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 September 2016
TIME: 5.30pm
VENUE: Council Chambers
2nd Floor
City Hall
290 King Street
Newcastle NSW 2300

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

MINUTES - DEVELOPMENT APPLICATIONS COMMITTEE 16 AUGUST 2016

RECOMMENDATION

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

ATTACHMENTS

Attachment A: 160816 Development Applications Committee Minutes

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

IN ATTENDANCE
F Cordingley (Interim Chief Executive Officer), K Liddell (Acting Director Infrastructure), M Blackburn-Smith (Manager Development and Building), F Giordano (Manager Legal and Governance), N Baker (Chief of Staff to the Lord Mayor), K Sullivan (Council Services/Minutes) and A Leach (Council Services/Meetings Management).

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.

The Lord Mayor acknowledged the recent passing of Professor Trevor Waring and stated that she would provide a formal tribute at the August Council meeting.

APOLOGIES

MOTION
Moved by Cr Waterhouse, seconded by Cr Luke

The apologies submitted on behalf of Councillors Posniak, Robinson and Tierney be received and leave of absence granted.

For the Motion: Councillors Compton, Luke, Osborne, Rufo and Waterhouse.

Against the Motion: Lord Mayor, Cr Nelmes, Councillors Clausen, Crakanthorp, Doyle and Dunn.

The Lord Mayor exercised her casting vote and declared the motion defeated. Defeated
MOTION
Moved by Lord Mayor, Cr Nelmes, seconded by Cr Clausen

Leave of absence be granted for Councillor Posniak and apologies from Councillors Robinson and Tierney.

The Lord Mayor exercised her casting vote and declared the motion carried. 

Carried

DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTERESTS

Councillor Luke
Councillor Luke declared a non pecuniary conflict of interest in Item 8 - Development Application 2015/10005 - 77 Maitland Road Mayfield, stating that a relative had recently purchased a property close to the site and would absent himself from the Chamber for discussion on the item as he did when the matter went before the Public Voice Committee.

Councillor Rufo
Councillor Rufo declared a non pecuniary less than significant conflict of interest in Item 10 - DA 2015/1007 - 18 - 20 Florida Avenue, Lambton stating that he knew several people who lived in the street and would absent himself from the Chamber for discussion on the item.

Councillor Clausen
Councillor Clausen declared a less than significant non pecuniary interest in Item 10 - DA 2015/1007 - 18 - 20 Florida Avenue, Lambton, stating that he was a member of several community groups whose members had contacted him about the development. He stated that as he was not an office bearer and did not have strong relationships with those people and would remain in the Chamber and vote on the item.

Councillor Osborne
Councillor Osborne declared a less than significant non pecuniary conflict of interest in Item 9 - DA 2015/10011 - 4 Ulick Street, Merewether, stating that he worked at Port Stephens Council with the applicant's consultants and would absent himself from the Chamber for discussion on the item.

Councillor Compton
Councillor Compton declared a significant non pecuniary interest in Item 9 - DA 2015/10011 - 4 Ulick Street, Merewether, stating that he was an employee of Port Stephens Council and the applicant's consultant was a senior manager employed by that Council. Councillor Compton stated that he would absent himself from the Chamber for discussion on the item.
Councillor Dunn

Councillor Dunn declared a less than significant non pecuniary interest in Item 8 - Development Application 2015/10005 - 77 Maitland Road, stating that he had a client who had made submissions in relation to the development and would absent himself from the Chamber for discussion on the item.

CONFIRMATION OF PREVIOUS MINUTES

MINUTES OF DEVELOPMENT APPLICATIONS COMMITTEE HELD 19 JULY 2016

MOTION
Moved by Cr Osborne, seconded by Cr Doyle

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

DEVELOPMENT APPLICATIONS

ITEM-8 DA2015/10005 - 77 MAITLAND ROAD, MAYFIELD - DEMOLITION OF DWELLINGS AND OUTBUILDINGS, SUBDIVISION OF LAND (29 INTO 5 LOTS), CONSTRUCTION OF A TWO STOREY RETAILS COMPLEX, ASSOCIATED CAR PARKING, SITE WORKS AND SIGNAGE

Councillors Dunn and Luke left the Chamber for the determination of this item.

MOTION
Moved by Cr Osborne, seconded by Cr Doyle

The application be rejected on the basis of unreasonable impact in terms of traffic, parking and loss of on-street parking, unacceptable impact with regard to amenity and that it is not in the public interest.

PROCEDURAL MOTION
Moved by Cr Crakanthorp, seconded by Cr Clausen

The matter lay on the table until such time as the matter of parking can be brought back to Council as previously resolved by Council on 26 July 2016.

Councillor Clausen gave notice of a foreshadowed motion.
The procedural motion moved by Councillors Crakanthorp and Clausen was put to the meeting.

For the Procedural Motion: Councillors Crakanthorp, Doyle and Osborne.

Against the Procedural Motion: Lord Mayor, Cr Nelmes, Councillors Clausen, Compton, Rufo and Waterhouse

Defeated

The motion moved by Councillors Osborne and Doyle was put to the meeting.

For the Motion: Councillors Crakanthorp, Doyle and Osborne.

Against the Motion: Lord Mayor, Cr Nelmes, Councillors Clausen, Compton, Rufo and Waterhouse.

Defeated

MOTION
Moved by Cr Clausen, seconded by Cr Rufo

The application for the demolition of existing dwellings, re-subdivision of the land into 5 allotments and the construction of a two-storey retail complex comprising a supermarket with specialty retail and associated parking for 249 cars be approved and consent granted, subject to compliance with the conditions set out in the Draft Schedule of Conditions (refer to Attachment B) and Condition 78 being amended to provide for the dilapidation report being prepared prior to the commencement of construction works.

For the Motion: Lord Mayor, Cr Nelmes, Councillors Clausen, Compton, Rufo and Waterhouse.

Against the Motion: Councillors Crakanthorp, Doyle and Osborne

Carried

Councillors Dunn and Luke returned to the Chamber at the conclusion of this item.
ITEM-9  DA 2015/10011 - 4 ULICK STREET, MEREWETHER - DEMOLITION OF DWELLING, OUTBUILDINGS, SWIMMING POOL, ERECTION OF SIX TWO STOREY ATTACHED DWELLINGS, ASSOCIATED RETAINING WALLS, SITE WORKS AND TWO LOT INTO TWO LOT SUBDIVISION (BOUNDARY ADJUSTMENT)

Councillors Compton and Osborne left the Chamber for the determination of this item.

MOTION
Moved by Cr Doyle, seconded by Cr Crakanthorp

The application be rejected on the grounds that it as it does not comply with the aims of the LEP, Clause 1.2, no. 2(a) and (b) and in respect to DCP, Part 7, point 02 - Open Space and Visual Amenity - and within that category the general controls, in particular, objectives 7.02, nos. 4 and 5.

The motion was put to the meeting.

For the Motion: Councillors Clausen, Doyle, Dunn and Crakanthorp.

Against the Motion: Lord Mayor, Cr Nelmes, Councillors Luke, Rufo and Waterhouse.

The Lord Mayor exercised her casting vote and declared the motion defeated. Defeated

MOTION
Moved by Cr Luke, seconded by Cr Waterhouse

The application for demolition of dwelling, outbuildings & swimming pool, erection of six two-storey attached dwellings, associated retaining walls, site works and two lot into two lot subdivision (boundary adjustment) be approved and consent granted, subject to compliance with the conditions set out in the draft Schedule of Conditions (refer to Attachment B).

For the Motion: The Lord Mayor, Cr Nelmes, Councillors Luke, Rufo and Waterhouse.

Against the Motion: Councillors Clausen, Doyle, Dunn and Crakanthorp.

The Lord Mayor exercised the casting vote and declared the motion carried. Carried

Councillors Compton and Osborne returned to the Chamber at the conclusion of this item.
MOTION
Moved by Cr Clausen, seconded by Cr Crakanthorp

The application be rejected due to significant traffic impacts on Florida Avenue and detriment to the local community.

Councillor Osborne gave notice of a foreshadowed motion.

For the Motion: Councillors Clausen and Crakanthorp.

Against the Motion: The Lord Mayor, Cr Nelmes, Councillors Compton, Doyle, Dunn, Luke, Osborne and Waterhouse.

Defeated

MOTION
Moved by Cr Osborne, seconded by Cr Luke

The application for alterations to dwelling, demolition of dwelling located on lot 12, erection of eight attached two storey dwellings retaining walls, associated landscaping and two lot into two lot subdivision and eight lot strata subdivision at 18 and 20 Florida Avenue, Lambton be approved and consent granted, subject to compliance with the conditions set out in the Draft Schedule of Conditions (refer to Attachment C).

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

Against the Motion: Councillors Clausen and Crakanthorp.

Carried

Councillor Rufo returned to the Chamber at the conclusion of this item.

The meeting concluded at 7.09pm.
DEVELOPMENT APPLICATIONS

ITEM-11 DA 2015/10216 - 29 BRISBANE WATER ROAD, ADAMSTOWN - DEMOLITION OF DWELLING, GARAGE & TREE REMOVAL AND THE SUBSEQUENT ERECTION OF FIVE (5) TWO STOREY DWELLINGS WITH ASSOCIATED RETAINING WALLS AND ONE (1) INTO FIVE (5) LOT STRATA SUBDIVISION

APPLICANT: AARON LAWRENCE
OWNER: NASH NEWCASTLE CONSTRUCTION PTY LIMITED
REPORT BY: PLANNING AND REGULATORY
CONTACT: DIRECTOR PLANNING AND REGULATORY / MANAGER DEVELOPMENT AND BUILDING
TELEPHONE: 4974 2709 / 4974 2793

PART I

PURPOSE

An application has been received seeking consent to demolish an existing single storey dwelling, detached garage and tree removal, and the subsequent erection of five (5) two storey dwellings, with associated retaining walls and a one (1) into five (5) lot strata subdivision.

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

The original proposal was notified to adjoining owners for 14 days in accordance with the provisions of Newcastle DCP 2012 and twenty-seven (27) submissions were received.
The submissions raise concerns regarding:

- Perceived overdevelopment of the site and incompatibility with the site’s R2 Low Density Residential zoning
- Character and appearance
- Landscaping
- Impact upon residential amenity (privacy, noise, overshadowing, air circulation)
- Parking and traffic impacts
- Stormwater and sewerage impacts
- Waste disposal and collection

Following the initial notification, the applicants undertook a series of amendments to the proposal in an attempt to address the concerns raised by both Council and the objectors. The revised plans were subsequently re-notified and Council received 25 submissions in response to the re-notification of the amended proposal. The main categories of objection include:

- Lack of compliance with statutory and policy requirements
- Amenity issues
- Design and aesthetics
- Traffic and Infrastructure
- Social and community issues

Details of the submissions received are summarised at Section 3.0 of Part II of this report and the concerns raised are considered as part of the Environmental Planning Assessment at Section 4.0.

The application has been referred to Council’s Development Applications Committee for determination given the number of objections received.

Issues

- Character, Design and Streetscape
- Privacy / Noise and Disturbance
- Waste Disposal
- Trees and Landscaping

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) and is considered to be acceptable subject to the imposition of the nominated conditions of consent.
RECOMMENDATION

A That development application 2015/10216 for demolition of the existing dwelling, garage & tree removal, and the subsequent erection of five (5) two-storey attached dwellings, associated retaining walls, site works and a one (1) into five (5) lot strata subdivision 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 making submissions be advised of Council's determination.

Political Donation / Gift Declaration

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

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

PART II

1.0 THE SUBJECT SITE

The subject property is formally known as Lot 16, DP 21211 and is generally rectangular shaped parcel of land that slopes west to east down from the front boundary alignment that abuts Brisbane Water Road.

Laid out on an east-west axis, the subject property has a road frontage of 15.373m (western boundary); a northern side boundary alignment of 64.426m; southern side boundary depth of 62.719m; rear eastern boundary length of 15.241m and a total land area of 967.5m².

Adjoining development to the north, south and east comprises a mixture of one and two storey dwellings of various ages and conditions.

There are a number of properties with rear gardens facing directly onto the subject site including No's 27 and 31 Brisbane Waters Road and 104A & 108 Bailey Street.

There is a two storey residential town-house development nearing completion at 104A Bailey Street (approved viz DA2009/0652). The rear walls of the subject development are positioned between 0.8 - 1m from the common boundary with this adjoining development site.

The land constraints affecting the site include potential mine subsidence and acid sulphate soil.
2.0 THE PROPOSAL

The applicant seeks consent for:

- Demolition of a single storey dwelling, detached garage and the removal of one tree
- Erection of five two-storey dwellings, associated retaining walls
- One (1) lot into five (5) lot strata subdivision

The existing dwelling house is a 1950's era bungalow and detached fibro clad garage of a similar age. The tree to be removed is a Crepe Myrtle approximately 7m in height.

The proposed five new attached units are to be laid out on an east-west axis with all units having their private open space orientated north towards the neighbouring properties at No.27 Brisbane Waters Road and car-parking and access oriented on the southern side of the property towards No.31 Brisbane Waters Road.

Proposed units No's 1 & 2 form one building positioned closest to the street frontage. Units 3-5 are housed within a second building positioned on the eastern rear portion of the site. The two buildings are separated by a visitor car parking space. All proposed units are two storey in height with windows orientated north-south. All incorporate a garage (with combined laundry), rumpus room, bedroom and bathroom on the ground floor and a combined lounge / kitchen / dining opening onto a deck, 2 bedrooms and a bathroom on the first floor. Retaining walls are proposed along the northern boundary and west towards the street.

The proposal includes parking for five resident vehicles within garages and one visitor vehicles located between Units 2 and 3. The proposed landscaping scheme incorporates the provision of 4 medium size trees. Separate communal landscaped areas are located adjacent to the front and rear boundary alignments, with smaller landscaped areas to the southern boundary, between the units and bordering the communal driveway.

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

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

3.0 PUBLIC NOTIFICATION

The original proposal was notified to adjoining owners for 14 days in accordance with the provisions of Newcastle DCP 2012, with 27 submissions being received objecting to the proposal.

The proposal was been subsequently amended in response to concerns highlighted by Council officers and issues raised in public submissions.
The amended application was re-notified for 14 days and 25 submissions were subsequently received objecting to the amended proposal.

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

- Statutory and Policy Issues
- Amenity Issues
- Design and Aesthetic Issues
- Traffic and Infrastructure Issues
- Social impact
- Financial impact

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

4.0 ENVIRONMENTAL PLANNING ASSESSMENT

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

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

4.1.1 Hunter Regional Environmental Plan.

The proposal is also consistent with the provisions of the *Hunter Regional Environmental Plan*.

4.1.2 State Environmental Planning Policies.

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

State Environmental Planning Policy (SEPP) (BASIX) 2004 applies to buildings that are defined as 'BASIX affected development', being "development that involves the erection (but not the relocation) of a BASIX affected building," (i.e.: contains one or more dwelling). Accordingly the provisions of the SEPP apply to the current development proposal. In this regard the applicant submitted a BASIX Certificate (dated 16 September 2015) which list the commitments to achieve appropriate building sustainability. A condition can be attached to any development consent requiring such commitments to be fulfilled.
4.1.3 Newcastle Local Environmental Plan

The subject property is located within an R3 zone under the provisions of the Newcastle Local Environmental Plan, 2012. The proposed development is permissible with Council's consent in accordance with the land use tables of the LEP, and it is considered that the proposed development is also consistent with the zone objectives.

a) Clause 2.1 - Land Use Zones

The subject property is included within a 'R3 - Medium Density Residential' zone under the provisions of the NLEP 2012. The objectives of this zone are:

• To provide for the housing needs of the community within a medium density residential environment.
• To provide a variety of housing types within a medium density residential environment.
• To enable other land uses that provide facilities or services to meet the day to day needs of residents.
• 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.
• 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 proposed five unit development is defined as 'residential accommodation' and is permissible within the R3 zone with development consent. It is also considered that the proposal is generally consistent with the above objectives.

b) Clause 4.3 Heights of Buildings

The proposed development has an overall height of approximately 8.3m which is below the 10 metre height standard.

c) Clause 4.4 Floor Space Ratio

The proposal complies with the 0.9:1 floor space ratio (FSR) having a FSR of 0.58:1.

d) Clause 5.9 Preservation of Trees and Vegetation

The proposal includes the removal of one tree (Crepe Myrtle) with four (4) new compensatory trees are to be planted. The landscaping scheme is acceptable and will enhance the site. The proposal complies with this provision.
e) Clause 5.10 Heritage Conservation
The subject site is not State listed or locally listed for its 'local' significance in Schedule 5, Part 1 of Newcastle Local Environmental Plan 2012 and it’s not an identified archeological site or located within a Heritage Conservation Area.

f) Clause 6.1 Acid Sulphate Soil
The site is impacted by Class 5 Acid Sulphate Soil. As the site is not located on close proximity to Class 4 Acid Sulphate Soil, no ASS management plan is required.

g) Clause 6.2 Earthworks
To facilitate the development, the proposal includes the construction of retaining walls to neighbouring properties with consequent changes to site levels. The Councils Engineer has advised the building is acceptable subject to conditions and the proposal complies with this provision.

4.2 Merit Considerations
4.2.1 Relevant Strategic Policies
4.2.2 Newcastle Development Control Plan [Section 79C(1)(a)(iii)]

a) 3.01 Subdivision
The proposal seeks consent for a five (5) lot strata sub-division. The sub-division plan is consistent with the development plans and the subdivision requirements as outlined in the LEP.

b) 3.04 Attached Dwellings and Multi Dwelling Housing
Generally, the development introduces a compact urban form but also provides a good level of amenity for future residents, as well as adjoining landholders. The development represents a more rational use of this larger allotment and provides much needed family homes for Newcastle residents in an area strategically identified to accommodate medium density growth.

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

7.01 Building Design Criteria

a) 7.01.01 Height of Building
The proposal complies with the height envelope of 10m.

b) 7.01.02 Density - Floor Space Ratio
The proposal complies with the 0.9:1 floor space ratio (FSR) having a FSR of 0.58:1
c) 7.01.04 Streetscape and Front setbacks

The proposal has a front wall setback of 5m from the street which is consistent with the existing buildings on adjoining lands to the north and south on Brisbane Waters Road.

The built form in the area is distinguished by horizontal slatted timber, single storey properties with red tiled hipped roofs. Most front gardens are either open or have fencing of approximately a metre in height. There is no public footpath within the street but there is wide grass verge 4m in depth. Most homes in the street appear constructed between 1940’s - 1960’s including some more modern single storey brick dwellings at 17 and 19 Brisbane Waters Road, or two storey timber constructions (24 Brisbane Waters Road).

A higher density townhouse development at 104A Bailey Street is nearing completion, and this abuts the subject property for 25m along the north-eastern boundary. There are also a number of low-medium density single storey attached bungalow developments at 7, 11, and 15 Powell Street. These appear to have been constructed in the 1970’s or 1980’s with very large footprints and little landscaping or open space typical of that period. As buildings in the street are replaced, this part of Adamstown will likely transition to a higher density commensurate with its R3 zoning.

Units 1 will primarily be visible from the street as the site slopes steeply away to the east. The units have a modern appearance incorporating a shallow single pitched roof of colorbond / orb sheeting, weatherboard panels and rendered hebel panels with aluminium framed windows. This style will contrast with the prevailing hipped roof profile dominant in the immediate area, but is not considered to be in conflict. The development also provides for the driveway to be angled into the site to avoid the power-pole. Its design, although unusual, would have an acceptable appearance.

Unit 1 is sunk 1 - 2m below existing ground level behind a 900mm retaining wall, and presents a 4m high wall to the street. The balcony of Unit 1 has its first floor deck oriented to the street and its frontage includes the planting of two semi-mature native Ivory Curl Trees (mature height 6 - 8m) which will enhance the buildings setting. In addition, there is a street tree directly outside the site on the verge which will require relocation or replacement. Whereas this is presently at an immature stage, this will provide additional streetscape value. The frontage satisfactorily addresses the street.

The development has a modern appearance of high quality. The use of trees and other planting and the variety of styles and materials contributes to a varied streetscape.

a) 7.01.05 Side and Rear Setbacks

The proposal complies with the side setbacks as the dwellings are centrally located within the site.

b) 7.01.06 Open Space

Calculations demonstrate sufficient private open space has been provided for all units consisting of a hard and soft landscaping. All units have access into the rear gardens from garages which are more likely to result in the satisfactory upkeep of landscaped areas.
c)  7.01.08 Solar Access

The original scheme had units located 2m from the southern boundary, the revised scheme provides for a more acceptable outcome. The dwellings are orientated north - south and provide appropriate levels solar access for users. Mid-winter shadowing diagrams indicate some impact to residential rear gardens at 31 Brisbane Waters Road. However, given the increased separation between the proposed units, the additional extent of shadowing impact is acceptable.

d)  7.01.09 Views, Privacy and Noise

Visual impact

The proposed dwellings have been centrally located orientated east - west with significant setbacks to the all boundaries. Units 1 form a pair of semi-detached buildings with Units 3, 4 and 5 forming another block. The original scheme provided visitor parking within the sites frontage with no break between units. The amended scheme relocates visitor parking between Units 2 and 3 providing a visual break in the buildings massing.

The structures have been articulated with garages and part of the first floor set back from the laneway 2m. The buildings' impact is softened by the presence of existing trees in neighbouring gardens and additional tree planting to the proposed front and rear gardens.

Dwellings 3, 4 and 5 will face onto the town houses being constructed at 104A Bailey Street.

Privacy

The proposed living / dining / kitchen areas are located at first floor level. To the north, these open onto decks and there is a privacy and overlooking impact upon 27 Brisbane Waters Road. To mitigate this, it is recommended that the balustrades to the balconies of Units 2 and 3 be conditioned to be raised from 1m to 1.5m in height above finished floor level and constructed of opaque / obscure glazing. The deck of Unit 1 is orientated to the street. The deck of Units 4 and 5 faces onto the southern flank wall of the townhouses at 104A Bailey St. These townhouses have highlight and obscure glazed windows facing south and there is no loss of privacy impact.

First floor kitchen / dining room windows face south onto no.31 Brisbane Waters Road at a distance of 5m from the common boundary. In particular, the windows of Unit 2 face onto the flank wall bedroom / living room windows that are subject to overlooking. Although there is significant tree screening at no.31, there is the potential for overlooking. To mitigate this potential privacy impact, it is recommended that the first floor south facing kitchen and dining room windows of Units 2 - 5 are obscure/ opaque glazed up to 1.5m above finished floor level.

It is also recommended that the south facing first floor windows are conditioned to be opaque / obscure glazing to 1.5m in height above finished floor level.
Noise and Pollution

It is acknowledged that the development represents a significant change in intensity of use, and this must be balanced against the benefits of providing an additional 5 family homes in this area that is identified for increased population density.

There is likely to be some upturn in noise and disturbance as a consequence of use of the driveway and the use of residential rear gardens abutting neighbouring gardens. However, 1.8m high colorbond fence along the northern, southern and eastern boundaries will significantly mitigate any likely adverse impacts.

There could be some impact of light overspill to adjoining and nearby residents from cars entering and leaving the site. However, the Councils Traffic Officer has assessed this impact as being acceptable as the number of vehicle trips are likely to be reduced at night. In addition, the 1.8m high colorbond fencing is likely to contain most potential light overspill.

Air Circulation

The relationship between the newly constructed development at 104A Bailey Street and proposed units 3, 4 and 5 is far from optimal and there is likely to be reduced air circulation between the respective units. However, for reasons already stated, it would be unreasonable to request any substantive changes to the building envelope of the proposed units and any development on the subject site will to some extent change the existing air circulation patterns in the immediate locality.

e) 7.01.10 Fencing and Walls

The proposals include provision of a 1.8m high colorbond fencing along the northern, southern and eastern boundaries. There are no objections to this fence design which is unlikely to be visible from the street given the steep fall of the land.

f) 7.01.11 Utilities and Services

Waste bins have been indicated to be stored within the garages prior to being presented to the street. Unit 6 is located 65m from the street front and there is a 12m fall west to east. It is considered unrealistic for residents to pull bins this distance. A more practical solution would be for refuse and bulk storage to be collected and loaded wholly within the site and this is recommended by condition. This would also maintain the appearance of the frontage.

Whilst no storage areas have been indicated on the submitted plans, the units are of sufficient size to accommodate 6 cubic metres required by the DCP.

g) 7.02 Landscape, Open Space and Visual Amenity

There is a requirement to provide 25% landscaping as a proportion of total lot area with 15 % deep soil. Calculations demonstrate that 20% landscaping with 10% deep soil has been provided. There is additional buffer planting at the boundary of the dwelling and the driveway, but due to its width this is not included within the landscaping calculations. However, this landscaping strip will contribute to the greening of the site.
The non-compliance is summarised below:

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<th>DCP Requirement</th>
<th>Proposed</th>
<th>Difference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total landscape %</td>
<td>25%</td>
<td>20%</td>
<td>- 5%</td>
</tr>
<tr>
<td>Total landscape m2</td>
<td>241m2</td>
<td>194m2</td>
<td>- 47m2</td>
</tr>
<tr>
<td>Deep soil %</td>
<td>15%</td>
<td>10%</td>
<td>- 5%</td>
</tr>
<tr>
<td>Deep soil m2</td>
<td>145m2</td>
<td>96.6m2</td>
<td>- 48.4m2</td>
</tr>
</tbody>
</table>

To achieve the minimum 25% would require a reduction in total development yield and a complete redesign of the layout and building form of the development.

Whilst the applicants have not fully articulated this non-compliance, it is considered that the new landscaping provision as proposed is configured in a logical and practical way, and generally is of appropriate quality, if not quantity.

It is also considered that to achieve the numerical compliance may unnecessarily comprise the functionality of the private open space areas attached to each unit.

In terms of compensatory plantings, it is also determined that the proposed enhancement new tree coverage adequately covers for the loss of the existing tree.

h) 7.03 Traffic, Access and Parking

There is no on-street parking restrictions in Brisbane Waters Road. Aerial photos from 2011 - 2015 (consecutive) indicate there is ample on-street parking, at least during the day.

The proposal provides for the minimum 1 off street car parking space per dwelling and 1 visitor space. Bicycle provision has not been indicated, although there appears space within the garages and private courtyards attached to each unit to provide bicycle parking so a formal request to indicate on the plans is not required.

The Councils Traffic Officers support the proposed parking provision and notes that the development will result in a small increase in traffic on the local road network (1 to 2 vehicles per hour) that will not have any tangible impact on road network efficiency in the surrounding area.

The garages include the provision of a laundry. From the back of the sink to the garage doors is a distance of 7m which would provide ample space for most cars and adequate manoeuvring area to use the laundry facilities whilst a vehicle is garaged.

5.0 PUBLIC PARTICIPATION

The proposal was notified in accordance with the requirements of this section. Twenty-five submissions were received during the second notification period with the following matters raised:
i) Statutory and Policy Issues:

Objection - The site is not large enough to accommodate 5 units and the overhang of the first floor help demonstrate this.

Response:
The assessment report identifies that the development complies with all the LEP controls and all but one of key DCP controls (detailed above).

Objection - Development will lead to parking overspill onto surrounding streets.
Response:
The assessment report confirms traffic and parking impacts are satisfactory (see above).

Objection - The development does not meet the minimum requirements of the DCP for landscaping and results in a 39m² shortfall.
Response:
The assessment report identifies that whereas this is a numerical shortfall, sufficient landscaping is provided (detailed above). The proposed landscaping and open space is of a dimension, orientation, juxtaposition and format that encourage its use for both active and passive purposes. Whilst its overall size may be sub optimal, its attributes mean that it is likely to be well used and appreciated.

ii) Amenity Issues:

Objection - There will be severe disturbance from construction work especially to shift workers and babies.
Response:
Whilst is acknowledged that noise and disturbance would be greater in the day, hours of construction are recommended to ensure this is kept to a minimum.

Objection - Light Pollution from vehicles entering the driveway.
Response:
The assessment report identifies the amenity impact (detailed above).

Objection - Loss of privacy as the amended plan now has all 5 units looking directly into neighbouring yards.

Objection - Air Circulation - The development will prevent through breezes across the site.
Response:
The assessment report identifies the amenity impact (detailed above) and existing air circulation patterns will be altered, but not to an extent that warrants either a substantial redesign of the development or refusal of the application.

Objection - Solar access as the development creates unacceptable additional shadowing impact. The shadowing diagrams provided are questionable.
Response:
The assessment report identifies the solar impact is acceptable (detailed above).
Objection - View loss as the amended plan will ruin north and north east views for southerly properties and towers over properties in Bailey Street.
Response:
The assessment report identifies the developments visual impact (detailed above).

iv) Traffic and Infrastructure Issues:

Objection - Inadequate parking has been provided.
Response:
The assessment report identifies the quality and parking and traffic impacts (detailed above) of this development. These impacts are considered reasonable.

Objection - Driveway as the curved driveway to avoid the power-pole in an accident waiting to happen.
Response:
The Council's Engineer has advised that the driveway edge would be located at a safe distance from the power pole.

Objection - Storm water and sewage - 80% of the rainfall at this property will go into the sewerage system compared to 20% of the existing dwelling.
Response:
The DA is subject to recommended conditions for referral to Hunter Water. This will include an assessment of the impact of water into sewerage system

v) Miscellaneous

Objection - Re-consultation as two weeks is insufficient time to respond in comparison to the length of time the applicant has to respond.
Response:
The application was notified in accordance to Council requirements.

Objection - Loyalty as the area is dominated by loyal residents that have stuck to the no development zone rule.
Response:
The assessment report identifies the social impacts of the development, and the proposal is considered to be acceptable in this regard (detailed above).

Objection - Financial impact as the development will lead to a devaluing of property values.
Response:
The Council is unable to take into consideration the potential devaluing of land.
4.2.4 Social and Economic Impacts in the Locality [Section 79C(1)(b)]

4.04 Safety and Security
The proposed design includes the orientation of the deck and living space of Unit 1 to the street which will provide adequate levels of natural surveillance to the street. First floor living rooms and bedrooms look out onto the common access road within the development providing additional surveillance for residents.

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

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 the Mine Subsidence Board. 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 [Section 79C(1)(d)]

This report has considered and addressed the various concerns raised in the submissions received in response to the Public Notification under the Act and Regulation. Valid planning objections have been taken on board and amendments made to mitigate unreasonable impacts. Overall, it is considered that the remaining objections do not warrant the refusal of the application.

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. In particular, as a consequence of the development an additional 4 trees will be planted to replace the tree to be removed.

A NatHERS assessment has been undertaken in respect of the proposed dwelling/s, each of which exceeds the required minimum 3.5 Star energy rating.

The existing property is a 1950's timber weather board dwelling with a red tiled roof, which will be demolished along with the detached garage. Although contributing to the character of the street, the dwelling has no heritage value and its loss is offset by the gain of 5 additional modern dwellings.
CONCLUSION

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

Subject to a number of relevant conditions as recommended in the attached draft condition schedule, the proposal is considered to be acceptable against the relevant heads of considerations under section 79C of the Environmental Planning and Assessment Act 1979.

ATTACHMENTS

Attachment A: Plans and Elevations of proposed development as Amended 15 March 2016 - 29 Brisbane Water Road, Adamstown (DA 2015/10216)

Attachment B: Draft Schedule of Conditions - 29 Brisbane Water Road, Adamstown (DA 2015/10216)

Attachment C: Processing Chronology - 29 Brisbane Water Road, Adamstown (DA 2015/10216)
DRAFT SCHEDULE OF CONDITIONS
DA 2015/10216 - 29 BRISBANE WATER ROAD, ADAMSTOWN

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 78C(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>Topographical Survey 9004_1</td>
<td></td>
<td>Earth Surveying</td>
<td>05.07.2015</td>
</tr>
<tr>
<td>Site Plan 1 of 10</td>
<td>G</td>
<td>Sorensen Design and Planning</td>
<td>15.03.2016</td>
</tr>
<tr>
<td>Existing Site Plan 2 of 10</td>
<td>G</td>
<td>Sorensen Design and Planning</td>
<td>15.03.2016</td>
</tr>
<tr>
<td>Floor Plans Units 1 and 2 of 10</td>
<td>G</td>
<td>Sorensen Design and Planning</td>
<td>15.03.2016</td>
</tr>
<tr>
<td>Elevations Units 1 and 2 of 10</td>
<td>G</td>
<td>Sorensen Design and Planning</td>
<td>15.03.2016</td>
</tr>
<tr>
<td>Floor Plans Units 3,4 and 5 of 10</td>
<td>G</td>
<td>Sorensen Design and Planning</td>
<td>15.03.2016</td>
</tr>
<tr>
<td>Elevations - Units 3, 4 and 5 of 10</td>
<td>G</td>
<td>Sorensen Design and Planning</td>
<td>15.03.2016</td>
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<td>Elevations - Units 3, 4 and 5 of 10</td>
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<tr>
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<td>15.03.2016</td>
</tr>
<tr>
<td>Subdivision Plan 9 of 10</td>
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<td>15.03.2016</td>
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<td>Shadow Diagrams 10 of 10</td>
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<td>15.03.2016</td>
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<tr>
<td>Section Detention Tank</td>
<td>C</td>
<td>Forum Consulting Engineers</td>
<td>12.04.2016</td>
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<tr>
<td>Proposed Outlet Line</td>
<td>B</td>
<td>Forum Consulting Engineers</td>
<td>01.09.2015</td>
</tr>
</tbody>
</table>
In the event of any inconsistency between conditions of this development consent and the plans/supporting documents referred to above, the conditions of this development consent prevail.

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

3. A total monetary contribution of $11,271.72 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>Approximate 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. On-site parking accommodation is to be provided for a minimum of 8 vehicles and such be set out generally in accordance with the minimum parking layout standards indicated in Element 7.03 ‘Traffic, Parking and Access’ of Council’s adopted Newcastle
Development Control Plan 2012. Full details are to be included in documentation for a Construction Certificate application.

5. The car park is to be designed to comply with AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking and AS/NZS 2890.8:2009 - Parking facilities - Off-street parking for people with disabilities. Full details are to be included in documentation for a Construction Certificate application.

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

7. The visitor parking bays are to be constructed in paving bricks or in a suitable alternative visually unobtrusive paving material which contrasts in colour and texture with that used in the construction of the driveway. Full details are to be included in documentation for a Construction Certificate application.

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

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

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

11. All stormwater runoff from the proposed development being managed in accordance with the requirements of Element 7.06 'Stormwater of Newcastle Development Control Plan 2012, the associated Technical Manual and the latest issue of AS 3500.3 as applicable, as indicated on the stormwater management concept plan prepared by Forum Consulting Engineers Drawing No.'s 51014-SWD Sheets 01 to 03 Revision D dated 01/07/16, except as amended by this consent. Full details are to be included in documentation for a Construction Certificate application.

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

13. All proposed planting and landscape elements indicated on the submitted landscape concept plan or otherwise required under the conditions of this consent are required to be detailed on a comprehensive landscape design plan and specification. The required comprehensive landscape design plan and specifications is to be in accordance with the provisions of Newcastle Development Control Plan 2012 and is to include details of the following:
a) cross sections through the site where appropriate
b) proposed contours or spot levels
c) botanical names
d) quantities and container size of all proposed trees
e) shrubs and ground cover
f) details of proposed soil preparation
g) mulching and staking
h) treatment of external surfaces and retaining walls where proposed
i) drainage, location of taps and
j) appropriate maintenance periods.

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

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

15. Any required clothes drying lines are to be screened from the street. Full details are to be included in the documentation for a Construction Certificate application.

16. 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.

17. 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.

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

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

Note: The Board advises that it will be necessary for the working drawings to be certified by a qualified Structural Engineer to the effect that the proposed building works will be safe, serviceable and repairable having regard to the following mine subsidence parameters:

a) Design pit hole of nominal diameter 5000 mm
b) Work as executed drawing to be submitted to the Board, certified by a qualified Structural Engineer that all improvements have been constructed in compliance with the plans approved by the Board
c) No cavity or internal brick walls
d) Absolute maximum height of foundation brickwork not to exceed 1.5 metres
e) For brick veneer construction, the design to incorporate special features into the building (panellised brickwork and/or control joints etc) and
f) No raft or infill slabs.

20. 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 3 metres wide.
   c) Letterboxes, landscaping and any other obstructions to visibility should be kept clear of or limited in height to 1.2 metre, in the 2 metre by 2.5 metre splay within the property boundary each side of the driveway entrance.
   d) The proposed driveway shall be a minimum of 3 metres clear of the trunk of any tree within the public reserve.
   e) The proposed driveway shall be a minimum of 750mm clear of the centre of any pole or obstruction within the public reserve and 1 metre clear of any drainage pit.

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

21. 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.

22. All existing trees located on neighbouring properties with trunks situated less than 5m from the site boundary are to be retained and adequately protected against damage during the building construction (including retaining walls construction) in accordance with Australian Standard 4970-2009 Protection of Trees on Development Sites. A Tree Protection Plan prepared by a suitably qualified arborist (with at least AFQ 4 in Horticulture (Arboriculture)) detailing the tree protection zone and tree protection measures required by AS4970 2009 is to be included in documentation for a Construction Certificate application.

23. The first floor north, east and west facing balustrades of the decks of Units 2 and 3 shall be increased to 1.5m in height and shall be constructed of framed opaque / obscure glazed panels. Full details are to be included in the documentation for a construction certificate.

24. The first floor south facing kitchen and dining room windows of Units 2 - 5 shall be completed in opaque / obscure glazing to be fixed with sills at least 1.5m above finished floor level or be opaque / obscure glazed or highlight windows with sills at least 1.5m above finished floor level. Full details are to be provided in the documentation for a Construction Certificate application.

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

25. Toilet facilities are to be available or provided at the work site before works begin and be maintained until the works are completed, at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.
   Each toilet is to:
   a) Be a standard flushing toilet connected to a public sewer, or
b) Have an on-site effluent disposal system approved under the Local Government Act 1993 (NSW), or
c) Be a temporary chemical closet approved under the Local Government Act 1993 (NSW).

26. A Hazardous Substances Management Plan is to be prepared by a competent person for the building(s) or parts of the building(s) proposed to be demolished in accordance with Australian Standard 2601:2001 - The Demolition of Structures. A copy of the Hazardous Substances Management Plan is to be provided to Council (marked to Attention: Compliance Services) and the demolisher prior to commencement of work.

27. The demolition works are to be undertaken in accordance with Australian Standard 2601:2001 - The Demolition of Structures and the following requirements:

a) Demolition works shall be conducted in accordance with the submitted Hazardous Substances Management Plan and a copy of the Hazardous Substances Management Plan shall be kept on-site for the duration of the proposed development
b) The removal, handling and disposal of any asbestos material is to be undertaken only by an asbestos removal contractor who holds the appropriate class of Asbestos Licence, issued by the WorkCover Authority of NSW
c) A copy of all waste disposal receipts are to be kept on-site for the duration of the proposed development and made available to authorised Council Officers upon request
d) Seven working days’ notice in writing is to be given to Council and the owners/occupiers of neighbouring premises prior to the commencement of any demolition works. Such written notice is to include the date demolition will commence and details of the name, address, contact telephone number(s) and licence details (type of licences held and licence numbers) of any asbestos removal contractor and demolition contractor. Notification to owners/occupiers of neighbouring premises shall also include Council’s contact telephone number (49742000) and the WorkCover Authority of NSW telephone number (49212900) and

e) On sites where asbestos materials are to be removed, a standard commercially manufactured sign containing the words ‘DANGER ASBESTOS REMOVAL IN PROGRESS’ measuring not less than 400mm x 300mm is to be erected in a prominent position during asbestos removal works.

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

29. Any waste containers used in association with the proposed demolition are to be located on the site where possible.

Note: Where this is not feasible, application must be made for Council’s approval to position the container on the adjacent public road in accordance with Council’s adopted Building Waste Container Policy.

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

31. Any demolition/waste building materials that are not suitable for recycling are to be disposed of at Council’s Summerhill Waste Management Facility or other approved site.
32. Waste management shall be implemented in accordance with the approved Waste Management Plan (Sorensen Design - July 2011). 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).

33. 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.

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

35. 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.

36. 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.

37. 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.

38. 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.
39. The existing overhead powerlines adjacent to the site are to be repositioned underground or alternatively being modified by the installation of bundled conductors, all at full cost to the developer and in accordance with the requirements of the electricity authority.

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

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

42. 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.

43. Council’s ‘PREVENT POLLUTION’ sign is to be erected and maintained in a conspicuous location on or adjacent to the property boundary so it is clearly visible to the public or at other locations on the site as otherwise directed by Council for the duration of demolition and construction work.

Note: Council’s ‘PREVENT POLLUTION’ sign can be obtained by presenting your development application receipt at Council’s Customer Enquiry Counter at 282 King Street Newcastle.

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

45. Any fill material imported into the site is to be Virgin Excavated Natural Material or material subject to a Resource Recovery Order that is permitted to be used as a fill material under the conditions of the associated Resource Recovery Exemption, in accordance with the provisions of the Protection of the Environment Operations Act 1997 and the Protection of the Environment (Waste) Regulation 2014.

46. Erosion and sediment control measures are to be implemented prior to the commencement of works and maintained during the period of demolition and/or construction in accordance with the requirements of Managing Urban Stormwater: Soils and Construction 4th Edition - Vol. 1 (the ‘Blue Book’) published by Landcom, 2004. Controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover.

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

48. All necessary measures are to be undertaken to control dust pollution from the site. These measures must include, but are not limited to:
   a) Restricting topsoil removal
b) Regularly and lightly watering dust prone areas (note: prevent excess watering as it can cause damage and erosion

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

d) Erect green or black shadecloth mesh or similar products 1.8m high around the perimeter of the site and around every level of the building under construction.

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

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

51. All public trees that are required to be retained must be physically protected in accordance with the City of Newcastle Urban Forest Technical Manual ‘Section 8.0 Protection Measures’.

The tree protection fencing must remain in place and maintained until all works have been completed, with no waste materials, washouts, equipment or machinery to be stored within the fenced area.

52. The developer shall contact Council’s City Greening Services to arrange for the removal of an existing street tree ID43404 and the planting of a suitable replacement tree. The replacement street tree will be planted in the verge in front of the property, at least 3 metres from the proposed driveways and driveways of any adjoining property. All tree works are at the Developers expense and completed by Council. The tree selection will be in accordance with “The City of Newcastle’s Street Tree Master Plan”. City Greening Services are to be contacted a minimum of 14 days, before the commencement of works on the driveway on 4974 6043.

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

53. 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.

54. All public footways, footpaving, kerbs, gutters and road pavement damaged during the works are to be immediately repaired following the damage, to a satisfactory state that provides for safe use by pedestrians and vehicles. Full restoration of the damage is to be carried out to Council’s satisfaction prior to the completion of demolition work or prior to the issue of any occupation certificate in respect of development involving building work.

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

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

57. 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.

58. 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.

59. 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.

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

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

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

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

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

65. The waste collection for the development being undertaken by a private contractor, or Council, within a revised Site Waste Management and Minimisation Plan. The service must:
   - load the waste to the truck entirely within 29 Brisbane Water Road's property boundary
   - service standard, bulk and recycling waste.
   - Green waste service is to be separately handled as part of the landscape management of the site.

Full details are to be submitted with an application for an Occupation Certificate.

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

The minimum numeral heights shall be:
   a) Exterior of the building = 75mm and
   b) Group mailbox - street number = 150mm
      - house number = 50mm
CONDITIONS TO BE SATISFIED DURING THE OPERATION AND USE THE DEVELOPMENT

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

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

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

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

DA2015/10216 - 29 Brisbane Water Road, Adamstown

House Numbering Allocation

<table>
<thead>
<tr>
<th>Lot/Unit Number on plan</th>
<th>Council Allocated Street Addresses</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>House Number</td>
</tr>
<tr>
<td>1</td>
<td>1/29</td>
</tr>
<tr>
<td>2</td>
<td>2/29</td>
</tr>
<tr>
<td>3</td>
<td>3/29</td>
</tr>
<tr>
<td>4</td>
<td>4/29</td>
</tr>
<tr>
<td>5</td>
<td>5/29</td>
</tr>
</tbody>
</table>

71. No garbage / recycling bins or other waste for collection is to be placed within the front setback, public footpath or street.

72. Waste Management and collection is to be managed in accordance with the revised Site Waste Management and Minimisation Plan (see condition 65).

73. The first floor north, east and west facing balustrades of the decks of Units 2 and 3 shall be shall be maintained and retained in good condition.

74. The first floor south facing kitchen and dining room windows of Units 2 - 5 shall be completed in opaque / obscure glazing shall be retained and maintained in good condition.

ADVISORY MATTERS

75. 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.

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

77. 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.

78. 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.

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

80. 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.

81. 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.

82. 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).

83. 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.

84. 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

FIRE SAFETY SCHEDULE

Conf
## PROCESSING CHRONOLOGY  
**DA2015/10216 – 29 BRISBANE WATER ROAD, ADAMSTOWN**

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>09 November 2015</td>
<td>Development application lodged with Council.</td>
</tr>
<tr>
<td>19 November 2015</td>
<td>Public exhibition (14 days).</td>
</tr>
<tr>
<td>24 December 2015</td>
<td>Applicant advised application could not be supported.</td>
</tr>
<tr>
<td>11 January 2015</td>
<td>Following applicant's request, meeting at Council.</td>
</tr>
<tr>
<td>25 January 2015</td>
<td>Concept plan received.</td>
</tr>
<tr>
<td>22 February 2015</td>
<td>Revised drawings received.</td>
</tr>
<tr>
<td>24 March 2015</td>
<td>Public exhibition (14 days).</td>
</tr>
<tr>
<td>04 April 2015</td>
<td>Revised landscaping drawing received.</td>
</tr>
<tr>
<td>13 April 2015</td>
<td>Revised stormwater plans received.</td>
</tr>
<tr>
<td>16 August 2016</td>
<td>Request for Further Information.</td>
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