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 15 May 2018
TIME: Following the Public Voice Committee Meeting
VENUE: Council Chambers
2nd Floor
City Hall
290 King Street
Newcastle NSW 2300

Jeremy Bath
Chief Executive Officer

City Administration Centre
282 King Street
NEWCASTLE NSW 2300

Tuesday 8 May 2018

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

ITEM-1 MINUTES DEVELOPMENT APPLICATIONS COMMITTEE MEETING - 10 APRIL 2018

RECOMMENDATION

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

ATTACHMENTS

Attachment A: 180410 Development Applications Committee

Note: The attached minutes are a record of the decisions made by Council at the meeting and are draft until adopted by Council. They may be viewed at www.newcastle.nsw.gov.au
Minutes of the Development Applications Committee Meeting held in the Council Chambers, 2nd Floor City Hall, 290 King Street Newcastle on 10 April 2018 at 6.14pm.

PRESENT
The Lord Mayor (Councillor N Nelmes), Councillors M Byrne, J Church, D Clausen, C Duncan, J Dunn, B Luke, J Mackenzie, A Robinson, A Rufo, E White and P Winney-Baartz.

IN ATTENDANCE
J Bath (Chief Executive Officer), A Jones (Acting Director Corporate Services), J Rigby (Acting Director Infrastructure), J Gaynor (Acting Director Planning and Regulatory), E Kolatchew (Interim Manager Legal and Governance), M Blackburn-Smith (Manager Development and Building), T Askew (Acting Manager Strategic Planning), N Bavinton (Smart Cities Coordinator), M Murray (Policy Officer, LMO), C Fields (Executive Officer, LMO) A Knowles (Council Services/Minutes) and K Sullivan (Council Services/Webcast).

APOLOGIES

MOTION
Moved by Cr Luke, seconded by Cr Rufo

The apologies submitted on behalf of Councillor Elliott be received and leave of absence granted.

Carried

DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTERESTS
Nil

CONFIRMATION OF PREVIOUS MINUTES

ITEM-1 MINUTES - DEVELOPMENT APPLICATIONS COMMITTEE 20 FEBRUARY 2018

MOTION
Moved by Cr Mackenzie, seconded by Cr Robinson

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

Carried
ITEM-2 MINUTES - DEVELOPMENT APPLICATIONS COMMITTEE 20 MARCH 2018

MOTION
Moved by Cr Mackenzie, seconded by Cr Robinson

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

DEVELOPMENT APPLICATIONS

ITEM-3 DAC 10/04/18 - DA2017/01342 - 2 CALLISTEMON CLOSE WARABROOK - THREE LOT STRATA

MOTION
Moved by Cr Clausen, seconded by Cr Mackenzie

A. That the Development Applications Committee note the objection under clause 4.6 (Exceptions to Development Standards) of Newcastle Local Environmental Plan 2012, against the Principal Development Standard at Clause 4.1 (Minimum Subdivision Lot Size), and considers the objection to be justified in the circumstances and to be consistent with the aims of Clause 4.1 of Newcastle Local Environmental Plan 2012; and

B. That DA2017/01342 for a three lot Strata Title subdivision at 2 Callistemon Close, Warabrook be approved and consent granted, subject to compliance with the conditions set out in the Draft Schedule of Conditions appended at Attachment B.

For the Motion: Lord Mayor, Councillor Nelmes, Councillors Byrne, Church, Clausen, Duncan, Dunn, Luke, Mackenzie, Robinson, Rufo, White and Winney-Baartz.

Against the Motion: Nil Carried

The meeting concluded at 6.17pm
DEVELOPMENT APPLICATIONS

ITEM-6 DAC 15/05/18 - DA 2017/00954 - 55 WOODWARD STREET, MEREWETHER - TWO STOREY DWELLING, ASSOCIATED SWIMMING POOL, RETAINING WALLS AND SITE WORKS

APPLICANT: J S UBEJA
OWNER: J S UBEJA
REPORT BY: PLANNING AND REGULATORY
CONTACT: ACTING DIRECTOR PLANNING AND REGULATORY / ACTING MANAGER DEVELOPMENT AND BUILDING

PART I

PURPOSE

An application has been received seeking consent for the erection of a two-storey dwelling, an associated swimming pool, retaining walls and site works at 55 Woodward Street Merewether.

The application is referred to the Development Applications Committee for determination as the proposed development involves a variation to a development standard of an environmental planning instrument, where the extent of the proposed variation is assessed to be greater than 10%.

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

The proposed development was notified in accordance with Council’s Public Notification policy and one submission was received. Issues raised include:

i. Erosion and sediment control during construction
ii. Stormwater disposal

The objector was invited to make a presentation at a Public Voice Committee meeting to expand upon the issues of concern but declined the invitation.

Details of the submission 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.
Issues

Whether the contravention of Principal Development Standard 4.3 - Height of Buildings, under Newcastle Local Environmental Plan 2012, is justified.

Conclusion

The proposed development has been assessed having regard to the relevant heads of consideration under Section 4.15(1) of the Environmental Planning and Assessment Act 1979 and is considered to be acceptable subject to compliance with appropriate conditions.

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

RECOMMENDATION

A. That the Development Applications Committee note the objection under Clause 4.6 Exceptions to Development Standards of Newcastle Local Environmental Plan 2012, against the development standard at Clause 4.3 Height of Buildings, and considers the objection to be justified in the circumstances and to be consistent with the objectives of Clause 4.3 and the objectives for development within the R2 Low Density Residential zone in which the development is proposed to be carried out; and

B. That DA2017/00954 for the erection of a two-storey dwelling, associated swimming pool, retaining walls and site works at 55 Woodward Street Merewether be approved and consent granted, subject to compliance with the conditions set out in the Draft Schedule of Conditions at Attachment B; and

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

Political Donation / Gift Declaration

Under Section 10.4 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 donation' or 'gift' to a Councillor or Council employee within a two year period before the date of this application?
PART II

1.0 THE SUBJECT SITE

The subject property comprises Lot 103 in DP39213 and is generally rectangular in shape with a slight taper in width toward the rear of the property. The site is located on the eastern side of Woodward Street, approximately 220 metres north of the Scenic Drive intersection. The section of Woodward Street fronting the site splits into a higher level and lower level vehicular carriageway, with the subject property having a frontage to the lower section of the carriageway.

The subject property has a frontage of 18.9 metres, an average depth of 43.5 metres and a total area of 746m². The site is surrounded by similar sized residential properties and adjoins, at the northern boundary, a public footpath running from Woodward Street to Merewether Street. The site slopes steeply towards the rear boundary (approximately 17 metres fall) and is currently vacant, with a number of trees and vegetation located primarily towards the rear boundary.

The general form of development in the area consists of a mixture of original dwellings (approximate age 50-60 years), newly renovated two-storey and three-storey dwellings and modern architectural designed dwellings up to three stories in height.

2.0 THE PROPOSAL

The applicant seeks consent to erect a two-storey dwelling with a swimming pool incorporated in the lower deck area. Due to the slope of the site (17 metres fall over the site and 10 metres fall over building area) the applicant is also seeking consent for the construction of retaining walls and other site works.

The upper level of the proposed dwelling contains a garage, the main living areas of the dwelling, a deck area and a guest bedroom. The upper level is a split level design with the garage and entry having a floor level 1.0 metre above the remainder of the upper level.

Due to the slope of the site, the garage is proposed to be located adjacent to the front boundary to achieve practical vehicular access to the site. The lower level has a floor level 3.0 metres below the upper level and contains bedrooms, a secondary living area, a deck area and a swimming pool.

The design of the proposed dwelling is in a modern architectural style, with concealed and skillion roofing, rendered finishes and large glazed areas.

Minor amendments have been made to the proposal as originally submitted, to demonstrate acceptable vehicular access and to confirm the encroachments of the maximum building height limit and the numerical building envelope controls. A copy of the amended plans is appended at Attachment A.

The various steps in the processing of the application are outlined in the Processing Chronology (Attachment C).
3.0 PUBLIC NOTIFICATION

The development application was publicly notified in accordance with Council's Public Notification policy for a period of 14 days and one submission was received in response.

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

a) Erosion and sediment control during construction
b) Stormwater disposal

The objector’s 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 4.15(1) of the Environmental Planning and Assessment Act 1979, as detailed hereunder.

4.1 Statutory Considerations

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

With respect to SEPP 71, it is considered that the proposed development has suitably addressed the relevant matters for consideration and development controls for development within the coastal zone.

Draft State Environmental Planning Policy (Coastal Management) 2016

The proposed development is considered satisfactory having regard to the provisions of draft State Environmental Planning Policy (Coastal Management) 2016 in respect of proposed development in the coastal zone.

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

A BASIX Certificate was lodged with the application, demonstrating that the development can achieve the required water and energy reduction targets. A condition of consent has been recommended, requiring that the development be carried out in accordance with the BASIX Certificate.

Newcastle Local Environmental Plan 2012 (NLEP 2012)

The subject property is included within the R2 Low Density Residential zone under the provisions of NLEP 2012. The proposed development, defined as 'dwelling house', is permissible in this zone with Council's consent.
The proposed development is consistent with the objectives of the R2 zone, which are:

a) To provide for the housing needs of the community within a low density residential environment.

b) To enable other land uses that provides facilities or services to meet the day to day needs of residents.

c) To accommodate a diversity of housing forms that respects the amenity, heritage and character of surrounding development and the quality of the environment.

The following summarises an assessment of the proposal against the provisions of NLEP 2012 that are relevant to the proposed development:

Clause 4.3 - Height of Buildings

The height of buildings map of NLEP 2012 show a maximum height of buildings of 8.5m for this allotment.

The proposal does not comply with the maximum building height. The main skillion roof of the proposed dwelling exceeds the maximum height by up to 1.20m (14.1%), as shown on cross sectional drawings designated as sheet numbers A401 and A402 at Attachment A.

The proposed height departure is considered to be a minor variation in the context of the topography of the site and will have minimal impact on neighbouring properties in terms of privacy, overshadowing and view loss. The proposed height and scale of the development is generally similar to other existing dwellings within Woodward Street and the wider surrounding area.

The majority of the main skillion roof is under the maximum height limit but the eastern section exceeds it as the pitch of the roof (12 degrees) is flatter than the slope of the ground beneath the proposed building. The encroachment is a result of attempting to resolve several design constraints associated with the site, including:

a) minimising the difference of floor levels between the Garage/Entry and the remainder of the Upper Level,

b) maximising the floor height for the availability of views,

c) provision of reasonable ceiling heights,

d) minimising the amount of excavation of the site due to issues regarding geotechnical stability and mines subsidence, and

e) provision of the skillion roof to reinforce the architectural style

f) maintenance of view corridors for adjoining properties

The applicant has submitted a request for a variation to this standard, as per clause 4.6 of NLEP 2012. Refer to the discussion under Clause 4.6 - Exceptions to Development Standards below.
Clause 4.4 - Floor Space Ratio

The Floor Space Ratio (FSR) Map of NLEP 2012 prescribes a maximum FSR for the subject site of 0.6:1. The FSR of the proposed development has been calculated to be 0.42:1, which complies with the development standard.

Clause 4.6 - Exceptions to Development Standards

The application involves a proposed building that exceeds the maximum height of buildings under Clause 4.3 of NLEP 2012.

The objectives of clause 4.3 of NLEP 2012 are:

a) to ensure the scale of development makes a positive contribution towards the desired built form, consistent with the established centres hierarchy,

b) to allow reasonable daylight access to all developments and the public domain.

Clause 4.6 of NLEP 2012 enables consent to be granted to a development even though the development would contravene a development standard. In assessing the proposal against the provisions of Clause 4.6, it is noted that:

1. Clause 4.3 of NLEP 2012 is not expressly excluded from the operation of this clause; and

2. The applicant has prepared a written request, requesting that Council vary the development standard and demonstrating that:

   a) Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

   b) There are sufficient environmental planning grounds to justify contravening the development standard.

The applicant's request to vary the development standard is as follows:

a) The site is extremely steep with over 17 metres of fall over 730m² site. To create a functional floor plate with workable areas and comfortable ceiling heights we need to create this minor variation to make the upper living area suitable width for a kitchen and dining area.

b) We have worked hard to reduce and minimise heights but this one particular area is required to be a variation to benefit the design and useability.

c) Strict compliance would mean we need to create lower ceiling heights that reduce natural light and ventilation into building. The current floor plan is quite compact to the west of the site and reduces impacts on the neighbours' views.

d) Strict compliance would reduce the amount of windows/natural light and reduce the built form quality of the build.
e) The development standards allow variations and flexibility to heights of buildings if they do not negatively affect surrounding properties or development. The development standards allow flexibility and variation if there is significant cause for variation and that it will benefit the proposed development.

f) The building site is extremely steep and difficult to design/construct and engineer a home on. The proposed design is a compact design that does not adversely affect surrounding properties and provides environmental and useability benefits to the design.

g) We ask for allowance of the minor height variation to allow a quality home which overall has a minimal impact on the surrounding built environment. The built quality and form of the proposed design will enhance the built character of the area.

h) The site is extremely steep (17 metres of fall) and we ask for the minor variation due to the steep nature of the site and sever restrictions it puts on fully complying to all relevant government controls.

An assessment of the request has been undertaken and it is considered that:

a) It adequately addresses the matters required to be demonstrated by Clause 4.6(3) of NLEP 2012; and

b) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the R2 Low Density Residential zone in which the development is proposed to be carried out; and

c) The Secretary's concurrence to the exception to the height of buildings development standard, as required by clause 4.6(4)(b) of NLEP 2012, is assumed, as per NSW Planning & Environment circular PS 18-003 of 21 February 2018; and

d) A small portion of the proposed development exceeds the maximum height of 8.5m. The proposed height departures are considered to be a relatively minor variation and will have minimal impact on neighbouring properties in terms of privacy, overshadowing and view loss. The proposed height and scale of the development is in character with existing dwellings in Woodward Street and in the area. It is considered that, given the steep topography of the site, the proposed height and scale of development is supported and that compliance with the standard is unreasonable and unnecessary in this case.

**Clause 5.5 - Development within the Coastal Zone**

The proposed development is considered to be satisfactory having regard to the relevant objectives and assessment considerations for development within the coastal zone.
Clause 6.1 - Acid Sulphate Soils

The site is affected by Class 5 Acid Sulphate Soils and the proposed development is considered satisfactory in this regard.

Clause 6.2 - Earthworks

The proposed development is considered to be acceptable with regard to this clause. The applicant has submitted geotechnical reports that consider mine subsidence risk, site suitability/stability and landslide potential. Subsidence Advisory NSW has granted conditional approval for the proposed development. The proposed earthworks are considered to be acceptable and will not have a detrimental impact on any environmental function or process, or on neighbouring properties.

Conditions of consent are recommended to address potential landslip, sedimentation and erosion control risks.

4.2 Merit Considerations

4.2.1 Relevant Strategic Policies

There are no relevant strategic policies that have a direct bearing on the consideration of the application.

4.2.2 Newcastle Development Control Plan (DCP)

Section 3.02 (Single Dwellings and Ancillary Development)

The following comments are made concerning the proposed development and the relevant provisions of Section 3.02 of the DCP:

a) Density - Floor Space Ratio (3.02.01)
   The maximum permissible FSR for this site is 0.6:1. The proposed development has a nominated FSR of 0.42:1. The proposal complies.

b) Height of Buildings (3.02.02)
   The proposal does not comply with the maximum numerical height control of this section. Refer to Section 4.1 of this report for details of the applicant’s request for the proposed height variation and the assessment of that request.

c) Street Frontage Appearance (3.02.03)
   The proposed setback of the Garage (0.615 metres) is consistent with the setback of adjacent development in this section of Woodward Street. Reduced front setbacks are a feature of residential development in this section of Woodward Street due to the slope of the land and the functional objective to provide practical vehicular accommodation.

   The proposed development is considered to complement and harmonise with the positive elements of existing development in the street. The proposed
development will result in a contemporary style of architecture that will complement other new dwellings in the vicinity as well those that have been recently renovated.

The garage is integrated into the development by being connected to the dwelling and containing similar architectural elements such as the roof parapet, windows, materials and colours. The garage does not dominate the streetscape as it only takes up about $\frac{1}{3}$ of the frontage and is viewed in combination with the dwelling.

The proposed development is considered to achieve the relevant performance criteria within this section.

d) Side/Rear Setbacks (Building Envelope) (3.02.04)
The proposed development exceeds the numerical building envelope controls, as measured from side boundaries, and also the maximum height control, as discussed in Section 4.1 of this report. Building envelopes are demonstrated on elevation drawings numbered A300, A301 and A302 and cross sectional drawings numbered A401 and A402 at Attachment A.

The proposed development is considered to achieve the relevant performance criteria within this section of the DCP.

The bulk and scale of the proposed development is consistent with that of the existing built form prevailing in the street and locality. The skillion roof enhances the architectural style of the dwelling and is considered to lessen the possible extent of the encroachment, in comparison to other roof types.

The bulk and scale of the proposed development is considered to not create overbearing development for adjoining dwelling houses and their private open space. The site is to be partly excavated to reduce the height of the proposed dwelling and the floor areas of each level are reasonable (approximately 190m$^2$). The proposed dwelling is located a minimum of 1450mm from the southern boundary and the public footpath adjoining the northern boundary provides additional separation to that neighbour. The private open spaces of the adjoining dwellings are located to the rear of their properties and are sufficiently separated from the proposed dwelling.

The bulk and scale of the proposed development is considered to not unduly impact on the amenity and privacy of residents in adjoining dwelling houses. The location of windows is considered to be sympathetic to the adjoining dwelling houses and protects the privacy of the adjoining neighbours.

The bulk and scale of the proposed development does not result in the loss of significant views or outlook of adjoining residents.

The bulk and scale of the proposed development provides for natural light, sunlight and breezes. It is acknowledged that the solar access to the adjoining neighbour to the south will be reduced by the proposed
development. However, it is considered that the extent of the impact is reasonable.

e) Landscaping (3.02.05)
The site area is 746m², generating a requirement for 30% (ie 224m²) of the site to be provided with landscaping. The total area of proposed landscaping is approximately 350m². The proposed landscaping areas are considered to be satisfactory and to meet the DCP's requirements.

f) Private Open Space (3.02.06)
The proposed private open space areas are considered to be satisfactory and to meet the DCP's requirements.

g) Privacy (3.02.07)
The primary living area windows of adjacent dwellings are located at the rear of the dwellings in order to take advantage of the views towards the coast and city. Similarly, the proposed development has the primary living area windows facing in the same direction. The difference in floor levels and the physical separation between the proposed dwelling and its neighbours is considered to be sufficient to create a reasonable level of privacy.

h) Solar Access (3.02.08)
Given the east-west orientation of the subject site, the adjoining property to the south will receive some overshadowing from the proposed development. However, the primary living area windows and principal area of private open space of that adjoining property are located at the rear of the dwelling. Consequently, the proposed development is considered to be satisfactory and to meet the DCP's requirements as it does not significantly overshadow north facing living area windows and the principal area of private open space of adjacent dwellings.

i) View Sharing (3.02.09)
The adjoining properties are considered to have views to the coast and the city skyline. The proposed development is considered to be satisfactory and to meet the DCP's requirements for view sharing as the available views are not obscured by the proposed development.

j) Car Parking and Vehicular Access (3.02.10)
The proposed off-street car parking and vehicular access arrangements are considered satisfactory and to meet the DCP's requirements.

k) Development within Heritage Conservation Areas (3.02.11)
The proposed development is not located within a heritage conservation area.

l) Ancillary Development (3.02.12)
The proposed swimming pool is considered satisfactory with respect to this section of the DCP.
Section 4.02 (Bushfire Protection)

The subject site is classified as bushfire prone land and a bushfire assessment report has been submitted by the applicant, recommending Bushfire Attack Level (BAL) 12.5 construction for the proposed dwelling. The bushfire assessment report is considered to be acceptable and the recommended BAL 12.5 construction has been applied to the proposed development.

Section 4.03 (Mines Subsidence)

The proposed development is considered to be acceptable with regard to this section of the DCP. The applicant has submitted geotechnical reports which consider mine subsidence risk, site suitability/stability and landslide potential. Subsidence Advisory NSW has granted conditional approval for the proposed development.

Section 5.01 (Soil Management)

The applicant has submitted geotechnical reports which consider mine subsidence risk, site suitability/stability and landslide potential. It is considered that the geotechnical assessment reports demonstrate that the site conditions are suitable for the proposed earthworks and construction methods. Conditions have been included in the draft schedule of conditions (Attachment B) to require the implementation of recommendations of the geotechnical assessment reports in the structural design and construction of the proposed dwelling.

Section 7.03 (Traffic, Parking & Access)

The proposed off-street car parking and vehicular access arrangements are considered satisfactory and to meet the DCP's requirements.

Section 7.06 (Stormwater and Water Efficiency)

The proposed stormwater drainage system includes a 5,000 litre rainwater tank for water re-use within the dwelling. The rainwater tank overflow is proposed to be connected to the Council stormwater drain within the public footpath that runs parallel to the northern boundary of the site. The proposed stormwater management plan is considered to satisfactory and in accordance with the relevant aims and objectives of the DCP.

Section 7.08 (Waste Management)

Demolition and waste management will be subject to conditions to be included in any development consent to be issued.

Section 8.00 (Public Participation)

The development was notified in accordance with the requirements of the DCP. As previously discussed, one submission was received during the notification period. The issues raised in the submission are detailed within Part 4.2.6 of this report.
4.2.3 Impacts on the Natural and Built Environment

The development is considered to have minimal impacts on the natural environment. The site does not contain any significant vegetation and will not have any substantial adverse bearing on any natural ecosystems. Appropriate measures are required to be in place during the construction of the development to minimise any sediments leaving the site or entering waterways.

The development is considered to be compatible with the existing character, bulk, scale, and massing of development in the immediate area.

4.2.4 Social and Economic Impacts in the Locality

The proposed development is not likely to have any significant social or economic impacts in the locality.

4.2.5 Suitability of the Site for the Development

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

The site is not subject to any other known risk or hazard that would render it unsuitable for the proposed development.

4.2.6 Submissions made in accordance with the Act or Regulations

The following comments are made in respect of issues raised in the submission received in response to public notification of the application:

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<tr>
<th>Issue</th>
<th>Comment</th>
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<tbody>
<tr>
<td>Erosion and sediment control during construction</td>
<td>Appropriate erosion and sediment control is required to be implemented during construction. Relevant conditions have been included within the draft schedule of conditions (Attachment B).</td>
</tr>
<tr>
<td>Stormwater disposal</td>
<td>The proposed stormwater drainage system includes a 5,000 litre rainwater tank for water re-use within the dwelling. The rainwater tank overflow is proposed to be connected to the Council stormwater drain within the public footpath that runs parallel to the northern boundary of the site. Runoff from impervious services and hardstand areas on the site are also required to be captured and discharged to Council's infrastructure, in accordance with the DCP stormwater provisions. Relevant conditions have been included within the draft schedule of conditions (Attachment B).</td>
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</table>
4.2.7 Public Interest

Sustainability

The proposed development is considered to be satisfactory with regard to the principles of ecologically sustainable development. The development application includes a BASIX certificate that shows that the proposed development has met the BASIX requirements for water, thermal comfort and energy.

The proposed development will not result in the disturbance of any endangered flora or fauna habitat or otherwise have any significant adverse 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.

5.0 CONCLUSION

The proposal has been assessed against the relevant heads of consideration under Section 4.15(1) of the Environmental Planning and Assessment Act 1979 and is supported on the basis that the recommended conditions in Attachment B are included in any consent issued.

ATTACHMENTS

Attachment A: Submitted Plans - Under Separate Cover - 55 Woodward Street Merewether
Attachment B: Draft Schedule of Conditions - 55 Woodward Street Merewether
Attachment C: Processing Chronology - 55 Woodward Street Merewether

Attachment A - Submitted Plans - Under Separate Cover - 55 Woodward Street Merewether
**Attachment B**

**DRAFT SCHEDULE OF CONDITIONS**

- **Application No:** DA2017/00954
- **Land:** Lot 103 DP39213
- **Property Address:** 55 Woodward Street Merewether NSW 2291
- **Proposed Development:** Two-storey dwelling, associated swimming pool, retaining walls and site works.

**SCHEDULE 1**

**REASONS FOR CONDITIONS**

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

**APPROVED DOCUMENTATION**

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

<table>
<thead>
<tr>
<th>Plan No / Supporting Document</th>
<th>Reference / Version</th>
<th>Prepared by</th>
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<tr>
<td>Cover Page</td>
<td>2016069 Sheet No. A000 Issue 13</td>
<td>Martin Building Services</td>
<td>7/12/2017</td>
</tr>
<tr>
<td>Site Plan</td>
<td>2016069 Sheet No. A100 Issue 13</td>
<td>Martin Building Services</td>
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### PROCESSING CHRONOLOGY

**DA 2017/00954 – 55 Woodward Street Merewether**

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ITEM-7 DAC 15/05/18 - DA 2017/01414 - 35 STEVENSON PLACE, NEWCASTLE EAST - ALTERATIONS & ADDITIONS TO DWELLING

APPLICANT: K READ
OWNER: K READ
NOTE BY: PLANNING & REGULATORY
CONTACT: ACTING DIRECTOR PLANNING AND REGULATORY / ACTING MANAGER DEVELOPMENT AND BUILDING

PART I

PURPOSE

An application has been received seeking consent for alterations and additions to the rear of a dwelling at 35 Stevenson Place, Newcastle East.

The application is referred to the Development Applications Committee for determination as the proposed development involves a variation to a development standard of an environmental planning instrument, where the extent of the proposed variation is assessed to be greater than 10%.

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

The proposed development was notified in accordance with Council’s Public Notification policy and no submissions were received in response.

Issues

I. Whether the contravention of Principal Development Standard 4.4 - Floor Space Ratio, under Newcastle Local Environmental Plan 2012 is justified.

Conclusion

The proposed development has been assessed having regard to the relevant heads of consideration under Section 4.15(1) of the Environmental Planning and Assessment Act 1979 and is considered to be acceptable subject to compliance with appropriate conditions.
Accordingly, it is recommended that the application be approved on the basis of the submitted plans, subject to the nominated conditions of consent.

RECOMMENDATION

A. That the Development Applications Committee note the objection under Clause 4.6 Exceptions to Development Standards of Newcastle Local Environmental Plan 2012, against the development standard at Clause 4.4 Floor Space Ratio, and considers the objection to be justified in the circumstances and to be consistent with the objectives of Clause 4.4 and the objectives for development within the R3 Medium Density Residential zone in which the development is proposed to be carried out; and

B. That DA2017/01414 for alterations and additions to the dwelling at 35 Stevenson Place, Newcastle East be approved and consent granted, subject to compliance with the conditions set out in the Draft Schedule of Conditions at Attachment B.

Political Donation / Gift Declaration

Under Section 10.4 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 donation' or 'gift' to a Councillor or Council employee within a two year period before the date of this application?

PART II

1.0 THE SUBJECT SITE

The subject property comprises Lot 20 in DP740624 and is a small rectangular allotment located on the southern side of Stevenson Place. The site has a frontage of 6.605m to Stevenson Place, an average depth of 22.6m and a total area of 147.7m². The site is relatively flat, with road frontage to Stevenson Place and rear frontage to a laneway that is connected with Telford Street and Zaara Street.

The subject property is occupied by a two-storey, painted brick and metal roof terrace style dwelling that is part of a row of fourteen connected terrace houses. The general built form of the subject property and surrounding terrace houses comprises of painted brick construction with elevated timber balconies and metal roof sheeting.

Development in the immediate area predominantly consists of two-storey attached terraced dwellings, mostly in a similar style to the subject property.
The site, along with adjoining terraces, is a locally listed heritage item under Schedule 5 of Newcastle Local Environmental Plan 2012, identified as ‘Stevenson Place Precinct (terraces)’. The subject allotment is located within the Newcastle East Heritage Conservation Area.

2.0 THE PROPOSAL

The applicant seeks consent for alterations and additions to the rear of the dwelling on the site. The proposal includes alterations to a rear two-storey section of the dwelling, consisting of a kitchen (ground floor) with study/office above (first floor), partly intended to address issues with water penetration through the original south facing masonry wall. An addition to the side of the original kitchen, an upper deck (for weather protection) and an external bathroom and storage area also included within the proposed works.

The proposal will result in an additional 11.11m² of Gross floor Area, compared to the footprint of the current dwelling.

A copy of the submitted plan is appended at Attachment A.

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

3.0 PUBLIC NOTIFICATION

The application was publicly notified in accordance with Council’s Public Notification policy and no submissions were received in response.

4.0 ENVIRONMENTAL PLANNING ASSESSMENT

The application has been assessed having regard to the relevant matters for consideration under the provisions of Section 4.15(1) of the Environmental Planning and Assessment Act 1979, as detailed hereunder.

4.1 Statutory Considerations

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

With respect to SEPP 71, it is considered that the proposed development has suitably addressed the relevant matters for consideration and development controls for development within the coastal zone.

Draft State Environmental Planning Policy (Coastal Management) 2016

The proposed development is considered satisfactory having regard to the provisions of draft State Environmental Planning Policy (Coastal Management) 2016 in respect of proposed development in the coastal zone.
State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

A BASIX Certificate was lodged with the application, demonstrating that the development can achieve the required water and energy reduction targets. A condition of consent has been recommended, requiring that the development be carried out in accordance with the BASIX Certificate.

Newcastle Local Environmental Plan 2012 (NLEP 2012)

The subject property is included within the R3 Medium Density Residential zone under the provisions of NLEP 2012. The proposed development, defined as 'dwellings house', is permissible in this zone with Council's consent.

The proposed development is consistent with the objectives of the R3 zone, which are:

a) To provide for the housing needs of the community within a medium density residential environment.

b) To provide a variety of housing types within a medium density residential environment.

c) To enable other land uses that provide facilities or services to meet the day to day needs of residents.

d) To allow some diversity of activities and densities if:

   (i) the scale and height of proposed buildings is compatible with the character of the locality, and

   (ii) there will be no significant adverse impact on the amenity of any existing nearby development.

e) To encourage increased population levels in locations that will support the commercial viability of centres provided that the associated new development:

   (i) has regard to the desired future character of residential streets, and

   (ii) does not significantly detract from the amenity of any existing nearby development.

The following summarises an assessment of the proposal against the provisions of NLEP 2012 that are relevant to the proposed development:

Clause 4.3 - Height of Buildings

The maximum height of buildings for this allotment is 10m.
The height of the proposed development is 6.35m above existing ground. The alteration and addition cannot be seen from Stevenson Place and sits under the gutter line of the original pitched terrace roof.

The proposed development is considered to be satisfactory and compliant in respect of building height.

Clause 4.4 - Floor Space Ratio

The maximum Floor Space Ratio (FSR) for this site is 1:1.

The existing dwelling has an FSR of 1.128:1, which equates to an exceedance of 13% (18.95m²) above the prescribed maximum FSR for the site.

The proposed development equates to a total FSR of 1.203:1, representing an overall exceedance of 20% (30.06m²) above the prescribed maximum FSR for the subject land (7% increase above existing FSR).

The proposed FSR has been calculated with regard to Clause 4.5 (Calculation of floor space ratio and site area), and relevant definitions including ‘gross floor area’.

The applicant has submitted a request for a variation to this standard, as per clause 4.6 of NLEP 2012. Refer to the discussion under Clause 4.6 - Exceptions to Development Standards below.

Clause 4.6 - Exceptions to Development Standards

The application involves a proposed building that exceeds the maximum Floor Space Ratio under Clause 4.4 of NLEP 2012.

The objectives of Clause 4.4 of NLEP 2012 are:

(a) to provide an appropriate density of development consistent with the established centres hierarchy,
(b) to ensure building density, bulk and scale makes a positive contribution towards the desired built form as identified by the established centres hierarchy.

Clause 4.6 of NLEP 2012 enables consent to be granted to a development even though the development would contravene a development standard. In assessing the proposal against the provisions of clause 4.6, it is noted that:

1. Clause 4.4 of NLEP 2012 is not expressly excluded from the operation of this clause; and

2. The applicant has prepared a written request, requesting that Council vary the development standard and demonstrating that:
   a). Compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and
b). There are sufficient environmental planning grounds to justify contravening the development standard.

The applicant's request to vary the Development Standard is as follows:

The existing dwelling has an FSR of 1.11:1, which equals an exceedance of 16.8m² (11.23%) above the maximum FSR for the site. The proposed development will result in a total FSR of 1.19:1, equating to an overall exceedance of 27.9m² (18.66%) above the maximum FSR for the site.

On this basis a variation of the development standard is requested as it is considered unreasonable or unnecessary in the circumstances of the case.

The grounds of objection are as follows:

   a) Strict compliance is unnecessary as the proposed additions are consistent with the scale and bulk of surrounding dwellings. The alterations and additions are located at the rear and will have no impact on the existing front streetscape. The alterations and additions have been designed to match the height and scale of the existing section of building they are replacing and is consistent (in some cases a smaller scale) with neighbouring terraces. The bathroom/storage addition is single storey and is consistent with the bulk and scale of neighbouring terraces. These design measures ensure that the established hierarchy of the terrace row will be maintained despite the slightly higher FSR of the proposed development. The visual dominance of the existing terraces will be maintained and complimented by the proposed alterations and additions.

   b) Departure from the standard
   In establishing that compliance with the relevant development standard is unreasonable, the following principles have been addressed:

      i. The density of the proposed development is consistent with the existing dwellings in the area.
      ii. The bulk and scale is consistent with the surrounding dwellings and will prevent the development from appearing out of place.
      iii. There will be no impact on the surrounding dwellings with respect to overshadowing, loss of privacy or views.

Summary
The proposal demonstrates that the minor FSR variation is not adverse when considering the objectives of the zone, objectives of the FSR and existing built form within the area.

An assessment of the request has been undertaken and it is considered that:

   a) It adequately addresses the matters required to be demonstrated by Clause 4.6(3) of NLEP 2012; and
b) The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the R3 Medium Density Residential zone in which the development is proposed to be carried out; and

c) The Secretary’s concurrence to the exception to the floor space development standard, as required by Clause 4.6(4)(b) of NLEP 2012, is assumed, as per NSW Planning & Environment circular PS 18-003 of 21 February 2018; and

d) The proposed development will have minimal impact on neighbouring properties in terms of privacy, overshadowing and view loss, and is not out of character with existing development in the area. It is considered that the exceedance proposed is an acceptable planning outcome given the history of the development upon the site and, in this instance, strict compliance would be unreasonable.

Clause 5.5 - Development within the coastal zone

The proposed development is considered to be satisfactory having regard to the relevant objectives and assessment considerations for development within the coastal zone.

Clause 5.10 - Heritage conservation

Although the proposal incorporates some demolition works to the rear of the dwelling, it is considered that the design respects the heritage context of the site and locality and results in an improvement to the functionality, liveability and amenity for building occupants.

A Heritage Impact Statement has been submitted by the applicant, supporting the proposed design, and the proposal is considered satisfactory in respect to heritage conservation objectives of Clause 5.10 of NLEP 2012.

It is considered that the proposed development will not have a significant effect on the heritage significance of the heritage item or of the Newcastle East Heritage Conservation Area.

Clause 6.1 - Acid Sulfate Soils

The site is affected by Class 5 Acid Sulfate Soils.

The proposed development is considered satisfactory in this regard.

Clause 6.2 - Earthworks

The proposed development is considered acceptable in regards to this Clause. The proposed earthworks are considered to be acceptable and will not have a significant impact on any environmental function or process, or on neighbouring properties.
Conditions of consent are recommended to address potential sedimentation and erosion control issues.

4.2 Merit Considerations

4.2.1 Relevant Strategic Policies

There are no relevant strategic policies that have a direct bearing on the consideration of the application.

4.2.2 Newcastle Development Control Plan (DCP)

Section 3.02 (Single Dwellings and Ancillary Development)

The following comments are made concerning the proposed development and the relevant provisions of Section 3.02 of the DCP:

a) Density - Floor Space Ratio (3.02.01)

The proposed development does not comply with the nominated maximum FSR for the site. Refer to section 4.1 of this report.

b) Height of Buildings (3.02.02)

The proposed development complies with the NLEP 2012 maximum building height limit of 10m.

c) Street Frontage Appearance (3.02.03)

The street frontage appearance of the dwelling will be preserved, with proposed works to occur to the rear of the subject property.

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

The built form of the locality is predominantly boundary to boundary terrace housing. As such, the proposed design was considered against the performance criteria of this section of the DCP.

As the majority of the rear addition principally consists of a remodelling of the existing two storey element, there will be minimal change to the footprint and bulk of the dwelling.

It is considered that the proposed rear addition, detached bathroom and store will not detrimentally impact on the streetscape or amenity of the area.

While noting the constraints of the site, it is considered that the proposed development will not be out of character in its location and has suitably responded to the attributes of the site, with its bulk, massing and scale being appropriate in the context of adjoining development.
The proposed development will not adversely impact on the amenity of adjoining development with respect to natural light, sunlight and coastal breezes, and is considered satisfactory in accordance with relevant performance criteria of this section of the DCP.

e) **Landscaping (3.02.05)**

The site area is 147.4m², generating a requirement for 10% of the site to be provided with landscaping. The total area of proposed landscaping is 16.04m², which complies with this section of the DCP.

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

The proposed private open space areas are considered to be satisfactory and meet the DCP's requirements.

g) **Privacy (3.02.07)**

The proposal will not result in any significant additional privacy impacts.

h) **Solar Access (3.02.08)**

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

i) **View Sharing (3.02.09)**

The proposed development will have minimal impact on views from neighbouring properties and meets the DCP's requirements.

j) **Car Parking and Vehicular Access (3.02.10)**

There is no provision for on-site car parking. On-site car parking is considered a historical deficiency and the proposal is satisfactory as proposed.

k) **Development within Heritage Conservation Areas (3.02.11)**

Refer to section 4.1 of this report.

The proposed development is located within the Newcastle East Heritage Conservation area.

A Heritage Impact Statement has been submitted by the applicant and is considered satisfactory with the relevant objectives of Section 5.07 of the DCP.

l) **Ancillary Development (3.02.12)**

The proposed development is considered satisfactory in this regard.
Section 5.05 (Heritage Items)

Refer to section 4.1 of this report.

The proposed rear addition will not affect the established heritage streetscape of Stevenson Place or adjoining heritage items.

The proposal is considered satisfactory with respect to heritage impact.

Section 5.07 (Heritage Conservation Areas)

Refer to Part 4.1 of this report.

The proposal is considered satisfactory in this regard.

Section 7.03 (Traffic, Parking & Access)

There is no provision for on-site car parking. On-site car parking is considered a historical deficiency and the proposal is satisfactory as proposed.

Section 7.06 (Stormwater and Water Efficiency)

Provision for management of stormwater is considered satisfactory in accordance with Element 7.06 of the DCP. Relevant conditions are recommended to be included in any consent to be issued.

Section 7.08 (Waste Management)

Demolition and waste management will be subject to conditions to be included in any development consent to be issued.

4.2.3 Impacts on the Natural and Built Environment

The development is considered to be compatible with the existing character, bulk, scale, and massing of development in the immediate area and will have minimal detrimental impacts on the natural and built environment.

The site does not contain any significant vegetation and will not have any substantial adverse impact on any natural ecosystems.

Appropriate measures are required to be in place during the construction of the development to minimise any sediments leaving the site or entering waterways.

4.2.4 Social and Economic Impacts in the Locality

The proposed development is not likely to have any significant social or economic impacts in the locality.
4.2.5 Suitability of the Site for the Development

The site is not subject to any other known risk or hazard that would render it unsuitable for the proposed development.

4.2.6 Submissions made in accordance with the Act or Regulations

No submissions were received in response to the public notification of the application.

4.2.7 Public Interest

Sustainability

The proposed development is considered to be satisfactory with regard to the principles of ecologically sustainable development. The development application includes a BASIX certificate that shows that the proposed development has met the BASIX requirements for water, thermal comfort and energy.

The proposed development will not result in the disturbance of any endangered flora or fauna habitat or otherwise have any significant adverse 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.

5.0 CONCLUSION

The proposal has been assessed against the relevant heads of consideration under Section 4.15(1) of the Environmental Planning and Assessment Act 1979 and is supported on the basis that the recommended conditions in Attachment B are included in any consent issued.

ATTACHMENTS

Attachment A: Submitted Plans - Under Separate Cover - 35 Stevenson Place Newcastle East
Attachment B: Draft Schedule of Conditions - 35 Stevenson Place Newcastle East
Attachment C: Processing Chronology - 35 Stevenson Place Newcastle East

Attachment A - Submitted Plans - Under Separate Cover - 35 Stevenson Place Newcastle East
Attachment B - Draft Schedule of Conditions - 35 Stevenson Place Newcastle East

DRAFT SCHEDULE OF CONDITIONS

Application No: DA2017/01414
Land: Lot 20 DP 740624
Property Address: 35 Stevenson Place Newcastle East NSW 2300
Proposed Development: Alterations and additions to dwelling

SCHEDULE 1

REASONS FOR CONDITIONS

1. The conditions of this consent have been imposed in accordance with Section 60A of the Environmental Planning and Assessment Act 1979 (NSW). The conditions relate to any matter referred to in Section 79C(1) of relevance to the development the subject of the consent and are imposed to ensure that the development is undertaken in an orderly manner, with acceptable impacts on the natural and built environment.

APPROVED DOCUMENTATION

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

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<th>Plan No / Supporting Document</th>
<th>Reference / Version</th>
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In the event of any inconsistency between conditions of this development consent and the plans/supporting documents referred to above, the conditions of this development consent prevail.
CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

3. The 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.

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

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

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

6. 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.

7. 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.

8. 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.

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

10. 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.

11. 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.

12. 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.

13. 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.

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

15. 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.

16. 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.

17. 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.

18. The following waste management measures are to be implemented during construction:
   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 wind blown 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)

19. 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.
CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE, A SUBDIVISION CERTIFICATE OR A STRATA CERTIFICATE

20. 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.

21. 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.

22. 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.

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

CONDITIONS TO BE SATISFIED DURING THE OPERATION AND USE THE DEVELOPMENT

Nil

ADVISORY MATTERS

- 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.

- 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.

- 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.

- 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.

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

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

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

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

- Prior to the occupation or use of a new building, or occupation or use of an altered portion of, or an extension to an existing building, an Occupation Certificate is to be obtained from the Principal Certifying Authority appointed for the proposed development. An application for an Occupation Certificate must contain the information set out in Clause 149 of the Environmental Planning and Assessment Regulation 2000 (NSW).

- It is an offence under the provisions of the Protection of the Environment Operations Act 1997 (NSW) to act in a manner causing, or likely to cause, harm to the environment. Anyone allowing material to enter a waterway or leaving material where it can be washed off-site may be subject to a penalty infringement notice ('on-the-spot fine') or prosecution.

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

END OF CONDITIONS
## APPENDIX C - PROCESSING CHRONOLOGY

**DA 2017/01414 – 35 Stevenson Place Newcastle East**

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>14 November 2017</td>
<td>Application lodged with Council.</td>
</tr>
<tr>
<td>20 November 2017</td>
<td>Additional fees requested (advertised development).</td>
</tr>
<tr>
<td>1 February 2018</td>
<td>Site inspection.</td>
</tr>
<tr>
<td>8 February 2018</td>
<td>Additional information requested.</td>
</tr>
<tr>
<td>14 March 2018</td>
<td>Response to additional information advising applicant that the application will be determined at DAC meeting due to FSR exceedance is greater than 10%.</td>
</tr>
<tr>
<td>14 March 2018</td>
<td>Applicant acknowledged above advice.</td>
</tr>
</tbody>
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