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 16 February 2016

**TIME:** Following the Briefing Committee

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

F Cordingley
Interim Chief Executive Officer

**City Administration Centre**
**282 King Street**
**NEWCASTLE  NSW  2300**

5 February 2016

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CONFIRMATION OF PREVIOUS MINUTES

MINUTES OF DEVELOPMENT APPLICATIONS COMMITTEE MEETING 1 DECEMBER 2015

RECOMMENDATION

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

ATTACHMENTS

Attachment A: 51201 Development Applications Committee Minutes

Note: The attached minutes are a record of the decisions made by Council at the meeting and are draft until adopted by Council. They may be viewed at www.newcastle.nsw.gov.au
CITY OF NEWCASTLE

Minutes of the Development Applications Committee Meeting held in the Council Chambers, 2nd Floor City Hall on Tuesday 1 December 2015 at 7.14pm.

PRESENT
The Lord Mayor (Councillor N Nelmes), Councillors D Clausen D Compton, T Crakanthorp, T Doyle, J Dunn, B Luke, M Osborne, S Posniak, A Robinson and A Rufo.

IN ATTENDANCE
F Cordingley (Interim Chief Executive Officer), G Cousins (Director Corporate Services), G Essex (Acting Director Infrastructure), P Chrystal (Director Planning and Regulatory), M Blackburn-Smith (Manager Development and Building), F Giordano (Manager Council & Legal Services), K Baartz (Communications), A Leach (Council Services/Minutes) and J Redriff (Council and Legal Services/Webcasting).

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.

APOLOGIES

MOTION
Moved by Cr Luke, seconded by Cr Rufo

The apologies submitted on behalf of Councillors Tierney and Waterhouse be received and leave of absence granted.

Carried

DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTERESTS

Councillor Luke
Councillor Luke declared a non-pecuniary significant interest and said that a family member lived and owned property in close proximity to the development application site and indicated he would leave the Chamber when the item was discussed.

Councillor Clausen
Councillor Clausen declared a significant pecuniary interest and said he owned a property in close proximity to the development application site and indicated he would leave the Chamber when the item was discussed.
**Councillor Compton**

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

**CONFIRMATION OF PREVIOUS MINUTES**

**MINUTES OF DEVELOPMENT APPLICATIONS COMMITTEE HELD 20 OCTOBER 2015**

**MOTION**

Moved by Cr Osborne, seconded by Cr Rufo

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

**DEVELOPMENT APPLICATIONS**

**ITEM-9 DA 2014/1441 - 52 MAITLAND ROAD, MAYFIELD - DEMOLITION OF THE EXISTING BUILDINGS ON THE SITE AND ERECTION OF A 5/6 STOREY MIXED DEVELOPMENT WITH TWO GROUND FLOOR COMMERCIAL UNITS, 41 RESIDENTIAL UNITS AND 46 ASSOCIATED PARKING SPACES**

Councillors Luke and Clausen retired from the Chamber for the discussion on this item at 7.19pm.

**MOTION**

Moved by Cr Crakanthorp, seconded by Cr Rufo

1. Council notes the objection under clause 4.6 Exceptions to Development Standards of Newcastle Local Environmental Plan 2012, against the development standard at clause 4.3 Height of Buildings, and Council considers the objection to be justified in the circumstances and consistent with the aims of the relevant LEP clause;

2. Council notes the variation to Section 6.04 Islington Renewal Corridor of Newcastle Development Control Plan 2012 and Council considers the variation to be justified in the circumstances; and

3. That the application for the demolition of the existing buildings on the site and erection of a 5/6 storey mixed development with two ground floor commercial units, 41 residential units and 46 associated parking spaces 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: Lord Mayor Cr Nelmes and Councillor Compton, Crakanthorp, Dunn, Doyle, Osborne, Posniak, Robinson and Rufo.

Against the Motion: Nil. Carried

Councillors Luke and Clausen returned to the Chamber at the conclusion of this item at 7.28pm.

The meeting concluded at 7.29pm.
DEVELOPMENT APPLICATIONS

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

APPLICANT: J PASTERFIELD
OWNER: J PASTERFIELD AND A COLE
REPORT BY: PLANNING AND REGULATORY
CONTACT: DIRECTOR PLANNING AND REGULATORY / MANAGER DEVELOPMENT AND BUILDING SERVICES

PART I

PURPOSE

An application has been received seeking consent to carry out alterations and additions to the existing dwelling at 10 Church Street Newcastle.

A copy of the submitted plans for the proposed development is included, refer to Attachment A.

The proposed development has been notified in accordance with Council’s Public Notification policy and one submission was received in response. Details of the submission 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.

The proposed development has been lodged as nominated integrated development given the allotment is listed on the State Heritage Register. General Terms of Approval have been issued from the Heritage Council of NSW on 4 August 2015.

The application has been referred to Council's Development Applications Committee for determination as the proposed development has been called up to Council by two Councillors

Issues
• Whether a minor non-compliance with the FSR principal development standard under the Newcastle LEP 2012 is justified.
• Whether the proposal is an overdevelopment of the site.

Conclusion

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

RECOMMENDATION

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

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

Political Donation / Gift Declaration

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

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

1.0 THE SUBJECT SITE

The subject property comprises Lot 9, DP 24188 and is small rectangular shaped allotment located on the northern side of Church Street in Newcastle. The site has front and rear dimensions of 5.588m and 5.332m respectively, and side boundary dimensions of 18.396m (east) and 18.435m (west). The total site area of the subject site is 94.8m². The site falls to the rear and is occupied by an attached three storey masonry terrace with basement.

The subject site forms part of the 'Buchanan Terraces and Footpath' development which includes the adjoining three-storey attached terraces with basements of mixed use.

The general form and built character of development in the immediate area predominantly consists of three storey terrace buildings with basements; heritage buildings; and a number of more recent late-twentieth century and contemporary designed buildings.

2.0 THE PROPOSAL

The applicants seek consent to complete alterations and additions to the existing attached terrace. The proposed include a new laundry and bin store to the courtyard adjacent to the basement; and alterations to the existing building including an open entertainment and media room with bathroom to the basement; an open kitchen and living room to the ground floor level; and a sitting room and bedroom with ensuite to the first floor level and two bedrooms (one with an ensuite) to the second floor level.

A copy of the submitted plans is 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 publicly notified in accordance with Council’s Public Notification policy for a period of 30 days and (1) submission was received in response.

The concerns raised by the objector in respect to the proposed development are primarily related to heritage significance.

The objector’s concerns are addressed under the relevant matters for consideration in the following section of this report.

4.0 ENVIRONMENTAL PLANNING ASSESSMENT

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

4.1.2 Newcastle Local Environment Plan 2012

The proposed height of the new development (laundry and bin store) is approximately 3.2m, which complies with the maximum height limit of 14 metres. It is recognised the existing height of the terrace will remain unchanged under this application.

The existing dwelling has a calculated gross floor area (GFA) of approximately 185.4m², equating to an FSR of 1.96:1.

The proposed alterations and additions will increase the GFA by approximately 3.2m², resulting in a FSR of 1.99:1. The proposed development does not comply with the maximum FSR requirement of 1.5:1.

The objectives of FSR (Clause 4.4 of the Newcastle LEP 2012) are:

4.4 Floor space ratio

(1) The objectives of this clause are as follows:

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

Clause 4.6 of the Newcastle LEP 2012 permits Council to approve a development even though the development may contravene a development standard. The objectives of Clause 4.6 are:

4.6 Exceptions to development standards

(1) The objectives of this clause are as follows:

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,
(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.
(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

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

(b) that there are sufficient environmental planning grounds to justify contravening the development standard…

The applicant's submission in support of their request to vary the development standard relating to FSR makes the following points:

The small proposed addition is consistent with spaces existing on adjacent properties in scale, height and use (services). These properties form a single listing on the State Heritage Register. Strict compliance is not possible with the existing buildings FSR exceeding the standard.

In accordance with Clause 4.6 of the Newcastle LEP 2012, it is considered the applicant has provided adequate justification demonstrating compliance with the development standard is unreasonable in the circumstances of this case. It is considered there are sufficient environmental planning grounds to justify the contravention of the development standard. The applicant’s submission has also demonstrated the development suitably complies with the R4 zone objectives.

It is noted that the increase in floor space of proposed (3.2m2) will not increase the overall height of the building, its scale, bulk or have a detrimental effect on the existing amenity enjoyed by adjoining owners.

4.1.3 State Environmental Planning Policies

The proposed development is not contrary to the provisions of any relevant State Environmental Planning Policy.

4.2 Merit Considerations

4.2.1 Relevant Strategic Policies

It is considered the proposed development complies with the density provisions of the Newcastle Urban Strategy.

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

The proposed development has been assessed against the relevant provisions of Council's DCP and is considered generally satisfactory, with the following comments provided beneath regarding Section 3.02 (Single Dwellings), Section 5.05 (Heritage Items), Section 5.07 (Heritage Conservation Areas) and Section 6.01 (Newcastle City Centre):

a) Section 3.02 (Single Dwellings)
The proposed development has been considered having regard to the provisions of Section 3.02 (Single Dwellings) of the Newcastle Development Control Plan 2012 and is deemed to comply with the relevant performance criteria.

It has been assessed the proposed development does not comply with relevant landscaping (Section 3.02.07) and car parking (Section 3.02.09) provisions. Given that the proposed development is not seeking to alter the existing historical deficiencies, the proposed development is therefore considered reasonable under the circumstances.

b) Section 5.05 (Heritage items)

The proposed development has been considered having due regard to the provisions of Section 5.05 (Heritage Items) of the Newcastle Development Control Plan 2012 and is deemed to comply with the relevant objectives.

The proposed development will not adversely impact on any surrounding State heritage items, including the Buchanan Terrace and footpath group (10 - 30 Church Street); Macquarie House (8 Church Street) and Watt Street Terraces (50 - 62 Watt Street).

The proposed development was referred to the Heritage Council of NSW as nominated integrated development pursuant to Clause 91 of the Environmental Planning and Assessment Act 1979. The proposed development has been supported with General Terms of Approval (reference 2015/IDA/35, dated 4 August 2015).

The Heritage Council’s examination of the proposed works included consideration of their likely impact on the Cultural Heritage Significance of the property. That significance is that the buildings (Buchanan Terraces and footpath) 'are unique to this area and reflect the importance in 1850's' with no physical changes proposed to the external front façade of the building, it was determined by the Heritage Council that the alterations and additions were appropriate.

Having regard to Section 92 (2) of the Environmental Planning and Assessment Act 1979, a consent authority must not refuse development consent on heritage grounds if the same development is the subject of a heritage approval.

c) Section 5.07 (Heritage Conservation Areas)

The proposed development has been assessed having regard to the provisions of Section 5.07 (Heritage Conservation Areas) of the Newcastle Development Control Plan 2012 and is deemed to achieve the relevant objectives.
d) **Section 6.01 (Newcastle City Centre)**

The proposed development has been assessed having regard to the provisions of Section 6.01 (Newcastle City Centre) of the Newcastle Development Control Plan 2012 and is deemed to adhere with the relevant objectives.

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

It is considered the proposed development will not have any adverse impact on the surrounding natural or built environments.

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

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

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

The site is not subject to any 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)]**

As outlined in Section 3.0 of this report, (1) submission was received in response to the Public Notification under the Act and Regulation.

The matters raised in this submission, including heritage significance, has been discussed within the relevant sections of this report.

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

- **Sustainability**

The proposed dwelling is considered to be satisfactory having regard to the principles of ecologically sustainable development. A BASIX certificate has been included which demonstrates compliance with the requirements stipulated by the Department of Planning.

The proposed development will not result in the disturbance of any endangered flora or fauna habitat or otherwise adversely impact on the natural environment.

- **General**

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

Attachment A: Plans and elevations of proposed development - 10 Church Street, Newcastle - DA2015/0504
Attachment B: Draft Schedule of Conditions - 10 Church Street, Newcastle - DA2015/0504
Attachment C: Processing Chronology - 10 Church Street, Newcastle - DA2015/0504
LOWER GROUND FLOOR - DEMOLITION
ATTACHMENT B – DRAFT SCHEDULE OF CONDITIONS
DA 2015/0504 - 10 CHURCH STREET, NEWCASTLE

REASONS FOR CONDITIONS

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

APPROVED DOCUMENTATION

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

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<tr>
<th>Plan No / Supporting Document</th>
<th>Reference / Version</th>
<th>Prepared by</th>
<th>Dated</th>
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<td>1323-Z-02</td>
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<td>Statement of Heritage Impact</td>
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<td>John Carr Heritage Design</td>
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<td>Letter from Applicant</td>
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<td>QOH Architects</td>
<td>14/09/2015</td>
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<td>BASIX Report</td>
<td>A229656</td>
<td>Quinn O'Hanlon Architects</td>
<td>14/09/2015</td>
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In the event of any inconsistency between conditions of this development consent and the plans/supporting documents referred to above, the conditions of this development consent prevail.
CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

3. 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.

4. A full colour schedule for the development, including colours, materials, finishes and details, is to be completed by a suitably qualified person and be included in documentation for a Construction Certificate application. The schedule is to be completed in accordance with the performance criteria and provisions of the Newcastle Development Control Plan 2012 (Section 5.07) and the accompanying technical manual, ‘Heritage’. The colour schedule is to be implemented during the building phase prior to completion of the development.

5. An archival record of the building is to be made that is consistent with the NSW Department of Planning Heritage Branch Guidelines for Undertaking Archival recordings. Such documentation and photographs are to be submitted to Council for inclusion in the City Library collection prior to the issue of the Construction Certificate. Confirmation that the records have been submitted to Council shall be provided to the Principal Certifying Authority prior to the issue of a Construction Certificate.

Note: The documentation shall include a summary report detailing the Development Application number, project description, date and authorship of the photographic record, method of documentation and any limitations of the photographic record. Written confirmation is to be included in the documentation, issued with the authority of the applicant, owner(s) and the photographer (as required), that the City of Newcastle is granted a perpetual non-exclusive licence to make use of the copyright in all images supplied, including the right to make copies available to third parties as though they were Council images. The signatures of applicant, owner(s) and the photographer (as required) must be included.

The photographic record is to include negatives of all images. Digital based recording is to be submitted on CD or DVD with images saved as JPEG, TIFF or PDF files.

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

6. 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.

7. 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.

8. 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.

9. 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.

10. 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).

11. 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.

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

13. 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.
14. 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.

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

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

17. 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.

18. 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.

19. 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.

20. 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.

21. The following waste management measures are to be implemented during construction:
   a) waste container of at least one cubic metre capacity shall be provided, maintained and regularly serviced from the commencement of operations until the completion of the building for the reception and storage of waste generated by the construction of the building and associated waste
b) the waste container is to be, at minimum, constructed with a 'star' picket (corners) and weed control mat (sides), or equivalent. The matting is to be securely tied to the pickets.

c) appropriate provision is to be made to prevent wind blown rubbish leaving the site and

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

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

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

23. 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.

24. 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.

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

26. Compliance with the general terms of approval of the NSW Heritage Council, as outlined in their correspondence dated 4 August 2015 (reference 2015/IDA/35) a copy of which is attached to this consent.

1. APPROVED DEVELOPMENT

Development must be in accordance with:

a) Architectural Drawings prepared by QOH Architects Pty Ltd as follows:

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<th>Dwg No</th>
<th>Dwg Title</th>
<th>Date</th>
<th>Rev</th>
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<td>Floor Plan - Ground Floor</td>
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<td>Floor Plan - First Floor/Ensuite</td>
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<td>Floor Plan - Second Floor</td>
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<td>DA 0910</td>
<td>Notification Plan</td>
<td>7/5/2015</td>
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b) Report entitled Statement of Environmental Effects Proposed Alterations and Additions to Existing Residence at 10 Church Street, Newcastle, NSW prepared by QOH Architects Pty Ltd, dated May 2015.

c) Report entitled Variation to Development Standard Proposed Alterations and Additions to Existing Residence at 10 Church Street Newcastle, NSW prepared by QOH Architects Pty Ltd, dated May 2015.


EXCEPT AS AMENDED by the conditions of this approval:

2. DESIGN AMENDMENTS:

a) To minimise adverse impact to the material integrity and aesthetic significance of the terrace house ceramic floor tiles are not to be installed in the lower ground floor level rooms labelled on DA0200D as Stair 1, Hall, Entertain or Media Room. The existing timber floor at the lower ground floor level is to be retained, repaired and modified as required to facilitate a level floor at the lower ground floor.

b) To ensure that the front balcony is reinstated in accordance with the physical evidence of its original condition provided by the adjacent balconies new roof sheeting to the front balcony is to be galvanised steel painted in two tones to match the existing maroon colour at No. 12 Church Street and the existing (or approved alternative traditional Victorian) wall colour of No. 10 Church Street.

c) To ensure that the front balcony is reinstated in accordance with the physical evidence of its original condition provided by the adjacent balconies new balustrading to the front balcony is to be decorative cast iron with a dark green colour finish and decorative pattern to match the existing at Nos. 10 to 30 Church Street. The height of the balustrade is not to exceed the height of the existing balustrade at No. 12 Church Street.

d) To ensure that proposed paint works do not adversely affect the aesthetic significance of the terrace group and its contribution to the historic Church Street streetscape, the exterior of the existing terrace house is not to be painted in the proposed grey colour scheme.

3. SITE PROTECTION & WORKS:

a) Significant building fabric and elements are to be protected during the works from potential damage. Protection systems must ensure historic fabric is not damaged or removed.
4. ARCHAEOLOGY:

a) The Applicant must ensure that if any archaeological deposits or relics are discovered during works, work must cease in the affected area(s) and the Heritage Council of NSW must be notified. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

b) Should any Aboriginal objects be uncovered by the work, excavation or disturbance of the area is to stop immediately and the Office of Environment & Heritage (Envirole 131 555) is to be notified in accordance with Section 89A of the National Parks and Wildlife Act 1974 (NPW Act). Aboriginal objects in NSW are protected under the NPW Act. Unless the objects are subject to a valid Aboriginal Heritage Impact Permit, work must not recommence until approval to do so has been provided by the Office of Environment & Heritage.

5. ADDITIONAL INFORMATION:

a) The following information is to be submitted as part of an application under section 60 of the Heritage Act 1977:

i) A detailed section demonstrating how the proposed ceramic tile flooring in the new ensuite to Bedroom 1 will interface with and facilitate conservation of the existing timber flooring. The installation of the new ensuite to Bedroom 1 is to be reversible and is not adversely affect the historic framework of the terrace house.

ii) Structural engineer's drawings detailing structural modifications to the existing building, including the introduction of new beams or lintels to support openings in the masonry walls. The detailed execution of the proposed works is not to compromise the structural integrity of the interior of the terrace house.

iii) Details of the proposed fireplace and mantel, demonstrating that the design of the mantel would be based on documentary evidence of Victorian era design. The work is to be consistent with the architectural character of the existing building.

iv) A colour board documenting an interpretative Victorian era paint colour scheme, similar to the existing paint colour schemes at Nos. 10 to 30 Church Street. The proposed paint works are to enhance the aesthetic significance of the terrace group and its contribution to the historic Church Street streetscape.

6. SECTION 60 APPLICATION

a) An application under section 60 of the Heritage Act 1977 must be submitted to and approved by the Delegate of the Heritage Council of NSW prior to work commencing.
CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE, A SUBDIVISION CERTIFICATE OR A STRATA CERTIFICATE

27. 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.

28. 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.

29. 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.

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

31. Prior to the issue of an Occupation Certificate, the building shall be upgraded to comply with Performance Criteria P2.3.2 (Fire detection and early warning) of the Building Code of Australia.

ADVISORY MATTERS

32. 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).

33. 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.

34. 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.
35. 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.

36. 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.

37. 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.

38. 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).

39. 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.

40. 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.
ATTACHMENT C – PROCESSING CHRONOLOGY

DA 2015/0504 – 10 CHURCH STREET, NEWCASTLE

22 May 2015 - Application lodged with Council.


5 June 2015 - Application was called into Council by Cr Doyle and Cr Osborne.

9 June 2015 - Application notified as advertised development (nominated integrated development). One submission was received in response to the notification period.

4 August 2015 - General Terms of Approval received from the NSW Heritage Council.

1 September 2015 - Request for additional information issued by the assessing officer.

19 November 2015 - Additional information received from applicant.