development will create a wind tunnel.

• **Subsidence** - Potential impacts for surrounding properties.

• **Construction impacts** - Concern regard the impacts on the neighbours from the construction process.

• **Fire safety** - Concern regarding spread of flames to adjoining blocks given the minimal setbacks.

• **Property Values** - The proposal will result in devaluation of surrounding properties.

• **Public interest** - There is no public benefit afforded to the community i.e. parks, reserves etc.

• **Consultation** - There was a lack of community consultation undertaken by developer.
A detailed consideration of the above issues was made during the assessment of both the original and amended designs. Overall, it is considered that the issues and concerns raised in the submissions do not warrant the refusal of the application in its present amended form, or necessitate any further substantial amendments.

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

4.0 ENVIRONMENTAL PLANNING ASSESSMENT

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

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

4.1.1 State Environmental Planning Policies

State Environmental Planning Policy 55 – Remediation of Land (SEPP55)

Clause 7(1)(b) and (c) of SEPP55 require that where land is contaminated, Council must be satisfied that the land is suitable in its contaminated state or will be suitable after remediation for the purpose for which the development is proposed.

The subject site is not listed on Council’s contaminated lands register and Council’s records do not identify any past contaminating activities on the site. Accordingly, the subject site is considered suitable for its intended land use.

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

A BASIX assessment was completed and a BASIX Certificate was obtained and lodged with the application that demonstrates the development has achieved the required water and energy reduction targets. A condition will be imposed on the consent reflecting this Certificate.

State Environmental Planning Policy No. 44 - Koala Habitat Protection

The Policy aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline.

An Ecological Assessment Report has been submitted which identified only one tree out of 100 native trees within the site as being a Koala feed tree. Given these findings, the assessment has satisfied matters for consideration under SEPP 44.

4.1.2 Newcastle LEP 2012

2.3 Zone objectives and land use table
The subject property is zoned R2 Low Density Residential under the provisions of the Newcastle Local Environmental Plan, 2012. The proposal is defined as ‘residential accommodation’ (multi-dwelling housing) and is permissible in the zone subject to development consent.

The proposal is consistent with the objectives of the zone by providing a diverse range of dwellings that respects the character of the surrounding development.

2.6 Subdivision

The proposal seeks consent for the strata subdivision of the development as part of this application.

4.3 Height of buildings

The Height of Building Map provides for a maximum height limit of 8.5 metres. The proposed development has a maximum height of 5.4m, which complies with the height limit.

4.4 Floor space ratio

The Floor Space Ratio Map provides for a maximum FSR of 0.6:1. The proposal has a FSR of 0.42:1, which is under the maximum FSR.

5.9 Preservation of trees or vegetation

An Ecological Assessment Report and Arborist Report have been submitted as part of the application. It is considered that there is sufficient compensatory planting to offset the loss of trees and the extent of landscaping will help soften and screen the visual presentation of the development, in particular the northern boundary.

A flora and fauna assessment was provided to Council and a separate threatened plants survey was undertaken (dated December 2015) which did not identify any Tetratheca juncea "Black eyed Susan" on the site. The assessment did not identify any significant impacts on other important flora and fauna.

The proposal is consistent with this clause with the extent of tree retention and removal having been thoroughly assessed and deemed appropriate for the development.

6.1 Acid sulfate soils

The site and all surrounding properties are identified as containing Class 5 acid sulfate soils. The proposed development will not lower the water table below one metre and is not within 500m of adjacent acid sulphate class 1 – 4 and accordingly an acid sulfate management plan is not required.

6.2 Earthworks

The proposal involves regrading of the site to accommodate the proposed development. All cutting and filling will be undertaken in line with relevant standards.

The proposed earthworks will not detrimentally impact on environmental functions, neighbouring uses or features of the surrounding land and conditions will be placed the consent to address sedimentation and erosion control.
Overall, the proposal achieves a satisfactory level of compliance with both the numerical standards and objective criteria as contained within Newcastle Local Environmental Plan 2012

4.2 Merit Considerations

4.2.1 Relevant Strategic Policies

The broader strategic policies, including the Newcastle Urban Strategy and the Lower Hunter Regional Strategy (LHRS) identify Elemore Vale as being a predominantly residential area with opportunities for mixed-use development. The application is consistent with the objectives of the LHRS, which include ensuring that there is adequate land available and appropriately located to accommodate the projected housing and employment needs of the Region's population over the next 25 years.

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

<table>
<thead>
<tr>
<th>Section of DCP</th>
<th>Comment</th>
</tr>
</thead>
</table>
| Section 3.04 Attached dwellings and multiple-dwelling housing | The proposed development is consistent with the aims of this section, including: to encourage redevelopment that allows for more compact and sustainable urban form to support the efficient use of residential land and expand the variety of housing options
The development is consistent with the aims of this element through achieving redevelopment that allows for a more compact and sustainable urban form. It also allows for additional housing opportunities within proximity to services and facilities, commercial centres and employment transport nodes whilst maintaining an acceptable level of residential amenity.
There are no specific controls under this section. The section otherwise identifies relevant sections of the DCP that need to be addressed and are discussed below. |
| Section 4.03 Mine Subsidence | The site is located within a Proclaimed Mine Subsidence District. The Mine Subsidence Board has assessed the proposal and has issued their General Terms of Approval subject to conditions of consent. |
| Section 4.04 Safety & Security | The development is considered to be consistent with the principles of Crime Prevention Through Environmental Design (CPTED) as appropriate measures are in place in regards to allowing for casual surveillance, access control, territorial reinforcement and space management. |
| Section 4.05 Social Impact | The development is consistent with the zone objectives and will have a positive social impact through the provision of additional housing in a residential area. |
| Section 5.01 Soil Management | The proposal is acceptable subject to the inclusion of conditions of consent regarding soil and sediment control. |
| Section 5.02 Land Contamination | The proposal is acceptable in terms of land contamination as detailed under the discussion on |
### Section 5.03 Tree Management

The application was supported by an Arborist Report, which assessed the existing vegetation on the site. A total of 134 trees were examined, with 58 to be retained and 76 to be removed. The assessment found that that the majority of vegetation within the site is a result of domestic planting over a number of years. Intact original vegetation was deemed to be absent from the site; however a number of native species were noted.

There are concerns regarding the number of trees to be removed. However it is accepted that the trees are not significant and could not practically be retained in order to develop the site in a co-ordinated manner. The applicant submitted landscape plans, which identified areas available for compensatory planting. The proposed development is considered acceptable in relation to the guidelines for tree management.

### Section 7.01 Building Design Criteria

#### Height

The DCP refers to the height controls under the Newcastle LEP 2012. The proposed development has a maximum height of 5.4m, which complies with the 8.5m height limit.

#### FSR

The DCP refers to the FSR controls under the Newcastle LEP 2012. The proposal has an FSR of 0.42:1, which is well under the maximum FSR of 0.6:1.

#### Streetscape and front setbacks

The buildings are of a modern design and appearance utilising low pitch roofs and contemporary materials. The development has a satisfactory design and appearance and will not be easily seen from the public domain due to its setting.

#### Side and rear setbacks

The proposed side and rear setbacks are acceptable from a separation and building envelope perspective and meet the objectives of the DCP.

#### Open space

The DCP requires that each dwelling have a minimum of 35m² private open space located behind the building line. All dwellings have at least 35m² of private open space, with a principal area of 4m x 4m located off living areas and located behind the building line, which complies with the requirements of the DCP.

#### Building design and appearance

The proposal incorporates two-storey dwellings, which is consistent with the scale, character and massing of the development in the area. The appearance of the
development is considered to be compatible with the existing streetscape.

Solar access
The dwellings are generally orientated with courtyards and living areas to the north. Overshadowing of adjoining properties would be minimal given the setback from site boundaries and orientation of the block.

View and privacy
The main living areas for the units are located on the ground floor. The first floor contains bedrooms and bathrooms, which are not expected to have any privacy implications given the limited use of these rooms.

No significant views will be lost from adjoining properties. However it is noted that views towards the site will change from looking at a vegetated site with no dwellings to a developed site with multi dwelling housing.

<table>
<thead>
<tr>
<th>Section 7.02 Landscaping, Open Space and Visual Amenity</th>
<th>The landscape plan is acceptable for a Category 3 development as required under the DCP. The proposal provides in excess of the required minimum 25% of the site area as landscaping and therefore complies with this element. The majority of the proposed landscaped area is deep soil zone.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 7.03 &amp; Section 7.04 Traffic, Parking &amp; Access and Movement Networks</td>
<td>The number of parking spaces to be provided on site meets the minimum requirements. Detailed comments on the access arrangements are provided later in this report.</td>
</tr>
<tr>
<td>Section 7.05 Energy Efficiency</td>
<td>The proposal complies with the requirements of BASIX.</td>
</tr>
<tr>
<td>Section 7.06 &amp; 7.07 &amp; 4.01 Stormwater, Water Efficiency and Flood Management</td>
<td>The proposal is acceptable in regards to stormwater and drainage treatment and the relevant conditions have been placed on the consent. Detailed comments on the drainage and flooding issues are provided later in this report.</td>
</tr>
<tr>
<td>Section 7.08 Waste Management</td>
<td>Conditions have been placed on the consent in regards to waste management.</td>
</tr>
</tbody>
</table>

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

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

Overall it is considered that the design is adequate having regard to its character, streetscape, appearance, height, bulk and scale. The development is of a type and scale that is allowed under the planning controls and the design of the development meets all of the numerical controls in terms of open space, landscaping, height and FSR. The design of the proposed townhouses, whilst not architecturally similar to the houses that currently
characterise the general area, are considered to be aesthetically appropriate, of a contemporary design and environmentally sustainable.

Traffic, Access & Parking

Objection has been raised to the proposed development on the grounds of traffic generation, access and parking. The proposal has been assessed by Council’s Senior Development Officer (Traffic) and is considered to be acceptable, subject to conditions appended at Attachment B.

In reaching this recommendation Council’s Senior Development Officer (Traffic) provided the following comments:

Public Road Network Connection

"On-going consultation with internal / external stakeholders and Council's Asset Management has led to a revised layout through the connection of Kerry Avenue and Nerigai Close to form a loop with a 5.5m wide carriageway (including a 1.2m wide footpath which formally connects the two streets). The watercourse has been nominated to be re-worked and be re-formed as an artificial watercourse with rock lining and rehabilitation between the road and the property. An overland flowpath will be provided for bigger flood events.

Prior to submission of the final concept design, Council's Road, Drainage, Natural Asset and Planning Engineers discussed the possibility of providing the necessary closure to Kerry Avenue and Nerigai Close. This meeting was driven by the need to provide for essential services such as garbage collection, accessible footpath connections and the close for the two roads. The meeting discussed options for providing either hammer heads (separate turning area) for the roads or joining the roads to form a loop. The discussions looked at the potential pedestrian links; future infrastructure needs (such as a footpath along Kerry Avenue); impact on drainage and nature of the area; impact on neighbouring properties; community expectations; maintenance requirements; responsibilities for ownership and impact on Council.

Prior to 2000, Kerry Avenue was intended to provide a future link between Watkins Road and Cardiff Road. Since then, a revision of strategic planning was undertaken and it was found that continuing Kerry Avenue to end at Cardiff Rd would not be practically viable. Similarly, Nerigai Close was to link up with Kerry Avenue forming a circuit between Kerry Avenue, Melinda Avenue and Nerigai Close.

The terrain of the adjoining land on the southern facing properties is very steep, therefore the practicality of the road construction, significance of the water course and land areas were considered as part of the planning process. A decision was made by Council not to extend Kerry Avenue any further.

Ongoing discussions with the applicant and internal stakeholders have led to the applicants agreeing to provide a road connection between Kerry Avenue and Nerigai Close. This outcome is noted as a positive way forward and provides the much needed road connection. It is noted that the concept will need to be further refined to provide an improved access entry into the property. This can be resolved at Construction Certificate stage.

A new footpath will be provided which will link with the existing footpath and connect with Robinia Close, Nerigai Close and Kerry Avenue. The footpath access will also provide a link for recreational activities such as cycling and running as the link gives a good loop of the surrounding area and makes Jubilee Rd accessible via Robinia Close.
Drainage will need to be provided for the existing and proposed new road. There is existing drainage which is Council owned and will need to be modified to Council specifications. The pavement design will need to be done for at least 50 year life and will need to cater for the RFS fire truck loads as per the RFS Guidelines and to Council specifications. Signage and street lighting will need to be provided to minimum P4 lighting category. New signs will require the consent from NCC Traffic Committee.

Dedication of Land for Road Purposes

"The road networks (as discussed above) will need to be formalised. This application may require portions of land to be dedicated to Council for road purposes (public roads) as part of the road network design process. As part of the road design process, land dedication and subdivision processes may need to be followed in order to dedicate the land as public roadway and for any right of way."

Garbage Services

"Discussion with Council's Garbage Services revealed they are currently experiencing difficulties in servicing Kerry Avenue between Melinda Avenue. Currently, any garbage pickup truck enters Kerry Avenue, picks up garbage from one side (east), reverses to Melinda Avenue and turns around and reverses back to pick up garbage from the other side (west). This is considered a difficult collection exercise and generally adds to Council risks. When entering Nerigai Close, the garbage service trucks find it difficult to turn at the end of Nerigai Close.

The proposed road connection will resolve the garbage run route for Council and will also provide the development the opportunity for a better private garbage collection services.

The design of the road connection will need to be resolved as part of the S138 Roads Act Application process and this will need to be done at Construction Certificate Stage to ensure that the development can achieve the necessary access to the site. Conditions are recommended to ensure that the applicants provide the necessary information to Council for assessment of the new road design and associated works."

Internal Access - Road Design (RFS requirements)

Rural Fire Services comments for the proposed internal road network are as follows:

"The intent of measures for property access is to provide safe access to/from the public road system for fire fighters providing property protection during a bush fire and for occupants faced with evacuation. To achieve this, the following conditions shall apply for the proposed shared pedestrian and vehicular access road shall comply with the following requirements of section 4.1.3 (1) of Planning for Bush Fire Protection 2006 as follows:

A minimum carriageway width of 6.5 metres (Note: this requirement has been clarified with RFS on 20/10/2016 and the "Carriageway" means the road devoted to use of vehicles. Footway areas are separate to Carriageway.

A minimum vertical clearance of 4 metres to any overhanging obstruction, including tree branches.

A turning circle with a minimum 12 metre outer radius."
Curves have a minimum inner radius of 6 metres and are minimal in number to allow for rapid access and egress.

The minimum distance between the inner and outer curves is 6 metres.

The cross fall does not exceed 10 degrees.

Maximum grades for sealed roads do not exceed 15 degrees and not more than 10 degrees for unsealed roads.

Be signposted to prohibit parking along the carriageway.

The provision of water, electricity and gas shall comply with section 4.1.3 of 'Planning for Bush Fire Protection 2006'.

Based on the above, the requirements for RFS exceed the minimum Australian Standards AS2890 requirement for road widths. Services will be required to be installed and adequate setback will be required to safeguard the new residents when they come out from their property onto the access roadway. The design of the road can be done as a slow environment to cater for pedestrian movement (permeable paving and other sustainable material options are recommended). A risk analysis will need to be carried out to ensure that the design is safe and is able to cater for the residents. Other essential services such as the mailbox will need to be relocated to be kept away from the roadway.

It is noted that the internal access road will need to be re-designed to allow for a wider carriageway of 6.5m and additional allowances for pedestrian activity (including access to the mailbox) and services. The applicant is aware that this may result in the building footprints being affected. Signs and street lighting are also to be provided.

Vehicular Access

"The revised road layout has provided vehicular access to the development via Kerry Avenue. The proposed intersection at the property entry will need to be designed as a driveway entry with opening being 6.5m wide to allow RFS to service the site. The road link (carriageway) between Kerry Avenue and Nerigai Close is proposed to be minimum 5.5m wide which should create a slow environment for vehicular movement."

Traffic Generation

"The data, explanation and conclusion provided in the traffic report indicate that the vehicular traffic generated from development is sustainable. The submitted traffic report is considered acceptable in relation to vehicular traffic generation. In addition, the proposed road link from Kerry Avenue to the Nerigai Close will mean that vehicles to the site will not need to loop around Melinda Avenue and the existing residential areas of Nerigai Close."

Off-Street Parking Provisions

"The development provides 25 Car Parking & Bicycle spaces (one per unit), 10 Visitor car parking, three visitor bicycle spaces and 2 motor cycle spaces. The number of off-street car parking provided for visitor parking (indented off the kerb) exceeds Council's requirements. The proposed visitor bicycle and motorbike parking is in accordance with the DCP. It is noted that RFS does not allow for parking along the kerb for this development and signs will need to be erected along both sides of the street to restrict parking. The width of
the internal access road is to be minimum 6.5m and manoeuvring circles comply with Australian Standards."

Traffic Noise Impact

"The traffic report has not considered the impact of traffic noise impact from the development. It is noted that majority of the surrounding properties are well away from the development and will highly likely not be affected. The existing dwelling at 47 Kerry Avenue will have adequate buffer from the existing roadway.

It is also noted that the proposal is located in close proximity to the roadway and appropriate noise protection measures will be required for the new residential units."

Green Travel Plan

"The traffic report has not addressed the green travel plan for the development. It is noted that although the Green Travel Plan may not play an immediate part in the development. However, the future use of such a plan will assist in addressing alternative transportation and encourage residents to take alternative forms of transport."

Emergency Access and Services

"The private roadway and connection to the public road is able to be designed so that emergency access (ambulance, police and RFS) can access the property. Services such as garbage pick-up, gas, electricity, and communication networks are to be resolved. It is noted that Council prefers garbage collections from within the property by private contractors."

Stormwater and Flooding

The proposal has been assessed by Council’s Senior Development Officer (Engineering) and is considered to be acceptable, subject to conditions appended at Attachment B.

In reaching this recommendation Council’s Senior Development Officer (Engineering) provided the following comments:

Flood Management

"Following the initial comments from Council, a Flood Certificate was obtained. The flood certificate provided data for the watercourse located along the north western boundary. However Council did not have any data for the upper southern catchment areas. Based on Council recommendations, the applicants engaged Northrop Consulting Engineers to undertake a Flood Impact Assessment for the development.

The data from the flood report by Northrop confirmed Council’s position that the watercourse along the northern boundary was flood affected. An overland flowpath was required to be designed to cater for 1% AEP and PMF event flooding.

A concept proposal has been provided to cater for overland flow with a designated overland flowpath provided along the northern boundary along 48 Kerry Avenue. The submitted flood report demonstrated that the flood impact on the adjoining property at 48 Kerry Avenue will be reduced. This generally assists in reducing the flood risk to the property which seemed be most affected by flooding in the catchment. There is a slight increase on the norther western corridor, however the impact is very minor and will not affect the Jubilee Road properties."
The proposed rock lined watercourse along the northern boundary will be designed to reduce the velocity of the flood waters to prevent potential scouring at the lower end and to protect the natural waterway. The proposed new units have been designed to be set well above the 1% AEP flood level.

The submitted flood report and associated design of the drainage in conjunction with the Kerry Avenue / Nerigai Close road connection along the east/west waterway, including the culvert crossing at the east is considered acceptable. The proposed building floor levels will need to be designed to be protected against flooding and all proposed structures including retaining walls will need to be designed by a structural engineer to withstand the hydraulic loads.”

**Stormwater Management**

“A stormwater management strategy has been provided with the application and progressive responses to Council concerns have been addressed by the consultant engineers. The stormwater management strategy and proposed stormwater design has been carried out to current Council DCP, Technical Specifications and industry standards.

The stormwater management for the site is broken into three components being Individual Units/Dwellings, Detention from Development run-off and Roads Surface Stormwater treatment. The development drainage system has been designed to cater for the 1% AEP events with overland flow paths provided to cater for higher flows. The proposed street drainage system has been designed to convey 10% AEP peak design flows.

The stormwater quantity modelling has been done using the DRAINS software to stimulate the runoff from the catchment for both the pre and post development. The design intent was to ensure that the pre-developed conditions do not exceed the post-development run-off under proposed development conditions.

Concept Drainage Provisions are as follows:

Each of the new dwellings will be installed with an individual 4000L rainwater tank to comply with the DCP.

Majority of the roof areas will be connected to the rainwater tank for reuse within the Unit for toilet flushing, washing and at least an external tap.

Run-off from the property will be collected via inter allotment pits and discharged to the street drainage system as follows:

- The northern road will have an underground 30m³ detention tank which collects run-off from the road and buildings. A SPEL Storm-Sack or similar product will be used to treat stormwater prior to discharge to the waterway at the rear of Unit 23.

- The southern road will have an underground 50m³ detention tank which collects run-off from the road and buildings. Low flows will be diverted to the proposed Bio-filteration tank which will treat the stormwater. High flows will be diverted to the watercourse at the rear of Unit 21.

Drainage and seepage water from the properties along Robinia Close will be collected via drainage along the southern boundary. It is recommended that the drainage be discharged to the Bio-filteration swale as the quantity of stormwater is low.
Overland flowpath between Units 22 and 23.

Retaining walls along the northern units."

The following drainage infrastructure is proposed along the existing watercourse:

Proposed culvert crossing (3 x 450 diameter) on the southern boundary.

The proposed stormwater pipe extension (900 diameter pipe) on the northern boundary adjacent to the existing Kerry Ave properties and rock lined waterway.

Drainage connections from the existing road drainage will need a property connection with possible headwall and scour protection.

Two headwall structures that will accommodate for the private property discharge and scour protection.

Weir from the Biofilteration swale.

Stormwater Quality

"A Stormwater Quality Assessment has been undertaken by the applicant in order to determine the impact on the ecology of the downstream watercourse. The performance of the stormwater strategy was assessed against the MUSIC software targets set in the Council's Technical Manual and the MUSIC Link. The submitted documents and the Stormwater Strategy meet Council requirements and stormwater treatment targets and therefore create a 'Water Sensitive Design' for the development. Safety features and signs will need to be provided for the proposed Bio-filteration swale to protect from possible injury and vandalism."

Maintenance & Monitoring and Safety

"The proposed stormwater structures will require regular monitoring and maintenance to ensure the system is functional. A detailed monitoring and maintenance plan will need to be provided. This can be resolved at Construction Certificate stage."

Drainage Connection and Drainage Easements

"Discharge from the development stormwater network is proposed to be connected to existing watercourse. Two new connections are proposed. There are additional works on the overland flowpath along the northern boundary which forms part of the flood control.

The new drainage discharge headwalls will need to be designed to minimum Council specifications. Easements will need to be created to ensure that the new drainage pipes and overland flowpath are protected. Council will need to have the right to discharge to the overland flowpath and should be given the rights to inspect the drainage system and instruct on the maintenance of the drainage system.

The principles of WSUD and the requirements of the DCP have been generally applied to the development. The submitted stormwater strategy reports, Flood Study and the concept proposal and supporting seems to be the best possible option available for the development of the site and could be sustained in the long term."
Environment

Objection has been raised to the proposed development with regards to the loss of bushland and the impact on flora and fauna. The proposal has been assessed by Council’s Senior Environment Protection Officer and is considered acceptable, subject to conditions appended at Attachment B.

In reaching this recommendation Council’s Senior Environment Protection Officer provided the following comments:

"The proposed development site contains a number of semi-mature to mature trees dominated by Smooth-barked Apple (Angophora costata) in the eastern portion of the site and Sydney Blue Gum (Eucalyptus saligna) and Prickly-leaved paperbark (Melaleuca stypheliodes) in the west. The mid-storey vegetation is dominated by the introduced Small-leaf privet (Ligustrum sinense) and the understorey vegetation contains mainly invasive or non-native species. The presence of invasive species in the under-storey suggests a level of historical disturbance while the mature native over-storey indicates the development site is a remnant of the Coastal Foothills Spotted Gum - Ironbark Forest community in the eastern part of the site and transitions to the Alluvial Tall Moist Forest community in the west.

The proposed development will result in the removal of the majority of vegetation on-site. The vegetation removal has the potential to impact upon local flora and fauna and the Flora and Fauna Assessment prepared by General Flora and Fauna dated March 2014 has undertaken a study for the site of the proposed development. Surveying was conducted in accordance with the Lower Hunter Central Coast Regional Environment Management Strategy 'Flora and Fauna Survey Guidelines'. The survey effort undertaken revealed the presence of two vulnerable insectivorous bats, Little Bentwing-bat (Miniopterus australis) and Eastern Bentwing-bat (Miniopterus schreibersii oceanensis), listed under the Threatened Species Conservation Act 1995 at the proposed development site.

The Flora and Fauna Assessment prepared by General Flora and Fauna dated March 2014 has undertaken an impact assessment (Seven-Part Test) of the proposed development on endangered and vulnerable species listed under the Threatened Species Conservation Act 1995 that are known to inhabit the surrounding area. Species that have been previously identified on adjoining or nearby sites, such as the squirrel glider (Petaurus norfolcensis) and Black-eyed Susan (Tetratheca juncea), were given particular focus as part of the impact assessment. While the proposed development site may potentially provide foraging resources for species such as the squirrel glider and insectivorous bats the absence of roosting or denning habitat such as hollow bearing trees reduces the overall habitat value. However, the proposed development site does provide habitat connectivity between the vegetated areas to the south-east of the proposed development and the Council reserve to the west. The Flora and Fauna Assessment prepared by General Flora and Fauna dated March 2014 recommends to maintain the connectivity of the surrounding habitat that a wildlife corridor be retained across the proposed development site. A wildlife corridor has been retained across the northern part of the proposed development site as shown in the Site Plan prepared by Tonic dated 11 July 2016. Due to the retention of the wildlife corridor the Flora and Fauna Assessment has concluded the proposed development will result in no significant impact upon flora and fauna.

The proposed development includes the clearing of the semi-mature to mature trees on-site. These trees provide habitat for endemic avifauna and mammals. To ensure the safety and protection of these species a suitable qualified ecologist will be required to be present on-site to supervise the tree felling. The requirement for an ecologist to on-site to inspect the trees for fauna prior to felling will be addressed by consent conditions."
Amenity (Overshadowing, Views & Privacy)

It is considered that the proposed development will not unreasonably impact the existing amenity and character of the area. The proposal will contribute to the revitalisation of the area and is in keeping with the strategic planning intentions adopted within the Newcastle DCP.

The proposed construction and operation of the development is also not likely to unduly impact upon the surrounding built environment in terms of noise, odours, urban ecology, traffic / car parking, pedestrian movement, safety and security.

Overshadowing

The proposal does not have an adverse overshadowing impact on the adjoining properties.

Privacy

The proposal does not have an adverse privacy impact on the adjoining properties.

Views

The proposal does not have an adverse privacy impact on the adjoining properties in terms of views. No significant views will be lost from adjoining properties apart from the fact the built form outcome on this site will change in respect to density on the site.

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

The concern raised by objectors regarding a possible reduction in property values in the vicinity of the site as a result of the proposed development is not considered to be justified. The proposal will not adversely diminish the amenity of the adjoining premises or the neighbourhood generally and, accordingly, is not likely to detract from current market values. Indeed, the proposed development may well lead to an increase in the value of nearby properties as it could suggest redevelopment potential.

As stated, the development proposes residential dwellings within a residential area. It is considered unlikely that a residential development of this nature would result in increased anti-social behaviour.

The development provides for increased housing choice within the area which is considered a positive social outcome.

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

Department of Primary Industries (Water)

The road connection is within 40m of the waterway. DPI Water has provided their General Terms of Approval and the applicant must also apply to DPI Water and obtain a Controlled Activity Approval before the commencement of any work, or activity on waterfront land. Waterfront land for the purposes of this DA is land or material within 40m of the top of the bank of the tributaries of Ironbark Creek.
An appropriate vegetated riparian corridor is also required and conditions are recommended to ensure that the waterfront land is reinstated, and for the riparian corridor to be appropriately maintained and re-established in accordance with DPI Water criteria and guidelines.

**NSW Rural Fire Service**

The site contains two bushfire threats, consisting of open forest to the south-east and rainforest vegetation to the north-west of the site. In order to maintain a safe distance between the development and the bushfire threat, an Asset Protection Zone (APZ) of 20m to the south-eastern boundary, and a 10m APZ to the north-western boundary is required. As a consequence, removal of vegetation is required to facilitate this. New planting is also proposed along the boundaries, however this is not considered to increase bushfire threat. NSW Rural Fire Service has provided their General Terms of Approval.

**Mine Subsidence Board**

The site is within a Mine Subsidence District and conditional approval for the proposed development has been granted by the Mine Subsidence Board.

Overall, the proposal is considered an acceptable form of development for the site as discussed within this report and is recommended for approval subject to conditions of consent to minimise the above risks.

**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 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 applicant submits that 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.

Overall, the proposed development will have an acceptable impact on the surrounding natural and built environment. Approval of the application is considered to be in the public interest.
ATTACHMENTS


Attachment B: Draft Schedule of Conditions - 18 Nerigai Close, Elermore Vale - DA2015/0540

Attachment C: Processing Chronology - 18 Nerigai Close, Elermore Vale - DA2015/0540
ATTACHMENT B - DRAFT SCHEDULE OF CONDITIONS
DA2015/0540 - 18 NERIGAI CLOSE ELMORE VALE

REASONS FOR CONDITIONS

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

APPROVED DOCUMENTATION

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

<table>
<thead>
<tr>
<th>Plan No / Supporting Document</th>
<th>Version</th>
<th>Prepared by</th>
<th>Dated</th>
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<tr>
<td>DA_101 Proposed Master Plan</td>
<td>P</td>
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<td>FOOTPRINT WASTE</td>
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In the event of any inconsistency between conditions of this development consent and the plans/supporting documents referred to above, the conditions of this development consent prevail.

INTEGRATED REFERRAL CONDITIONS

3. At the commencement of building works, and in perpetuity, the entire property shall be managed as an Inner Protection Area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service’s document 'Standards for asset protection zones'.


5. Dwelling No’s 1, 12, 22 and 23 shall comply with section 3 and section 7 (BAL 29) Australian Standard AS3959-2009 ‘Construction of buildings in bush fire-prone areas’ and section A3.7 Addendum Appendix 3 of ‘Planning for Bush Fire Protection’ 2006’.
6. Dwelling No's 2, 3, 10, 11, 13, 19, 20, and 24 shall comply with section 3 and section 6 (BAL 19) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone area' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection' 2006'.

7. All remaining dwellings shall comply with Sections 3 and 5 (BAL 12.5) Australian Standard AS3959-2009 'Construction of buildings in bush fire-prone areas' and section A3.7 Addendum Appendix 3 of 'Planning for Bush Fire Protection 2006'.

8. Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAA) under the Water Management Act from DPI Water. Waterfront land for the purposes of this DA is land and material in or within 40 metres of the top of the bank of the tributaries of Ironbark Creek.

9. The consent holder must prepare or commission the preparation of:
   i. Detailed Civil & Stormwater Construction Plans
   ii. Vegetation Management Plan
   iii. Erosion and Sediment Control Plan
   iv. Works Schedule

10. All plans must be prepared by a suitably qualified person and submitted to the NSW Office of Water for approval prior to any controlled activity commencing. The following plans must be prepared in accordance with DPI Water's guidelines located at www.water.nsw.gov.au/ Water-Licensing/Approvals.
   i. Vegetation Management Plans
   ii. Laying pipes and cables in watercourses
   iii. Riparian Corridors
   iv. In-stream works
   v. Outlet structures
   vi. Watercourse crossings

11. The consent holder must (i) carry out any controlled activity in accordance with approved plans and (ii) construct and/or implement any controlled activity by or under the direct supervision of a suitably qualified professional and (iii) when required, provide a certificate of completion to DPI Water.

12. The consent holder must carry out a maintenance period of two (2) years after practical completion of all controlled activities, rehabilitation and vegetation management in accordance with a plan approved by the DPI Water.

13. The consent holder must reinstate waterfront land affected by the carrying out of any controlled activity in accordance with a plan or design approved by the DPI Water.

14. The consent holder must use a suitably qualified person to monitor the progress, completion, performance of works, rehabilitation and maintenance and report to DPI Water as required.

15. The consent holder must provide a security deposit (bank guarantee or cash bond) - equal to the sum of the cost of complying with the obligations under any approval - to DPI Water as and when required.
16. The consent holder must not locate ramps, stairs, access ways, cycle paths, pedestrian paths or any other non-vehicular form of access way in a riparian corridor other than in accordance with a plan approved by DPI Water.

17. The consent holder must ensure that the construction of any bridge, causeway, culvert or crossing does not result in erosion, obstruction of flow, destabilisation or damage to the bed or banks of the river or waterfront land, other then in accordance with a plan approved by DPI Water.

18. The consent holder must ensure that no materials or cleared vegetation that may (i) obstruct flow, (ii) wash into the water body, or (iii) cause damage to river banks; are left on waterfront land other than in accordance with a plan approved by DPI Water.

19. The consent holder is to ensure that all drainage works (i) capture and convey runoffs, discharges and flood flows to low flow water level in accordance with a plan approved by DPI Water; and (ii) do not obstruct the flow of water other than in accordance with a plan approved by DPI Water.

20. The consent holder must stabilise drain discharge points to prevent erosion in accordance with a plan approved by DPI Water.

21. The consent holder must establish all erosion and sediment control works and water diversion structures in accordance with a plan approved by DPI Water. These works and structures must be inspected and maintained throughout the working period and must not be removed until the site has been fully stabilised.

22. The consent holder must ensure that no excavation is undertaken on waterfront land other than in accordance with a plan approved by DPI Water.

23. The consent holder must clearly mark (with stakes using a GPS or peg out survey), protect, maintain and enhance/re-establish the riparian corridors for the length of the site directly affected by the controlled activity in accordance with a plan approved by DPI Water. The vegetated riparian corridor must be consistent with DPI Water guidelines for both the 1st and 2nd order streams on the property.

24. 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.

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

25 A total monetary contribution of $43,000 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,
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:

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<td>Late October</td>
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<tr>
<td>December</td>
<td>Late January</td>
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<td>March</td>
<td>Late April</td>
</tr>
<tr>
<td>June</td>
<td>Late July</td>
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Any party intending to act on this consent should contact Council’s Customer Enquiry Centre for determination of the indexed amount of contribution on the date of payment.

26. On-site parking accommodation is to be provided for a minimum of 10 visitor vehicles, 25 bicycle spaces (one within each unit), 3 visitor bicycle spaces and 2 motorbike parking spaces 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.

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

28. 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.

28. 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.

29. 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.
30. 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.

31. 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.

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

33. 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.

34. All stormwater runoff from the proposed development being managed in accordance with the requirements of Section 7.06 ‘Stormwater’ of Newcastle Development Control Plan 2012, as indicated on the stormwater management strategy, Flood Impact Statement report and concept stormwater plans and stormwater management report prepared by Northrop Consulting Engineers Job No. NL140273, Drawings numbers as listed in the approved drawing list. The drainage outlet for the units on the southern boundary is to be discharged to the Biofilteration swale. Full details are to be included in documentation for any Construction Certificate application.

35. 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.

36. The emergency overland flowpath located between Units 22 & 23 is to be shaped to contain any overland stormwater flow along the course of the easement and is to be kept clear of obstruction at all times. The proposed overland flowpath and the drainage system along the northern boundary as indicated on the plan prepared by Northrop Consulting Engineers Job No. NL140273 Dwg No. C02DA Rev B (Mark-up by Northrop) dated 02/06/2016 is to be designed with rock lining to minimum Newcastle City Council standards and specifications. Appropriate energy dissipater rock lining and scour protection will need to be provided to ensure that the design flows rate matches the pre-development flow rate. The design of the overland flowpath, civil works and drainage infrastructure design is to be consulted and agreed with Council. Full details are to be included in documentation for any Construction Certificate application. (Note: the
consultation process can be done in conjunction with the Roads Act Section 138 Type 2 application for the design of the new road, drainage outlet design and public domain plan works).

37. The floor level of all proposed buildings or building additions is to be as indicated in the plan prepared by Northrop Consulting Engineers Job No. NL140273 Dwg No. C02DA Rev B (Mark-up by Northrop) dated 02/06/2016 and as per the Flood impact Statement Ref No. NL140273_E01_Floodstudy Rev A dated 04/04/2016 and being indicated on plans for any Construction Certificate application. The finished floor levels are to be certified by a registered Surveyor prior to the placement of the floor material and a copy of the Surveyor’s Certificate is to be forwarded to the Principal Certifying Authority.

38. The whole of the proposed structure below known flood level as indicated on the plan prepared by Northrop Consulting Engineers Job No. NL140273 Dwg No. C02DA Rev B (Mark-up by Northrop) dated 02/06/2016 is to be constructed in materials and finishes that are resistant to damage from floodwaters/tidal waters. Any new machinery or equipment, electrical circuitry or fitting, storage unit or similar items likely to be damaged by floodwaters/tidal waters being installed above the said height or alternatively being of materials and functional capability resistant to the effects of floodwaters/tidal waters. Full details are to be included in documentation for any Construction Certificate application.

39. An appropriate flood emergency response plan is to be prepared by independent consulting engineers, experienced in flood management and put in place by the applicant prior to occupation of this site for the intended use. Such plan is to be effectively updated and maintained by the occupiers; to include an education and awareness component for the workforce and detailed evacuation procedures to interface with the Bureau of Meteorology’s flood warning system and the local State Emergency Services plan (where appropriate) and to include provisions for any third parties likely to be involved.

A flood emergency response plan is to describe the following components:

a) Likely flood behaviour
b) Flood warning systems
c) Education awareness program
d) Evacuation and evasion procedures
e) Evacuation routes and flood refuges and
f) Flood preparedness and awareness procedures for residents and visitors

Considerations should include the full range of flood risks, the proposed use of the site, site access constraints and local area evacuation routes to high ground. As much as possible, the plan is to be aimed at self-directed evacuation or evasion to minimise the draw on limited State Emergency Services resources. Full details are to be included in documentation for a Construction Certificate application.

40. Suitable floodways are to be provided within the site, as outlined in the engineering details and calculations submitted in support of the Development Application, sufficient to allow floodwaters to pass freely through the site. Plans indicating full details of the
required floodways and the design of such are to be included in documentation for a Construction Certificate application.

41. Any landscaping within the proposed development is to be designed and positioned in such a manner as to ensure that the designated floodways, on overland flowpaths, are not obstructed. Full details are to be included in documentation for a Construction Certificate application.

42. Fences are to be constructed in a high quality presentation style of attractive appearance and of sufficient height to afford adequate privacy to residents in accordance with the performance criteria and provisions of Newcastle Development Control Plan 2012. Full details are to be included in the documentation for a Construction Certificate application.

43. 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.

44. Any garbage storage facility is to be screened from the street. Full details are to be included in the documentation for a Construction Certificate application.

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

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

47. 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.

48. 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.

49. The developer shall contact Council’s City Greening Services to arrange for the removal and planting of a new street tree, by Council, prior to the commencement of any work.

50. All new internal access roads (private roads) and associated structures including pavement design, kerb and gutter, drainage, street lighting etc. are to be designed by an appropriately qualified and experienced civil/structural/hydraulic/geotechnical
engineer. The road pavement design, drainage and associated civil works are to be designed for a minimum of 50 year life. The design criteria as follows:

a) Access road to be designed as per the Rural Fire Service (RFS) Guide - Planning for Bushfire Protection 2006.

b) A minimum carriageway width of 6.5 metres with design loads to be as RFS requirement or Council specification, whichever is higher).

(Note: this requirement has been clarified with RFS on 20/10/2016 and the "Carriageway" means the road devoted to use of vehicles. Footway areas are separate to Carriageway.

c) A minimum vertical clearance of 4 metres to any overhanging obstruction, including tree branches.

d) A turning circle with a minimum 12 metre outer radius.

e) Curves have a minimum inner radius of 6 metres and are minimal in number to allow for rapid access and egress.

f) The minimum distance between the inner and outer curves is 6 metres.

g) The cross fall does not to exceed 10 degrees.

h) Maximum grades for sealed roads do not exceed 15 degrees and not more than 10 degrees for unsealed roads.

i) Be signposted to prohibit parking along the carriageway.

j) The provision of water, electricity and gas shall comply with section 4.1.3 of ‘Planning for Bush Fire Protection 2006’.

k) Driveway entry to the development from the Nerigai Cl extension to be designed as a standard driveway layout with minimum 6.5m wide opening.

l) Road to be designed as a slow environment. Use of different sustainable material pallets may other alternative universal urban design principles should achieve a better outcome.

Full details including geotechnical investigation for road pavement design (consideration to be given for construction vehicles) are to be certified by the relevant engineers and to be provided to the Principle Certifying Authority prior to issue of any construction certificate.

51. 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).
52. A structural engineer is to determine the location and depth of the proposed On Site Detention and certify that it will not adversely affect any building foundation footings or road structure when the tank is empty. Stormwater Management Plan is to be designed in accordance with current NDCP Section 7.06 Stormwater Management and Newcastle City Council's Stormwater and Water Efficiency Technical Manual. Full details are to be included with documentation for a construction certificate.

53. A structural engineer is to determine the location and depth of the proposed On Site Detention and certify that it will not adversely affect any building foundation footings or road structure when the tank is empty. Stormwater Management Plan is to be designed in accordance with current NDCP Section 7.06 Stormwater Management and Newcastle City Council's Stormwater and Water Efficiency Technical Manual. Full details are to be included with documentation for a construction certificate.

54. All onsite stormwater retention/detention and water quality treatment systems are to be individually identified and sign posted in accordance with Council’s Stormwater and Water Efficiency for Development Technical Manual (Updated 2013). Adequate measures for safety and protection of the water quality devices are to be designed. Full details are to be included in documentation for a Construction Certificate application.

55. 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 as per the Flood impact Statement Ref No. NL140273_E01_Floodstudy Rev A dated 04/04/2016
   b) Flood Hazard Level as indicated on the plan prepared by Northrop Consulting Engineers Job No. NL140273 Dwg No. C02DA Rev B (Mark-up by Northrop) dated 02/06/2016 (Freeboard is 500mm above DFL)

Maximum Flow Velocity of floodwaters for the Defined Flood Event is as per the Flood impact Statement Ref No. NL140273_E01_Floodstudy Rev A dated 04/04/2016

56. Prior to the issue of a Construction Certificate, the proponent preparing and submitting to the Principal Certifying Authority and Council an Environmental Management Plan (EMP) for construction works on the site, such to be kept on site and made available to authorised Council officers upon request. The EMP is to include but not be limited to:

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

   b) A water management strategy, detailing erosion and sediment control, management of soil stockpiles, control and management of surface water, groundwater. 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.
CONDITIONS TO BE SATISFIED PRIOR TO THE COMMENCEMENT OF WORK AND DURING THE CONSTRUCTION PHASE

57. 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)*.

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

59. 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)*.

60. 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.

61. 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.

62. 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.

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

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

65. 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.

66. If the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person’s own expense:
   a) Protect and support the adjoining premises from possible damage from the excavation, and
   b) Where necessary, underpin the adjoining premises to prevent any such damage.
   
   The above requirements does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to the requirements not applying.

67. A survey certificate prepared by a Registered Surveyor is to be submitted to the Principal Certifying Authority upon completion of the floor slab formwork, before concrete is poured, to ensure that the siting of the building in relation to adjacent boundaries is in accordance with the development consent.
68. Certification is to be prepared by a Registered Surveyor and submitted to the Principal Certifying Authority on completion of the retaining wall construction confirming that the location of the wall/walls is consistent with the approved location.

69. 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.

70. Any proposed paving works within the public footway are to be in accordance with the requirements of Council’s specification (Form PLE/S009).

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.

71. 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.

72. 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.

73. 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.

74. On-site car parking accommodation is to be provided for a minimum of 10 visitor vehicles, 25 bicycle spaces (one within each unit) 3 visitor bicycle spaces and 2 motorbike parking spaces 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.

75. The proposed visitor parking bays and pedestrian paths are to be clearly indicated by means of signs and/or pavement markings and/or use of different materials/design.

76. 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.

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

- Monday to Friday, 7:00 am to 6:00 pm and
- Saturday, 8:00 am to 1:00 pm.

No noise from construction/demolition work is to be generated on Sundays or public holidays.
78. 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.

79. 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’.

80. 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.

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

82. 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.

83. 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. Erosion and sediment control measures are to be designed in accordance with the requirements of the Managing Urban Stormwater: Soils and Construction 4th Edition - Vol. 1 (the ‘Blue Book’) published by Landcom, 2004.

84. 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).

85. 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.
86. All retaining walls to be designed by a suitably qualified professional engineer with suitable provision made for drainage. The design should consider and demonstrate that the retaining wall can withstand the impact from flooding (including debris and scouring). Full details of the retaining wall design are to be included in documentation for any Construction Certificate.

87. A suitably qualified professional engineer is to inspect and certify that the retaining walls have been constructed in accordance with the retaining wall design with written confirmation to be submitted to the certifying authority prior to the issue of an occupation certificate for the proposed development.

88. A suitably qualified ecologist to be on-site during tree clearing to manage the identification, management and protection of flora and in particular, fauna, which are located on the site.

89. All vegetated areas outside the boundaries of the proposed development being kept free from disturbance of machinery, parked vehicles and waste material.

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

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

91. All garbage and recycling waste is to be collected by a private waste contractor. Final details from the private contractor, indicating vehicle movement to and from the site and hours/days of collection are to be submitted to Council prior to the issue of an Occupation Certificate.

Note: Section 496 (1) of the Local Government Act 1993 (NSW) states "a council must make and levy an annual charge for the provision of domestic waste management services for each parcel of rateable land for which the service is available". Council will charge the domestic waste management service levy, notwithstanding that the waste is collected by a private contractor.

92. 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.

93. The developer is to design and construct the proposed new road connection and extend Kerry Av and Nerigai Cl generally in accordance with the concept plan prepared by Tonic Project No. 14-03019 Dwg No. DA_101 Rev P dated 11/07/2016 adjacent to the site at no cost to Council and in accordance with Council’s guidelines, design specification and Technical Manual:
Public Domain Works

i. New road pavement connecting Kerry Avenue to Nerigai Close (ensuring that design for life of 50 years could be achieved and loading to be to Rural Fire Service (RFS) Guide - Planning for Bushfire Protection 2006 or Newcastle City Council specification, whichever is greater) Ensure that adjoining property driveways and proposed new driveway design is included.

ii. New kerb and gutter at either side of the roadway and extend the scope of works to match the existing roadway.

iii. Provision of new drainage for the connecting road and modification of the existing drainage to the existing roads as necessary to finish the road connections.

iv. Installation of new footpath to connect to existing footpath along Nerigai Close, Linking to the footpath to Robina Close and Kerry Avenue

v. Install new street trees in accordance with Council requirements (as necessary) and adjust service pit levels to match new footpath/roadway.

vi. Install street lighting for the new road and upgrading of existing lighting as necessary to meet Ausgrid requirements and P4 lighting category as per AS1158 and to Council specifications.

vii. Design of the proposed access driveway to the property and adequate street lighting at the driveway entry.

viii. Provision for new services and existing services to be considered.

ix. Providing the mandatory signage plan and line marking (note: NCC Traffic Committee endorsement will be required prior to installation of the signs and line markings).

x. Consulting any neighbours directly affected from the design of the proposed infrastructure.

xi. Allowing for any necessary consultation and notification to adjoining neighbours prior to start of construction.

xii. Arrange to pay any required bonds as necessary (to be discussed with Council) to ensure that the proposed works are bonded and will be completed to Council satisfaction. This can be discussed during the construction stage.

Detailed public domain plan including civil, structural, pavement and lighting design, details, survey, cross sections and longitudinal are to be submitted to Council for review and approval as part of the S138 Road Act Type 2 application prior to the issue of any construction certificate.

The Public Domain works are to be implemented and construction works are to be completed to Council satisfaction prior to the issue of any Occupation Certificate. (Note: the dedication of the road reserve will need to be done prior to Occupation certificate).

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

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

94. 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.

95. The required floodways are to be the subject of an appropriate ‘restriction as to user’ notation registered against the title of the land pursuant to Section 88B of the Conveyancing Act 1919 (NSW) prior to the issuing of an Occupation Certificate for the proposed development, such to provide:

   a) The obstruction in any manner of the open ‘floodway’ under the occupied buildings as shown on the approved building plan, to be prohibited and

   b) Internal fencing, including adjustments to boundary fences within the overland flowpath are to be of open mesh or rod style construction.

The required restriction as to user is to be lodged with Council for certification by the General Manager and be registered with NSW Government Land & Property Information the issuing of an Occupation Certificate for the proposed development. The instrument is to provide that the restriction as to user is unable to be released, varied or modified without the concurrence of The Newcastle City Council.

96. An easement to drain water over the existing stormwater pipeline and overland flowpath within the subject property is to be created. Such easement is to be in favour of Council and created prior to the issue of any Occupation Certificate for the proposed development.

Note: All associated survey and legal expenses will be undertaken by Council at Council’s expense upon receipt of written request by the owner but Council will not bear the cost of private surveys.

97. 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 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.

98. 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.

99. A clear warning notice is to be erected and maintained at all points of entry to the site advising that the premises is subject to flooding and that caution should be observed at
times of heavy or prolonged rainfall, being installed prior to issue of an Occupation Certificate. Such notice is to also provide advice regarding the availability of further detail in respect of possible flooding, including an appropriate telephone number.

100. 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.

101. 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.

102. The portion of the site required for road widening to provide the connection between Kerry Avenue and Nerigai Close is to be transferred to Council for dedication as road. A suitable survey plan providing for the dedication is to be submitted with an accompanying Subdivision Certificate Application for Council certification and such plan is to be registered with the NSW Government Land & Property Information prior to the issuing of an Occupation Certificate for the proposed development.

Note: All associated survey and legal work is to be undertaken by the Developer at the Developers expense.

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

104. Written evidence of arrangements being made with the Hunter Water Corporation for the provision of water supply and sewerage and with the electricity authority for the provision of overhead or underground electricity supply is to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

105. Written evidence of arrangements being made with the telecommunications authority for the provision of underground telephone services to the lots is to be submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

106. Written evidence of approval by the Mine Subsidence Board is to be obtained and submitted to the Principal Certifying Authority prior to the issue of the Subdivision Certificate.

107. An application is to be made for a Strata Certificate in accordance with the requirements of Division 4 of the Strata Scheme (Freehold Development) Act 1973 (NSW).
**CONDITIONS TO BE SATISFIED DURING THE OPERATION AND USE THE DEVELOPMENT**

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

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

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

111. 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.

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

<table>
<thead>
<tr>
<th>Unit Number on architectural site plan</th>
<th>Council Allocated Street Address(es)</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>House Number</td>
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<tr>
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**ADVISORY MATTERS**

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

B. 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.

C. 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).

D. 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.

E. 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.

F. 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).

G. 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.

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

END OF CONDITIONS
<table>
<thead>
<tr>
<th>Date</th>
<th>Event Description</th>
</tr>
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<tbody>
<tr>
<td>01 June 2015</td>
<td>Application lodged with Council.</td>
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<tr>
<td>26 June 2015</td>
<td>General Terms of Approval received from Mine Subsidence Board.</td>
</tr>
<tr>
<td>18 September 2015</td>
<td>General Terms of Approval received from Department of Primary Industries (Water) in response to original proposal.</td>
</tr>
<tr>
<td>01 October 2015</td>
<td>Further information requested.</td>
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<tr>
<td>11 February 2016</td>
<td>Additional information submitted.</td>
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<tr>
<td>08 July 2016</td>
<td>General Terms of Approval received from NSW Rural Fire Service in response to original proposal.</td>
</tr>
<tr>
<td>11 July 2016</td>
<td>Amended Plan submitted to include roadway (with footpath) to connect Kerry Avenue to Nerigai Close.</td>
</tr>
<tr>
<td>13 July - 27 July 2016</td>
<td>Public Notification (Amended Plans)</td>
</tr>
<tr>
<td>18 October 2016</td>
<td>Public Voice Meeting</td>
</tr>
<tr>
<td>20 October 2016</td>
<td>General Terms of Approval received from NSW Rural Fire Service in response to amended road connection.</td>
</tr>
<tr>
<td>14 November 2016</td>
<td>General Terms of Approval received from NSW Department of Primary Industries (Water) in response to amended road connection.</td>
</tr>
</tbody>
</table>