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 20 February 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

9 February 2018

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

MINUTES - DEVELOPMENT APPLICATIONS COMMITTEE 5 DECEMBER 2017

RECOMMENDATION

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

ATTACHMENTS

Attachment A: 171205 Development Applications Committee Meeting Minutes

Note: The attached minutes are a record of the decisions made by Council at the meeting and are draft until adopted by Council. They may be viewed at www.newcastle.nsw.gov.au
PRESENT
The Deputy Lord Mayor (Councillor D Clausen), Councillors M Byrne, J Church, K Elliott, B Luke, J Mackenzie and A Robinson.

IN ATTENDANCE
J Bath (Interim Chief Executive Officer), A Baxter (Interim Director Corporate Services), K Liddell (Director Infrastructure), P Chrystal (Director Planning and Regulatory), M Blackburn-Smith (Manager Development and Building), P Nelson (Manager Property Services), M Murray (Policy Officer), D Fischetti (Communications), K Sullivan (Council Services/Minutes) and J Redriff (Council Services/Webcasting).

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

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

APOLOGIES

MOTION
Moved by Cr Mackenzie, seconded by Cr Byrne

The apologies submitted on behalf of Lord Mayor, Cr Nelmes, Councillors Duncan, Dunn, Rufo, White and Winney-Baartz be received and leave of absence granted.

DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTERESTS

Councillor Church
Councillor Church declared a less than significant non-pecuniary interest in Item 17 - DA2017/01079 - 118 Church Street The Hill stating that he lived in the neighbourhood.

Councillor Robinson
Councillor Robinson declared a less than significant non-pecuniary interest in Item 18 - DA2017/00426 - 54 Bar Beach Avenue Bar Beach stating that although having been associated with Mr Bailey in the past he was not a friend of the applicant.
Councillor Elliott
In respect to Item 18 - Councillor Elliott stated that she had a telephone conversation with the applicant, Mrs Bailey, prior to the Public Voice Committee meeting (held 21 November 2017).

CONFIRMATION OF PREVIOUS MINUTES

MINUTES - DEVELOPMENT APPLICATION COMMITTEE 21 NOVEMBER 2017

MOTION
 Moved by Cr Byrne, seconded by Cr Robinson

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

DEVELOPMENT APPLICATIONS

ITEM-17 DAC 5/12/17 - DA2017/01079 - 118 CHURCH STREET THE HILL - DEMOLITION OF DWELLING AND OUTBUILDING, ALTERATIONS AND ADDITIONS TO TWO DWELLINGS, ERECTION OF SWIMMING POOL AND ASSOCIATED RETAINING WALLS

MOTION
 Moved by Cr Byrne, seconded by Cr Robinson

A. That DA2017/01079 for demolition of a dwelling and outbuilding, alterations and additions to two dwellings and erection of a swimming pool and associated retaining walls be approved and consent granted, 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 submission be advised of Council's determination.

For the Motion: Deputy Lord Mayor, Cr Clausen, Councillors Byrne, Church, Elliott, Luke and Robinson.

Against the Motion: Councillor Mackenzie. Carried
ITEM-18 DAC 5/12/17 - DA2017/00426 - 54 BAR BEACH AVENUE BAR BEACH - DEMOLITION OF DWELLING AND GAZEBO AND ERECTION OF DUAL OCCUPANCY AND TWO SWIMMING POOLS

MOTION
Moved by Cr Elliott, seconded by Cr Robinson

A That DA2017/00426 for demolition of a dwelling and gazebo and erection of dual occupancy dwellings and two swimming pools at 54 Bar Beach Avenue, Bar Beach be approved and consent granted, 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 determination of the application.

For the Motion: Deputy Lord Mayor, Cr Clausen, Councillors, Church, Elliott, Luke, Mackenzie and Robinson.

Against the Motion: Councillor Byrne. Carried

The meeting concluded at 6.25pm.
CONFIRMATION OF PREVIOUS MINUTES

MINUTES - EXTRAORDINARY DEVELOPMENT APPLICATIONS COMMITTEE
12 DECEMBER 2017

RECOMMENDATION

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

ATTACHMENTS

Attachment A: 171212 Extraordinary Development Applications Committee Meeting Minutes

Note: The attached minutes are a record of the decisions made by Council at the meeting and are draft until adopted by Council. They may be viewed at www.newcastle.nsw.gov.au
Message of Acknowledgement
The Lord Mayor read the message of acknowledgement to the Awabakal and Worimi peoples.

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

Apoologies

Motion
Moved by Cr Luke, seconded by Cr Rufo

The apology submitted on behalf of Councillor Church be received and leave of absence granted.

Carried

Declarations of Pecuniary and Non-Pecuniary Interests

Councillor Clausen
Councillor Clausen declared a less than significant non-pecuniary interest in Item 19 - DA 2014/1214.01 - 10/569 and 11/569 Hunter Street Newcastle stating that he had been contacted by a number of people in relation to the DA who had made donations to the Labor Party in the past. Councillor Clausen stated that the DA Applicant was
not a political donor nor a member of any political party and he would remain in the Chamber for discussion on the item.

CONFIRMATION OF PREVIOUS MINUTES
Nil.

DEVELOPMENT APPLICATIONS

ITEM-19 DAC 12/12/17 - DA2014/1214.01 - 10/569 AND 11/569 HUNTER STREET NEWCASTLE

MOTION
Moved by Cr Luke, seconded by Cr Rufo

A. THAT DA2014/1214.01 to extend trading hours for the Star Hotel located at 10/569 and 11/569 Hunter Street Newcastle be refused for the following reasons:

1. The application does not include sufficient information to demonstrate that the proposed extended trading hours will involve minimal environmental impact. [Section 96(1A) Environmental Planning and Assessment Act 1979]

2. The application does not include sufficient information to demonstrate that the proposed extended trading hours will not pose unreasonable adverse impacts on the amenity of occupants of the residential apartments located on the land and will not contribute to increased adverse social impacts within the local area. [Section 79C(1)(a)(b)(c)(d)&(e) Environmental Planning and Assessment Act 1979].

3. The proposed extended trading hours is not consistent with the provisions of Newcastle Local Environmental Plan 2012, primarily with respect to Clause 2.3 Zone objectives and Land Use Table - Zone B4 Mixed Use objectives 'to provide a mixture of compatible land uses' and Clause 6.5 Public safety - licensed premises. The extended trading hours will increase late night activity and concentrations of pedestrians within the public domain, increased competition for public transport and increased likelihood of noise at unreasonable times and anti-social behaviour. [Section 79C(1)(a) Environmental Planning and Assessment Act 1979]

4. The proposed extended trading hours is not consistent with relevant provisions of Newcastle Development Control Plan 2012. [Section 79C(1)(a) Environmental Planning and Assessment Act 1979]

5. The proposed extended trading hours will have an unreasonable social impact in the locality, through increased concentrations of people, noise and potential for increased anti-social behaviour. [Section 79C(1)(b) Environmental Planning and Assessment Act 1979].
6. The site of the premises is not suitable for extended trading hours due to the likelihood of adverse residential amenity impacts on the residential apartments that occupy the land. Reliance on strict control by management in operation of the premises, especially during hours of closure and exit of patrons will not adequately mitigate likely noise, social and anti-social behaviour impacts generated through extended trading hours. [Section 79C(1)(c) Environmental Planning and Assessment Act 1979]

7. Submissions received in response to public notification have raised issues of a nature and extent that establish that the proposed extended trading hours are likely to have unreasonable impacts on residential amenity, due to noise, safety and security and social impacts. [Section 79C(1)(d) Environmental Planning and Assessment Act 1979]

8. The proposed extended trading hours is contrary to the public interest with respect to orderly, predictable and compatible mix of land use activities within the local area and cumulative adverse social impact and public safety through competitive trading. [Section 79C(1)(e) Environmental Planning and Assessment Act 1979]

9. Approval of the proposal will set an undesirable precedent.

B. THAT those persons who made submissions be advised of the determination of the application.

Councillor Clausen gave notice of a foreshadowed motion.

**For the Motion:**

**Against the Motion:**
Lord Mayor, Cr Nelmes, Councillors Byrne, Clausen, Duncan, Dunn, Robinson, White and Winney-Baartz.

**Defeated**

**MOTION**
Moved by Cr Clausen, seconded by Cr Winney-Baartz

A THAT the section 96 application (DA2014/1214.01) to modify the Notice of Determination dated 22 December 2014 to extend the trading hours for the Star Hotel located at 10/569 & 11/569 Hunter Street Newcastle be approved subject to the conditions as set-out in Schedule 1 as follows:

**Schedule 1**

With reference to your application of 3 May 2017 it is advised that, pursuant to the provisions of Section 96 of the Act, the details of development consent granted by Council as per Notice of Determination dated 22 December 2014 are hereby modified by:
CONDITIONS TO BE SATISFIED DURING THE OPERATION AND USE THE DEVELOPMENT

Amended Condition/s

Amended Condition 13

The modified hours of operation or trading of the Premises is for a 12 month trial period.

The trial will commence after the installation of required sound limiting and monitoring devices/equipment. The modified hours of operation or trading are to be not more than as outlined in the table below:

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<tr>
<th>DAY</th>
<th>START</th>
<th>FINISH</th>
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<tbody>
<tr>
<td>Monday</td>
<td>7.00am</td>
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<tr>
<td>Tuesday</td>
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<tr>
<td>Sunday</td>
<td>7.00am</td>
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After the completion of the 12 month trial period, the hours of operation or trading of the premises will revert back to closing at 12:00 midnight on Monday to Saturday.

The use of the outdoor dining area associated with the Premises, is to cease at 10:30pm Monday to Saturday. All patrons within the outdoor dining area are to be relocated to be within the building or, alternatively, leave the premises by 10:30pm (excluding Sundays, when the Premises is to close by 10:00pm).

The doors that open onto Devonshire Lane are to be closed by 10:30pm, with patrons directed back into the building premises and/or directed out onto King Street when leaving the premises and upon closing on Sundays at 10:00pm.

Amended Condition 16

No live musical entertainment is to be conducted at the premises unless a separate application and acoustic assessment, prepared by a qualified acoustic consultant, is submitted to and approved by Council.

Entertainment involving sound amplification (low level background music) within the premises may be provided only through a fixed “in-house” amplification/speaker system fitted with an electronic sound limiting device. The sound limit is to be set on the basis of written recommendations by a qualified acoustic consultant, such that amplified sound does not cause 'offensive noise' as defined under the Protection of the Environment Operations Act 1997.
Noise from amplified sound is not to be audible within any residential premises between 12:00 midnight and 7:00am.

Additional Condition/s

New Condition

Sound monitoring equipment is to be installed to measure sound outputs and demonstrate that noise from amplified sound is not causing a disturbance to occupants of any residential premises and that amplified sound is not audible within any habitable room of residential premises between 12:00 midnight and 7:00am.

The sound monitoring equipment is to be located in accordance with the recommendations of a qualified acoustic consultant, including a location on the first floor of the building, in a location in close proximity to residential apartments. The sound monitoring equipment is to remain in place and be operational during trading hours for the full duration of the 12 month trial period.

The records of data captured by the required sound monitoring are to be retained and made available to Council officers or NSW Police, upon their request for such information. Any future application made to Council that seeks consent to permanently extend hours of operation or trading is to be supported by an acoustic assessment and data captured by the noise monitoring that is required to be undertaken.

New Condition

An acoustic assessment prepared by a qualified acoustic consultant is to be prepared and submitted to Council for approval in relation to any amplified sound entertainment at the premises and is to identify the amplifier sound limit that is appropriate for the premises. The report is to demonstrate that amplified sound will not cause ‘offensive noise’ as defined under the Protection of the Environment Operations Act 1997. Noise from amplified sound is not to be audible within any residential premises between 12:00 midnight and 7:00am.

New Condition

At all times when amplified sound entertainment is provided at the premises, the licensee is to ensure that all doors and windows of the premises are kept closed, with the exception of the outdoor dining area door/windows which are to be closed at 10:30pm, consistent with the required closing time of the outdoor dining area. The only exception to this requirement is as follows:

a) Patrons are permitted entry and exit to and from the main entrance door, subject to monitoring and intervention (if necessary) by a staff member to ensure that doors are promptly closed.
b) A contact number is to be notified to residents for the premises, for potential use while the premises are open, to enable residents to make complaints regarding noise impacts.

New Condition

Signage is to be installed directing patrons to public transport facilities. This information is to be displayed in a prominent location inside the premises at all exits.

New Condition

Signage is to be displayed advising patrons that the building also contains residential apartments and requiring that patrons respect the need to maintain residential amenity at all times, whether the patrons are inside or outside of the premises. This information is to be displayed in prominent locations inside the building at all entry/exit points.

B THAT those persons who made submissions be advised of Council's determination.

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

Against the Motion: Councillors Elliott, Luke and Rufo.

Carried

The meeting concluded at 5.52pm.
DEVELOPMENT APPLICATIONS

ITEM-1  DAC 20/02/18 - DA 2017/00720 - 10 WALFORD STREET WALLSEND - ALTERATIONS AND ADDITIONS TO DWELLING, ERECTION OF FOUR TWO STOREY DWELLINGS AND ASSOCIATED SITE WORKS

APPLICANT: KUBUSH BORZESTOWSKI
OWNER: POLAK DEVELOPMENTS PTY LTD
NOTE BY: PLANNING & REGULATORY
CONTACT: DIRECTOR PLANNING AND REGULATORY / MANAGER DEVELOPMENT AND BUILDING

PART I

PURPOSE

An application has been received seeking consent for alterations and additions to a dwelling, erection of four two storey dwellings and associated site works at 10 Walford Street Wallsend NSW 2287.

The application has been 'called in' by Councillors Clausen and Dunn to be determined by the Development Applications Committee. The proposal was considered at a meeting of the Public Voice Committee on 21 November 2017.

A copy of the submitted plans for the proposed development / subdivision (refer to Attachment A).

The proposed development has been notified in accordance with Council’s Public Notification policy and 4 submissions have been received in response (3 outside of the submission period) with 2 submissions made from the same property. The application was considered at a meeting of the Public Voice Committee on 21 November 2017.

The issues raised during the exhibition periods, and at Public Voice included:

i. Non-compliance with clause 4.1A of the LEP
ii. Non-compliance with the objectives of the zone
viii. Relocation of bus stop
ix. Parking, traffic, bus stop and associated safety concerns
x. Overdevelopment of the site
The application was amended after the Public Voice meeting to remove the Torrens Title subdivision element from the proposal.

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.

Issues

a) Relevant provisions of the Newcastle Local Environmental Plan 2012 and Newcastle Development Control Plan 2012.

b) Bulk, scale and character of the proposal.

c) Privacy and overshadowing impacts to and from adjoining development.

d) Impacts on the existing road network and local traffic.

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. The proposed development is considered to be acceptable and is recommended for approval, subject to the inclusion of the nominated conditions of consent.

RECOMMENDATION

A. THAT DA2017/00720 for Alterations and additions to dwelling, erection of four two storey dwellings and associated site works at 10 Walford Street, Wallsend be approved and consent granted, 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 determination of the application.

Political Donation / Gift Declaration

Under Section 147 of the Environmental Planning and Assessment Act 1979, the applicant, and any person related to this Development Application must report any political donation and/or gift to a Councillor and/or any gift to a Council employee 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 site is rectangular in shape and has an area of 999m$^2$. It contains a single-storey dwelling (113m$^2$ in area) and did house two detached storage containers which have since been removed. The site fronts Walford Street to the east and has vehicular access from a single driveway crossover located adjacent to the north-eastern corner of the site. The site is adjoined by Upper Reserve Fields to the rear.

The site slopes approximately 3m from the street frontage to the rear of the site. The general form of development in the immediate area consists of a mixture of single-storey and two-storey detached dwellings, with a spread of similar developments evident through-out the Wallsend locality.

The immediate area is experiencing growth, with a number of multi-dwelling and dual occupancy developments in close proximity to this site. The site is well positioned to take advantage of major transport routes and commercial centres. This positioning is reflected in the planning controls relating to the site, with a 0.75:1 maximum floor space ratio and being within a moderate growth precinct (as identified in the Newcastle Development Control Plan 2012).

**2.0 THE PROPOSAL**

The proposed development includes alterations to the dwelling on the site (including a proposed carport and deck), the erection of four attached two-storey dwellings (two attached together), with integrated single garages, and associated site works.

As the site falls to the rear, the developer intends to create an easement over Council's operational land adjoining at the rear, to be able to dispose of stormwater into the existing infrastructure. Council has agreed to the creation of this easement, separate from the processing of the Development Application.

The plans have been amended after lodgement, in response to concerns raised in the submissions and by Council's assessment officer. The amendments undertaken include:

- a) More detailed shadow diagrams showing adjoining properties areas of principle private open space
- b) Strata subdivision removed from the application
- c) Torrens title subdivision removed from the application
A copy of the amended 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 application was initially publicly notified for a period of 14 days in accordance with Council's Public Notification Policy. In response, four separate submissions objecting to the proposal were made and it is noted that:

a) One (1) submission was made within the specified 14 day public exhibition period.

b) Three (3) submissions were made outside of the specified 14 day public exhibition period.

c) Two (2) submissions came from one property owner.

Notwithstanding, the concerns raised by the objectors in their submissions in respect of the amended development are summarised as follows:

a) **Statutory and Policy Issues:**
   
   i. Subdivision lot size
   
   ii. Inconsistent with objectives of the zone

b) **Amenity Issues:**

   i. Visual amenity impacts
   
   ii. Streetscape setting and appearance
   
   iii. Privacy impacts
   
   iv. Overshadowing impacts
   
   v. Traffic Noise pollution
   
   vi. Reduction in on-street car parking

c) **Design and Aesthetic Issues:**

   i. Bulk and scale
   
   ii. Overdevelopment
   
   iii. Character
   
   iv. Building design appearance
   
   v. Solar access/Overshadowing

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)]

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

Clause 7(1) (b) and (c) of SEPP55 requires 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 Certificate was lodged with the application, demonstrating that the development has achieved 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 zoned R2 Low Density Residential under the provisions of NLEP 2012. The proposal is defined as ‘multi dwelling development’, which is a form of ‘residential accommodation’, and is permissible in the zone subject to development consent.

NLEP 2012 defines multi dwellings as:

*multi dwelling housing* means 3 or more dwellings (whether attached or detached) on one lot of land, each with access at ground level, but does not include a residential flat building.

The development is considered to be generally consistent with the objectives of the R2 zone, as the proposal seeks a form of housing that is responsive to the identified needs of the community, by providing diversity of housing in a low density environment. The form of the development is considered to be reasonable in relation to the existing building typology, adding interest and diversity to the sites context without negatively altering the character of the area. Compliance with the objectives of the zone is demonstrated through the proposals compliance with the relevant planning controls, which allow the development to sit comfortably in relation to the context of the area, with minimal impacts on the surrounding amenity and character of surrounding development.
4.1 Minimum subdivision lot size

No subdivision is proposed as part of this application.

Clause 4.3 Height of buildings

The Height of Buildings Map of NLEP 2012 provides for a maximum building height of 8.5 metres. The height of the proposed development is 7.6m above existing ground level when measured to the highest point of the proposed development, being compliant with the maximum building height for the site.

Clause 4.4 Floor space ratio

The Floor Space Ratio (FSR) Map of NLEP 2012 provides for a maximum FSR of 0.75:1. The proposal has a FSR of 0.58:1.

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'. Car parking, basement storage and areas for common vertical circulation such as stairs and voids have been excluded from the calculation.

Clause 5.10 Heritage Conservation

Concerns have been raised from adjoining owners in relation the proposed development impacts on the heritage aesthetic of the area.

Neither the site nor adjoining sites are identified as being of heritage significance. The site is not located within heritage conservation area.

The proposed development is considered to be satisfactory, in accordance with the relevant objectives of this clause of NLEP 2012.

Clause 6.1 Acid sulfate soils

The site and all surrounding properties are identified as containing Class 5 acid sulfate soils. The proposed works are not within 500 metres of adjacent class 1, 2, 3 or 4 lands that is below 5 metres AHD, with works not likely to lower the water table by 1m.

During construction works, an assessment of acid sulfate soil potential is to be undertaken in the area of excavation. If acid sulfate soils are found to be present, soils are to be treated in accordance with the New South Wales Acid Sulfate Soil Management Advisory Committee’s ‘Acid Sulfate Soil Manual’. A condition of consent has been recommended 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 minor in nature and will not have a
detrimental impact on any environmental function or process, neighbouring uses or any item of cultural or heritage significance.

Conditions of consent are recommended to address potential sedimentation and erosion control issues.

4.2 Merit Considerations

4.2.1 Relevant Strategic Policies

The broader strategic policies, including the Local Planning Strategy and the Lower Hunter Regional Strategy (LHRS) have been considered in the assessment of this application. The vision and objectives for Wallsend are to further develop the area into a major centre through the facilitation of higher density housing close to major transport routes and commercial centres and encouraging diversity of housing choice to allow the population to age in place. The development is located to take advantage of major transport routes such as Thomas Street, Lake Road and Newcastle Link Road, along with being centrally located 500m from Wallsend commercial area and 1km from Erlermore Vale shopping centre.

The area has also been classified as a moderate growth precinct under the local planning strategy. The moderate growth area is identified as being walking distance from local centres, and enables a transition between substantial and limited growth areas. The local planning strategy suggests that town houses and apartment style development would be an appropriate response to the urban design standards and controls that apply, consistent with the allowable floor space ratio and reduced landscaping and open space requirements.

The application is consistent with the objectives of the LHRS, which includes 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)]

Section 3.03 Residential Development

The application was lodged prior to the commencement date of this section of the DCP, so savings provisions apply as below:

"Any development application lodged but not determined prior to this section coming into effect will be determined as though the provisions of this section did not apply."

3.04 Attached Dwellings and Multiple Dwelling Housing

The development is consistent with the aims of this section. The proposal allows for compact living within a low density setting, which allows for future residents to live in close proximity to community facilities and services, commercial centres, employment and transport hubs. The proposed development is in close proximity to
public transport, with opportunity available for residents to use walking and cycling facilities. The design also incorporates high quality urban design, while maintaining residential amenity. The proposal is considered to be an efficient use of residential land, expanding the variety of housing options for the area.

Section 4.03 Mine Subsidence

The site is located within a mines subsidence area. Prior conditional approval was obtained from the mines board. Conditions will be included to assure the development complies with relevant Mine Subsidence requirements.

4.04 Safety and Security

The proposed development provides for passive surveillance of the internal circulation areas and communal spaces. The spatial layout of the buildings ensures that windows overlook communal spaces including gardens and courtyards providing casual surveillance. Lighting is to be provided around entrances, car parking areas and public domain spaces. The internal driveway design should ensure low speed traffic movements to facilitate pedestrian safety. As such, the proposed development is considered acceptable in relation to safety and security.

Overall, it is considered that the proposal satisfactorily conforms to the principals of 'Crime Prevention Through Environmental Design'.

4.05 Social Impact

The proposal will not have a negative social impact. It will encourage social diversity through providing housing in the area for a range of ages and household types.

5.01 Soil Management

The proposed development adopts drop edge beam style of construction resulting in maximum fill to 0.6m at the western extent of the allotment, in front of Dwelling Unit 3.

No cut is proposed through the extent of this proposed development.

The proposed filling complies with the controls outlined in this section. Appropriate conditions have been recommended to require that sediment and erosion controls be implemented during the construction of the development.

Section 5.02 Land Contamination

The site is not known to be contaminated, as detailed in the previous comments regarding SEPP55.
5.03 Tree Management

Two trees are required to be removed to facilitate the development. An onsite visual inspection of the trees found it to be in poor health and the removal of the trees is supported. The provided landscape plan proposes suitable compensatory planting to accommodate the loss of the tree.

An arborist report has been submitted to support the removal of the trees, with a condition included to assure that the removal is carried out in accordance with the recommendations of this report.

7.01 Building Design Criteria

7.01.01 Height of Buildings

As outlined in section 4.1 of this report, the proposed multi dwelling development complies with the height control for the site.

7.01.02 Density- Floor Space Ratio

As outlined in section 4.1 of this report, the proposed multi dwelling development complies with the floor space ratio control for the site.

7.01.03 Minimum Street Frontage

The site is zoned R2 low density residential. These controls do not apply to this development.

7.01.04 Streetscape and front setbacks

The proposal does not include any alteration to the existing front setback, as the existing dwelling will be retained. The proposed carport for the existing dwelling is located behind the building line.

Given the retention of the existing dwelling, and the slope of the site away from the road, the impact on the existing streetscape will be minimal. The new dwellings will be only partially visible from Walford Street, immediately adjacent to the property boundary.

7.01.05 Side and rear setbacks

The proposed multi dwelling development complies with the side and rear setbacks;

i. Northern side setback- 1.5m
ii. Southern side setback- 1m
iii. Rear setback - Minimum 2.75m

The development displays a minor non-compliance in relation to the building envelope allowable for the development. The breach of the building envelope is
located on the southern elevation of Unit 4. As can be seen below in Figure 1, the exceedance constitutes the eave, fascia and gutter area of the roof, with 0.5m of actual wall captured. The exceedance has been demonstrated to be acceptable, as it does not have a detrimental impact in regards to overshadowing of adjoining properties and it will not be unduly dominant when viewed from the adjoining property.

![Figure 1 Plan showing minor exceedance of building envelope (red circle)](image)

7.01.06 Open Space

Each dwelling, including the existing dwelling has been provided with in excess of 30m² of open space in accordance with the controls of this section. Each dwelling has a dedicated area of principle private open space (PPOS) that meets the required dimensions.

Each area of PPOS is able to achieve the required solar access.

7.01.07 Building design and Appearance

The proposed development is consistent in scale and form to other examples of redevelopment in the immediate area and throughout the locality. The design responds to the controls allowable for a moderate growth precinct.

Submissions have been received concerning the compatibility with the existing area, which has mix of single-storey and two-storey single dwellings. While the density of the site is being increased, the development is considered to be compatible with the scale, character and massing of development in the area. Design elements, window patterns and roof forms, typical of the area, have been included, along with varied materials and finishes.
The area is not identified as a heritage conservation area, nor are there any items of heritage significance within the immediate vicinity of the site.

The proposed roof pitch, fenestration and facades correspond to the attributes of surrounding development. The proposed facades incorporate varied cladding treatments, using materials that are similar to those used within the immediate area. The building separation is considered to be acceptable, allowing for the continuation of open spaces that contribute to the character of the surrounding area. The separation between building elements and boundaries mitigates visual dominance of the development and allows for the dwellings to sit comfortably within the context of the area.

7.01.08 Solar Access

The proposed development complies with the controls relating to solar access. The development preserves at least three hours of sunlight to north facing windows of adjoining dwellings. A detailed shadow analysis has been submitted with the application, demonstrating compliance with the controls.

As per the submitted diagrams, the principle private open space of the dwelling at 12 Walford Street receives unimpeded solar access at 9am, 10am and 11am. The submitted analysis diagrams show that the north facing windows on 12 Walford Street receive unimpeded solar access from 9am to 3pm.

7.01.09 Views and Privacy

The development does not unreasonably impact on any views or the general outlook from surrounding properties, nor will it impact views from the public domain. The views obtained from the adjoining premises are general cross-suburb views obtained across side and rear boundaries. The view does not contain any iconic items or outlooks. Both adjoining dwellings are able to maintain their immediate views of the Upper Reserve Park to the rear.

The proposed dwellings comply with the controls in relation to privacy impacts on adjoining properties. The first floor living room/rumpus room of all four new dwellings are located outside of the 9m radius to adjoining windows. The first floor living room/rumpus room windows are also located more than 12m from the rear deck of the adjoining dwelling.

To alleviate any further privacy concerns, a condition has been recommended to require that sill heights of the first floor living rooms for units 1, 2 and 3 be increased to 1.8m.

7.01.10 Fencing and Walls

Boundary fencing will be 1.8m colourbond. No fencing will be within the front setback. The development complies with the controls of this section.
7.01.11 Utilities and Services

The development provides for adequate storage within the units, both internally and in the garages. The proposal includes suitable letterboxes at the street frontage, adjacent to the entries. Suitable frontage is provided for Council’s waste collection services.

Section 7.02 Landscaping

The DCP requires 25% of the site to be landscaped, with 12% of this area designated for deep soil planting. The proposal has provided 261m² of landscaping equating to 25.2% of the site, with 11% dedicated as deep soil area. This minor variation to the deep soil requirement has been demonstrated to be acceptable through the high quality landscaping proposal for the site that incorporates suitable plantings, coupled with the existing landscaping amenity of the immediate area, with Upper Reserve located directly behind the property.

The applicant has provided a comprehensive landscape plan, prepared by a suitably qualified professional. The landscape plan demonstrates denser landscaping proposed at a height and quality to contribute to the visual presentation of the development and improved amenity of residents.

7.03 Traffic, parking and access

The proposal has been assessed by Council’s Development Engineer as being acceptable, subject to recommended conditions of consent. The proposal has been amended to increase vehicle circulation space.

The application proposes a single garage for each proposed dwelling, a carport for the existing dwelling and a visitor car parking space. This arrangement is considered to be adequate.

Vehicles for the proposed new dwellings can enter and exit the site in a forward direction in accordance with the relevant Australian Standard.

Based on the RTA’s traffic generation rates, the development is likely to result in an increase in traffic on the local road network of between two and three vehicle trips per hour. This is considered insignificant and would not adversely impact on the operation of the existing road network.

7.05 Energy Efficiency

The proposal complies with the requirements of BASIX.

7.06 Stormwater and water efficiency

The proposal has been assessed by Council’s Development Engineer as being acceptable, subject to conditions of consent. The proposal requires an easement over the Council owned reserve to the rear of the property. Council has (separate to
the Development Application process) agreed to terms for an easement to be created, with the capacity to handle an increase in stormwater if any other lots in the vicinity were to be developed.

Each proposed new dwelling has been provided with a 4000L tank in accordance with the requirements of the DCP, with conditions of consent included to assure re-use of rain water in the dwellings.

7.08 Waste Management

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

8.00 Public Participation

The development was notified in accordance with the requirements of the DCP. As previously discussed three submissions were received during the notification period. The issues raised in the submissions have been addressed during the assessment of the application.

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

The proposed development is considered to not have any undue adverse impact on the natural or built environment.

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

The development will have minimal impacts on the natural environment. The site does not contain any significant vegetation and will not have any substantial 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 [Section 79C(1)(b)]

The proposed development is not likely to have any significant negative social or economic impacts. The addition of housing in an area that is well serviced is a positive outcome of the development. The proposal allows for diversity in housing stock in the Wallsend area, which allows for the introduction of new residents to the area, or for ageing in place of existing residents. The development will also result in additional employment opportunities during the construction period.

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

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.
The site is suitable for the proposed development as it is located in an existing urban area that is well serviced by public transport and community facilities. The proposed dwellings are compatible with existing residential uses in the area.

### 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.

The application was notified in accordance to the Regulations and four submissions were received. The concerns raised during the notification period are summarised as follows, with corresponding assessment comments:

<table>
<thead>
<tr>
<th>Issue</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Subdivision Lot Size - the development is inconsistent with this NLEP development standard outlined in clause 4.1A</td>
<td>The amended proposal does not include any form of subdivision.</td>
</tr>
<tr>
<td>Overshadowing</td>
<td>As has been outlined in section 4.2.2 (7.01.08) the proposed development complies with the requirements and controls outlined in the DCP. The development preserves at least three hours of sunlight to north facing windows of adjoining dwellings. A detailed shadow analysis has been submitted with the application demonstrating compliance with the controls. As per the submitted diagrams the principle private open space of the dwelling at 12 Walford Street receives unimpeded solar access at 9am, 10am and 11am. The submitted analysis diagrams show that the north facing windows on 12 Walford receive unimpeded solar access from 9am to 3pm. The existing amenity currently experienced by the adjoining owner in relation to solar access will be maintained.</td>
</tr>
<tr>
<td>Privacy - overlooking of neighbouring properties. Views</td>
<td>As has been outlined in section 4.2.2 (7.01.09) the proposed development complies with the requirements and controls outlined in the DCP. To alleviate any further privacy concerns a condition is recommended to require that</td>
</tr>
</tbody>
</table>
sill heights of the first floor living rooms for units 1, 2 and 3 be increased to 1.8m.

**Side and rear setbacks**

As has been outlined in section 4.2.2 (7.01.05) the proposed development generally complies with the requirements and controls outlined in the DCP. The proposed minor variation to the building envelope is supported, given that it does not have a detrimental impact with regard to overshadowing of adjoining properties and it will not be unduly dominant when viewed from the adjoining property.

**Non-compliance with the objectives of the R2 zone**

As has been outlined in section 4.1 the proposed development complies with the objectives of the R2 Low Density Residential zone.

The development is consistent with the objectives of the Low Density Residential R2 zone, as the proposal seeks a form of housing that is responsive to the identified needs of the community, by providing diversity of housing in a low density environment. The form of the development is considered to be reasonable in relation to the existing building typology, adding interest and diversity to the site's context without negatively altering the character of the area. Compliance with the objectives of the zone is demonstrated through the proposal's compliance with the relevant planning controls that allow the development to sit comfortably in relation to the context of the area, with minimal impacts on the surrounding amenity and character of surrounding development.

**Building Design and appearance/ Streetscape/ Heritage**

As has been outlined in section 4.2.2 (7.01.04, 7.01.07) the proposed development complies with the requirements and controls outlined in the DCP.

The site is not located within a heritage conservation area, or located in the vicinity of a heritage item. The immediate area consists of a mix of older style weatherboard and brick dwellings.
The proposed development is consistent in scale and form to the wider examples of redevelopment in the immediate area and throughout the locality. The design responds to the controls allowable for the moderate growth precinct in which the site is located.

Given the retention of the existing dwelling, and the slope of the site away from the road, the impact on the existing streetscape will be minimal. The proposed new dwellings will be only partially visible from Walford Street, immediately adjacent to the property boundary.

| Parking - 1 park per unit is on appropriate | Each dwelling has been provided with 1 car park as per the requirements of the DCP. A visitor park has been provided, as per the requirements of the DCP. The development provides on-site parking compliant with the rate required by the DCP. |
| Traffic | Based on the RTA's traffic generation rates the development is likely to result in an increase in traffic on the local road network of between two and three vehicle trips per hour. This is considered to be insignificant and would not adversely impact on the operation of the existing road network. |
| Noise | The proposed development will be used for residential purposes. General residential noise is not expected to have a significant detrimental impact on any adjoining owners. The driveway is considered to not create noise emissions that would have a significant detrimental impact on the adjoining owners. |

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

**Sustainability**

The proposed development is considered to be satisfactory having regard to the principles of ecologically sustainable development.
The proposal is consistent with Council’s urban consolidation objectives, making more efficient use of the established public infrastructure and services.

A BASIX certificate has been submitted with the application confirming that the proposed development will meet sustainability requirements.

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.

5.0 CONCLUSION

The proposal has been assessed against the relevant heads of considerations under section 79C of the Environmental Planning and Assessment Act 1979 and is supported on the basis that the recommended conditions in Attachment B are included in any consent issued.

ATTACHMENTS

Attachment A: Submitted plans (as amended) - Under Separate Cover - 10 Walford Street, Wallsend

Attachment B: Draft Schedule of Conditions - 10 Walford Street, Wallsend

Attachment C: Processing Chronology - 10 Walford Street, Wallsend

Attachment A - Submitted Plans - Under Separate Cover - 10 Walford Street, Wallsend
DRAFT SCHEDULE OF CONDITIONS

Application No: DA2017/00720
Land: Lot 4 DP 12250
Property Address: 10 Walford Street Wallsend NSW 2287
Proposed Development: Alterations and additions to dwelling, erection of four two-storey dwellings and associated 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>
<th>Dated</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site Analysis Plan</td>
<td>Project No. 17050, DWG No. DA002, Issue C</td>
<td>ELK Designs</td>
<td>23/11/2017</td>
</tr>
<tr>
<td>Site Plan</td>
<td>Project No. 17050, DWG No. DA003, Issue C</td>
<td>ELK Designs</td>
<td>23/11/2017</td>
</tr>
<tr>
<td>Site Coverage Plan</td>
<td>Project No. 17050, DWG No. DA004, Issue C</td>
<td>ELK Designs</td>
<td>23/11/2017</td>
</tr>
<tr>
<td>Ground Floor Plans</td>
<td>Project No. 17050, DWG No. DA100, Issue C</td>
<td>ELK Designs</td>
<td>23/11/2017</td>
</tr>
<tr>
<td>First Floor Plans</td>
<td>Project No. 17050, DWG No. DA102, Issue C</td>
<td>ELK Designs</td>
<td>23/11/2017</td>
</tr>
<tr>
<td>Roof Plans</td>
<td>Project No. 17050, DWG No. DA103, Issue C</td>
<td>ELK Designs</td>
<td>23/11/2017</td>
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<tr>
<td>Elevation Plans</td>
<td>Project No. 17050, DWG No. DA300, DA301, DA302, DA303 Issue C</td>
<td>ELK Designs</td>
<td>23/11/2017</td>
</tr>
<tr>
<td>External Finishes Elevations</td>
<td>Project No. 17050, DWG No. DA304, Issue C</td>
<td>ELK Designs</td>
<td>23/11/2017</td>
</tr>
<tr>
<td>Section Plans</td>
<td>Project No. 17050, DWG No. DA400, DA401 DA402 Issue C</td>
<td>ELK Designs</td>
<td>23/11/2017</td>
</tr>
<tr>
<td>Landscape Plans</td>
<td>DWG No. US 70512 LP, Pgs. 1-3</td>
<td>Forum Urban Sanctum Landscape Design</td>
<td>June 2017</td>
</tr>
<tr>
<td>-----------------</td>
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</tr>
<tr>
<td>Statement of Environmental Effects</td>
<td>Piper Planning</td>
<td>Submitted 21/6/2017</td>
<td></td>
</tr>
<tr>
<td>Stormwater Management Plans</td>
<td>Job No. NL170832, DWG No. C01DA, C02DA, C03DA, Rev. B</td>
<td>Northrop</td>
<td>18/10/2017</td>
</tr>
<tr>
<td>Vehicle Turning Paths</td>
<td>Job No. NL170832, C04DA, C05DA, C06DA, C07DA, C08DA, Rev. A</td>
<td>Joseph Piculiti Consulting Arborist</td>
<td>30/5/2017</td>
</tr>
<tr>
<td>Arborist Report</td>
<td>Joseph Piculiti Consulting Arborist</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Basix Certificate</td>
<td>Cert No. 830274M</td>
<td>Newcastle Bushfire Consulting</td>
<td>15/6/2017</td>
</tr>
</tbody>
</table>

In the event of any inconsistency between conditions of this development consent and the plans/supporting documents referred to above, the conditions of this development consent prevail.

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

3. A total monetary contribution of $9,709.60 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. Prior to the issue of a Construction Certificate, the following is to be completed:
   a) Proposed drainage pipeline is to be designed and approved by Newcastle City Council. Proposed filling in the Council Reserve behind number 12 Walford Street (Lot 5 DP12250) to be setback from the property boundary to allow free drainage from the lot. Refer to Council's Stormwater and Water Efficiency for Development Technical Manual for design guidance.
   b) Negotiation of easement with the Property Section of Newcastle City Council (including payment of any required compensation).
   c) Registration of drainage easement with NSW Land Registry Services.
   d) All works relating to the pipeline are to be completed and inspected by Newcastle City Council.

All costs concerned with the creation and registration of the easement over Council's land are to be borne by the developer.

5. The car park is to be designed to comply with AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking. Details are to be included in documentation for a Construction Certificate application.

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

7. Kerbing or dwarf walls having a maximum height of 150mm 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. Roof water from the proposed new work is to be directed to the proposed water tanks (4000L per dwelling) and be reticulated theretofrom to any new toilet cisterns, external taps 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 the Plumbing Code of Australia (National Construction Code Volume 3). Full details are to be included in documentation for a Construction Certificate application.

9. All stormwater runoff from the proposed development is to be managed in accordance with the requirements of Element 7.06 'Stormwater' of Newcastle Development Control Plan 2012, the associated Technical Manual and the Plumbing Code of Australia (National Construction Code Volume 3), as indicated on the Stormwater Plan prepared by Northrop Consulting Engineers (Job No. NL170832, Drg.Nos. C01DA and C02DA, Revision B, dated 18/10/17). Full details are to be included in documentation for a Construction Certificate application.

10. 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.

11. 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 landscape plan and specification. The plan and specifications is to be prepared 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.

12. 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.

13. 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.

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

15. A residential vehicular crossing is to be constructed across the road reserve, in accordance with the following criteria:
   a) Constructed in accordance with Council's A1300 - Driveway Crossings Standard Design Details.
   b) The driveway crossing, within the road reserve, shall be a maximum of 4.5 metres wide
   c) Letterboxes, landscaping and any other obstructions to visibility should be kept clear of or limited in height to 1.2 metre, in the 2 metre by 2.5 metre splay within the property boundary each side of the driveway entrance
   d) The proposed driveway shall be a minimum of 3 metres clear of the trunk of any tree within the public reserve
   e) The proposed driveway shall be a minimum of 750mm clear of the centre of any pole or obstruction within the public reserve and 1 metre clear of any drainage pit.

These works are not approved until consent under Section 138 of the Roads Act 1993 has been granted by Council. An application under Section 138 must be applied for
16. A separate application must be lodged and consent obtained from Council for all works within the road reserve pursuant to Section 138 of the Roads Act 1993 (NSW), before the issue of a Construction Certificate.

17. Windows identified as 09-18 in units 1, 2 and 4 are to have a minimum sill height of 1.8m. 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

18. 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).

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

20. The demolition works are to be undertaken in accordance with Australian Standard 2601:2001 - The Demolition of Structures and the following requirements:
   a) Demolition works shall be conducted in accordance with the submitted Hazardous Substances Management Plan and a copy of the Hazardous Substances Management Plan shall be kept on-site for the duration of the proposed development
   b) The removal, handling and disposal of any asbestos material is to be undertaken only by an asbestos removal contractor who holds the appropriate class of Asbestos Licence, issued by the WorkCover Authority of NSW
   c) A copy of all waste disposal receipts are to be kept on-site for the duration of the proposed development and made available to authorised Council Officers upon request
   d) Seven working days’ notice in writing is to be given to Council and the owners/occupiers of neighbouring premises prior to the commencement of any demolition works. Such written notice is to include the date demolition will commence and details of the name, address, contact telephone number(s) and licence details (type of licences held and licence numbers) of any asbestos removal contractor and demolition contractor. Notification to owners/occupiers of neighbouring premises shall also include Council’s contact telephone number (49742000) and the Workcover Authority of NSW telephone number (49212300) and
   e) On sites where asbestos materials are to be removed, a standard commercially manufactured sign containing the words ‘DANGER ASBESTOS REMOVAL IN PROGRESS’ measuring not less than 400mm x 300mm is to be erected in a prominent position during asbestos removal works.

21. Waste management shall be implemented. 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).

22. 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.

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

24. 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.

25. 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.

26. 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
27. 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.

28. Certification is to be prepared by a Registered Surveyor and submitted to the Principal Certifying Authority at the stages of construction indicated:
   a) On completion of ground floor construction, confirming that the floor levels are in accordance with the approved levels.
   b) On completion of each subsequent floor level, confirming that the floor levels are in accordance with the approved levels.
   c) When the roof has been completed, confirming that the building does not exceed the approved levels.

29. 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.

30. The proposed visitor parking bay is to be clearly indicated by means of signs and/or pavement markings.

31. 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.

32. 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.

33. 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 ‘Waste Classification Guidelines Part 1: Classifying Waste’.

34. 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.

35. 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.

36. 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.

37. 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.

38. 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 shadecloth mesh or similar products 1.8m high around the perimeter of the site and around every level of the building under construction.

39. 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).

40. Any proposed works involving vegetation on the site is to be carried out in accordance with the submitted Arborist report prepared by Joseph Pidutti dated 30/5/2017.

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

41. 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.

42. 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.

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

44. 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.

45. 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.
46. 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.

47. 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 numbers = 50mm

48. A Maintenance Manual for all water quality devices is to be prepared in accordance with Council’s current Stormwater and Water Efficiency for Development Technical Manual. 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.

CONDITIONS TO BE SATISFIED DURING THE OPERATION AND USE THE DEVELOPMENT

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

50. The premises are allocated the following street addresses in accordance with Council’s House Numbering Policy and the Surveying and Spatial Regulation.

<table>
<thead>
<tr>
<th>Unit/ Dwelling/ Lot Number on plan</th>
<th>Council Allocated Street Addresses</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>House Number</td>
</tr>
<tr>
<td>Existing Dwelling 1</td>
<td>10</td>
</tr>
<tr>
<td>Proposed Unit 1</td>
<td>1/10A</td>
</tr>
<tr>
<td>Proposed Unit 2</td>
<td>2/10A</td>
</tr>
<tr>
<td>Proposed Unit 3</td>
<td>4/10A</td>
</tr>
<tr>
<td>Proposed Unit 4</td>
<td>3/10A</td>
</tr>
</tbody>
</table>

ADVISORY MATTERS

- 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.

- 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*.

- Prior to commencing any construction works, the following provisions of the *Environmental Planning and Assessment Act 1979* (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
### PROCESSING CHRONOLOGY

**DA 2017/00720 – 10 Walford Street Wallsend**

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>21 June 2017</td>
<td>Application lodged</td>
</tr>
<tr>
<td>27 June 2017</td>
<td>Public exhibition commences</td>
</tr>
<tr>
<td>17 August 2017</td>
<td>Strata subdivision withdrawn from application</td>
</tr>
<tr>
<td>25 August 2017</td>
<td>Additional Information requested</td>
</tr>
<tr>
<td>4 September 2017</td>
<td>Application called-in by two Councillors</td>
</tr>
<tr>
<td>5 September 2017</td>
<td>Amended plans received</td>
</tr>
<tr>
<td>19 October 2017</td>
<td>Further clarification requested regarding vehicle manoeuvring on site</td>
</tr>
<tr>
<td>6 November 2017</td>
<td>Amended Plans and engineering plans received</td>
</tr>
<tr>
<td>21 November 2017</td>
<td>Public Voice Session</td>
</tr>
<tr>
<td>28 November 2017</td>
<td>Amended plans received after concerns raised at Public Voice</td>
</tr>
<tr>
<td>22 December 2017</td>
<td>Torrens title subdivision withdrawn from application</td>
</tr>
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