ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER

ITEM- 18  DA2018/01191- 144 MARYLAND DRIVE MARYLAND
Attachment A: Submitted Plans
Attachment B: Draft Schedule of Conditions
Attachment C: Processing Chronology
Attachment D: General Terms of Approval – Natural Resources Access Regulator (formally known as Department of Primary Industry (Water) & Ausgrid advice)

ITEM- 19  DA2017/00789 - 9 BELFORD STREET BROADMEADOW
Attachment A: Submitted Plans
Attachment B: Draft Schedule of Conditions
Attachment C: Processing Chronology

ITEM- 20  DA2018/01248 - 64 BRUNKER ROAD BROADMEADOW
Attachment A: Submitted Plans
Attachment B: Draft Schedule of Conditions
Attachment C: Processing Chronology

ITEM- 21  DA2019/00339 - 48-56 HUNTER STREET NEWCASTLE
Attachment A: Submitted Plans
Attachment B: Draft Schedule of Conditions
Attachment C: Processing Chronology
Attachment D: Clause 4.6 Variation
Attachment E: Visual Assessment

ITEM- 22  DA2015-08763.02 - 29 LAMAN STREET COOKS HILL
Attachment A: Submitted Plans
Attachment B: Draft Schedule of Conditions
Attachment C: Processing Chronology
Attachment D: Agreement between applicant & owners of 33 Laman Street Cooks Hill

ITEM- 23  DA2019/00968 - 6 BAVIN ROAD BROADMEADOW
Attachment A: Submitted Plans
Attachment B: Draft Schedule of Conditions
Attachment C: Processing Chronology

ITEM- 24  DA2018/01301 - 59 DARBY STREET COOKS HILL
Attachment A: Submitted Plans
Attachment B: Draft Schedule of Conditions
Attachment C: Processing Chronology
Attachment D: Clause 4.6 Variation Statement
ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER

ITEM 18 DA2018/01191- 144 Maryland Drive Maryland

ALTERATIONS/ADDITIONS TO MARYLAND SHOPPING CENTRE & NEW TAVERN

Attachment A: Submitted Plans
Attachment B: Draft Conditions of Consent
Attachment B: Processing Chronology
Attachment D: General Terms of Approval - Natural Resources Access Regulator (formally known as Department of Primary Industry (Water) & Ausgrid advice
DAC 3/12/19

DA2018/01191 - 144 MARYLAND DRIVE MARYLAND

Attachment A: Submitted Plans

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GENERAL NOTES

• NOT FOR CONSTRUCTION.

• DO NOT SCALE DRAWINGS. USE FIGURED DIMENSIONS ONLY.

• ALL LEVELS RELATIVE TO 'AUSTRALIAN HEIGHT DATUM'.

• ALL AREA CALCULATIONS ARE PRELIMINARY ONLY AND APPROXIMATED. ALL AREAS FOR LEGAL PURPOSES SHOULD BE UNDERTAKEN FROM AS-CONSTRUCTED CONDITIONS.

• DRAWINGS HAVE BEEN PREPARED, IN PART, BASED UPON INFORMATION FURNISHED BY OTHERS. WHILE THIS INFORMATION IS BELIEVED TO BE RELIABLE, MJBD+P ASSUMES NO RESPONSIBILITY FOR THE ACCURACY OF THESE DOCUMENTS OR FOR ANY ERRORS OR OMISSIONS THAT MAY HAVE BEEN INCORPORATED INTO THEM AS A RESULT OF INCORRECT INFORMATION PROVIDED TO MJBD+P.

• ALL DIMENSIONS, LEVELS AND EXISTING CONDITIONS SHALL BE CHECKED AND VERIFIED BY THE CONTRACTOR BEFORE PROCEEDING WITH ANY WORK.

• ALL ARCHITECTURAL DRAWINGS TO BE READ IN CONJUNCTION WITH ALL CONSULTANTS DRAWINGS. ANY DISCREPANCIES, ERRORS AND/OR OMISSIONS SHALL BE REPORTED BACK TO MJBD+P.

MARYLAND SHOPPING CENTRE REDEVELOPMENT
LEGEND

NOTE:
1. Boundaries have been determined by plan emissions only and have not been surveyed.
2. All site locations are approximate. Prior to excavation or construction, all services are to be located by relevant authorities.
3. Plan areas and contours shown herein are for design purposes only and are to be confirmed on site prior to excavation or construction.
4. Approximate site areas ± 0.5%. 
5. Details of survey are current to the date shown 24/07/17.

SITE SURVEY

512 DP77019
1.083 ha

MARYLAND SHOPPING CENTRE

144 MARYLAND DRIVE, MARYLAND

MURRAY JAMES

PROJECT

DRAFT

M.J.

REYNOLDS

02

ENSION

SHEPPARTON	

25.09.13

PRE V
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SUPERSEDED
GENERAL AS 4474-2009 COMPLIANCE NOTES

1. All fit-out must comply with the design, construction & fit-out for their proposed use - 2009

2. All source pipes, condensate pipes and electrical conduit must be boxed into the walls, floors, and ceilings.

3. All parts formed by the joining together of fittings must be boxed in such a manner as to prevent any spillage of liquid through the joints.

4. All walls in the space preparation and kitchen area must be tested by 25mm, with glass type concrete or similar non-absorbent material, water proofed directly to the wall.

5. All intersections of the floor and all Laundries and kitchens with this space must be fixed with water proofed concrete, water proofed within a 50mm radius of the intersection.

6. Concrete floor slabs must be 25mm in thickness and must be resisted not more than 5000 to provide floor space.

7. Skirt, tops and bases must be finished flush to the wall.

8. All skirtings to be located at least 25mm from the wall on the interior or to the face and wall must be made of solid materials.

9. Handbasinsurfaces with hot and cold water through an aspirated drainage pipe. All pipes are to be finished in close proximity to the floor preparation area.

SANITARY FACILITIES

Wall Internals

<table>
<thead>
<tr>
<th>Description</th>
<th>Existing</th>
<th>Proposed</th>
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<tbody>
<tr>
<td>Wall Internals</td>
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FEMALE PATIENTS

<table>
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<tr>
<th>Description</th>
<th>Existing</th>
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<tr>
<td>Body Motion</td>
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WASHING FACILITIES

Wall Internals

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<tr>
<td>Wall Internals</td>
<td>2</td>
<td>2</td>
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</table>

ACCESSIBLE Facilities

<table>
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<th>Description</th>
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<tbody>
<tr>
<td>Accessible</td>
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</tr>
</tbody>
</table>

PROPOSED TAVERN PLAN

SCALE 1:100 (0:1)
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PROPOSED STEEL AND TIMBER ALFRESCO

FUTURE DETAIL

PROJECT ADDRESS
DRAWN DRAWING NO.

MJ CENTRE

REYNOLDS

ALL TO 'AUSTRALIAN HEIGHT DATUM'.

ALL AND APPROXIMATED

ALL UNDERaken FROM NEWCASTLE NSW

DESIGN PROCESSES.

THIS BELIEVED THAT MAY RESULT INCORRECT TO MJBD+P.

ALL EXISTING CONDITIONS SHALL CHECKED BY THE CONTRACTOR

ALL READ DRAWINGS. ANY DISCREPANCIES, ERRORS BE BACK TO STONE WITH T AVERN LOGO

STONE WITH T AVERN NEW FEATURE

EXISTING CONCRETE TO BE PAINTED

EXISTING BLOCK WORK TO BE PAINTED

EXISTING SLAZING FRAMES TO BE PAINTED

GROCERY WITH T AVERN LOGO

T AVERN NEW FEATURE

EX. WITH ENTRY

EXISTING CONCRETE TO BE PAINTED

EXISTING SLAZING FRAMES TO BE PAINTED

ROOF AND TIMBER CLAD

RENDERED WITH VEGETATION

REMAIN FACE WORK

SIGNAGE

MARKETPLACE

FINISH TO 4.000

FINISH TO 4.000 (CENTRE ENTRY)

BAR AND TEND. ENTRY

SECTION B (TYPICAL WALKWAY AWNING)
SCALE 1:100 @ A1

SECTION C (PROPOSED TAVERN)
SCALE 1:100 @ A1

T AVERN DINING

PROPOSED TAVERN

PROPOSED SUSPENDED AWNING

ROOF SHEETING ON STEEL

INDICATIVE BAR AND RESTAURANT FITOUT

INDICATIVE CONCRETE CLAD ENGINEERED TO CONFIRM AND SPECIFY

MURRAY JAMES

BUILDING DESIGN - PLANNING
DRAFT SCHEDULE OF CONDITIONS

Application No: DA2018/01191
Land: Lot 512 DP 717019
Property Address: 144 Maryland Drive Maryland NSW 2287
Proposed Development: Alterations and additions to commercial premises, associated carpark, change of use, and erection of tavern and signage.

SCHEDULE 1

APPROVED DOCUMENTATION

1. 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>Plan Set</td>
<td>Issue Pre V, Dwg No.01 to 14</td>
<td>Murray James</td>
<td>25.09.19</td>
</tr>
<tr>
<td>Civil Engineering Plans</td>
<td>239619(1), Rev A</td>
<td>ADW Johnson</td>
<td>26 September 2018</td>
</tr>
<tr>
<td>Landscaping Plans</td>
<td>Job Ref: 12316.5, Dwg No. L00 to L04, Rev D</td>
<td>Terras Landscape architects</td>
<td>19 September 2018</td>
</tr>
<tr>
<td>Statement of Environmental Effects</td>
<td>Issue B 239619</td>
<td>ADW Johnson</td>
<td>5 October 2018</td>
</tr>
<tr>
<td>Letter of Response - RFI Request</td>
<td></td>
<td></td>
<td>17 May 2019</td>
</tr>
<tr>
<td>Email - Additional Information</td>
<td></td>
<td></td>
<td>16 August 2019</td>
</tr>
<tr>
<td>Letter of Response - RFI</td>
<td></td>
<td></td>
<td>26 September 2019</td>
</tr>
<tr>
<td>Flood Planning Certificate</td>
<td>FL2018/00234</td>
<td>City of Newcastle</td>
<td>14 September 2018</td>
</tr>
<tr>
<td>Noise Assessments</td>
<td>Doc. No: 181649-8050</td>
<td>Spectrum Acoustics</td>
<td>September 2018</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>June 2019</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>July 2019</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>September 2019</td>
</tr>
<tr>
<td>Social Impact Assessment</td>
<td></td>
<td>AIGIS Group - Mark Sargent Enterprises</td>
<td>September 2018</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

2. A total monetary contribution of $44,849.25 is to be paid to Council, pursuant to Section 94A of the Environmental Planning and Assessment Act 1979, such contribution to be payable prior to the issue of a Construction Certificate in respect of the proposed development.

Note:

a) This condition is imposed in accordance with the provisions of The City of Newcastle S94A Development Contributions Plan 2009 (updated version operational from 15 March 2011). A copy of the plan may be inspected at Council’s Customer Enquiry Centre, ground floor of the City Administration Centre, 282 King Street Newcastle 8.30 am to 5.00 pm, excluding public holidays.

b) The City of Newcastle S94A Development Contributions Plan 2009 permits deferred or periodic payment of levies in certain circumstances. A formal modification of this condition will be required to enter into a deferred or periodic payment arrangement. Refer to the s94A Development Contributions Plan 2009.

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

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

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

Any party intending to act on this consent should contact Council’s Customer Enquiry Centre for determination of the indexed amount of contribution on the date of payment.
3. The acoustic performance of all mechanical plant and equipment associated with the building being assessed by an appropriately qualified acoustic consultant prior to the issue of any required Construction Certificate. Appropriate acoustic treatment as recommended by the acoustic consultant being designed prior to the issue of a Construction Certificate. Written certification from an appropriately qualified acoustic consultant being submitted to the Principal Certifying Authority prior to issue of an Occupation Certificate confirming that noise from all mechanical plant and equipment achieves the required acoustic attenuation to comply with the conditions of consent and the requirements of the Protection of the Environment Operations Act 1997.

4. On-site parking accommodation is to be provided for a minimum of 151 vehicles, 2 motorcycles, 10 bicycles 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. Details are to be included in documentation for a Construction Certificate application.

5. The car parking and vehicular access is to be designed to comply with AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking (User Class 3A) and AS/NZS 2890.6:2009 - Parking facilities - Off-street parking for people with disabilities. Full details are to be included in documentation for a Construction Certificate application.

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

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

8. 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 ADW Johnson (Drg. No. 239619(1)-SWMP-001, Version A dated 25 September 2018). Full details are to be included in documentation for a Construction Certificate application.

9. An amended landscaping plan is to be submitted to the City of Newcastle prior to issue of Construction Certificate. All proposed planting and landscape elements indicated on the submitted landscape concept plan or otherwise required under the conditions of this consent are required to be detailed on a landscape plan and specification. The plan and specifications is to be prepared in accordance with the provisions of Newcastle Development Control Plan 2012 and is to include details of the following:

   a) cross sections through the site where appropriate
   b) proposed contours or spot levels
   c) botanical names
   d) quantities and container size of all proposed trees
   e) shrubs and ground cover
   f) details of proposed soil preparation
g) mulching and staking

h) treatment of external surfaces and retaining walls where proposed

i) drainage, location of taps and

j) appropriate maintenance periods.

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

10. All existing trees on the site outside the envelope of the proposed building are to be preserved where practicable and all such trees being indicated on the required comprehensive landscape design plan and being adequately protected against damage during the building construction period. Full details are to be included in documentation for a Construction Certificate application.

11. 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.

12. The design and construction of the proposed development is to be in accordance with the relevant requirements of Australian Standard 4674:2004 - Design, Construction and Fit-Out of Food Premises. Full details are to be included in the documentation for the Construction Certificate application.

13. The proposed floodlighting of the premises is to be designed, positioned, and installed, including appropriate shielding and orientation of the lighting fixture, as to not give rise to obtrusive light, interfere with traffic safety or detract from the amenity of surrounding properties in accordance with Australian Standard 4282:1997 - Control of the obtrusive effects of outdoor lighting. Full details are to be included in the documentation for a Construction Certificate application.

14. The existing building on site is to be upgraded so as to comply with the Performance Requirements of Parts C, D and E of Volume One of the Building Code of Australia. Full details on means of compliance are to be nominated in Construction Certificate documentation.

15. The existing building on site is to be provided with sanitary facilities in accordance with the Performance Requirements of Part F2 of Volume One of the Building Code of Australia. Full details on means of compliance are to be nominated in Construction Certificate documentation.

16. Engineer’s certification of proposed fixtures and/or footings of the signage being supplied to the Principal Certifying Authority prior to the issue of a Construction Certificate.

17. 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. The consent must be obtained, or other satisfactory arrangements confirmed in writing from Council, before the issue of a Construction Certificate.

18. A detailed colours and material finishes scheme is to be prepared and submitted to the City of Newcastle for approval prior to issue of a Construction Certificate. This detail shall relate to all building elements, signage structures and perimeter fencing inclusive of acoustic fencing treatments around Boundary Road and Maryland Drive frontages.
CONDITIONS TO BE SATISFIED PRIOR TO THE COMMENCEMENT OF WORK AND DURING THE CONSTRUCTION PHASE

19. Waste management shall be implemented in accordance with the approved Waste Management Plan. At a minimum, the following measures shall be implemented during the construction phase:

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

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

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

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

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

20. If construction / demolition work is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or involves the need to enclose a public place, a hoarding or fence must be erected between the work site and the public place. If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place. Any such hoarding, fence or awning is to be removed when the work has been completed.

21. An application is to be made to and approved by Council for the erection of a hoarding or part closure of the footway prior to construction being commenced. Such overhead structure or protective fence shall comply with the *Work Health and Safety Act 2011* (NSW), *Work Health and Safety Regulation 2011* (NSW) and any relevant approved industry code of practice. Notice of intention of commencement must be given to WorkCover New South Wales.

22. 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.

23. 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.

24. 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.

25. 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’.

26. 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...

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

28. Erosion and sediment control measures are to be implemented prior to the commencement of works and be maintained during the period of construction in accordance with the details set out on the Erosion and Sediment Control Plan submitted with the application, and with the below requirements:

   a) Control over discharge of stormwater and containment of run-off and pollutants leaving the site must be undertaken through the installation of erosion control devices such as catch drains, energy dissipaters, level spreaders and sediment control devices such as hay bale barriers, filter fences, filter dams and sediment basins and controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover. Erosion and sediment control measures are to be designed in accordance with the requirements of the *Managing Urban Stormwater: Soils and Construction 4th Edition - Vol. 1* (the ‘Blue Book’) published by Landcom, 2004.

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

30. The premises are to be constructed, including the installation of all equipment, fixtures and fittings, in accordance with the requirements of Australian Standard 4674:2004 - Design, construction and fit-out of food premises.

31. 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.

32. 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)*.
33. Building demolition is to be planned and carried out in accordance with Australian Standard 2601:2001 - The Demolition of Structures.

34. 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.

35. 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.

36. 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.

37. 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.

38. All demolition material incapable of being re-used in future redevelopment of the site is to be removed from the site and the site being cleared and levelled.

   Note: Where reusable building materials are to be stored on site for use in future building works, such materials are to be neatly stacked at least 150 mm above the ground.

39. The demolisher is to ensure that all demolition material is kept clear of the public footway and carriageway as well as adjoining premises.
40. 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.

41. 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.

42. 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.

43. 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.

44. 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.

45. 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.

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

47. 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.
48. All building work must be carried out in accordance with the provisions of the National Construction Code.

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

49. A 1.8m acoustic barrier is to be installed in accordance with the Noise Assessment prepared by Spectrum Acoustics dated September 2019 prior to issue of an Occupation Certificate.

50. Engage an appropriately qualified consultant to install and set out the ongoing operating requirements of a noise limiting device to meet the internal noise levels specified in the Spectrum Acoustics Noise Assessment dated September 2019. Written confirmation confirming this has been implemented is to be submitted to the City of Newcastle prior to issuing an Occupation Certificate.

51. 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.

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

53. 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.

54. 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.

55. 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.

56. 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.

57. Appropriate acoustic treatment is to be implemented in accordance with the recommendations set out in the report prepared by Spectrum Acoustics, dated September 2019. Written final certification confirming the recommended acoustic treatment has been implemented in accordance with the requirements of the above report is to be submitted to the Principal Certifying Authority and Council prior to the issue of an Occupation Certificate.

Note: The acoustic consultant may need to be involved during the construction process in order to ensure final certification is achieved.
58. Prior to issue of an Occupation Certificate, the food business must notify the relevant enforcement agencies, under the *Food Act 2003* (NSW) and (for licensed food businesses) under the *Food Regulation 2010* (NSW). Notification is to be provided to Council and the NSW Food Authority.

Note: To arrange notification of the food business with Council go to [www.newcastle.gov.au](http://www.newcastle.gov.au) and download a copy of the ‘Council Food Business Notification Form’ or contact Council’s Environmental Health Services on (02) 4974 2525. To notify with the NSW Food Authority go to [www.foodnotify.nsw.gov.au](http://www.foodnotify.nsw.gov.au) and follow the instructions.

59. Prior to the issue of an Occupation Certificate, the existing building on site is to be upgraded so as to comply with the Performance Requirements of Parts C, D and E of Volume One of the Building Code of Australia. Full details on means of compliance are to be provided to the Principal Certifying Authority.

60. Prior to issue of an Occupation Certificate, the existing building on site is to be provided with sanitary facilities in accordance with the Performance Requirements of Part F2 of Volume One of the Building Code of Australia. Full details on means of compliance are to be provided to the Principal Certifying Authority.

**CONDITIONS TO BE SATISFIED DURING THE OPERATION AND USE THE DEVELOPMENT**

61. The **hours of operation or trading** of the premises are to be not more than from:

<table>
<thead>
<tr>
<th>DAY</th>
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<tbody>
<tr>
<td>Monday</td>
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<td>Sunday</td>
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unless a separate application to vary the hours of operation or trading has been submitted to and approved by Council.

The **hours of live music and entertainment** at the premises are to be not more than from:

<table>
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<tr>
<th>DAY</th>
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<tbody>
<tr>
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<tr>
<td>Sunday</td>
<td>10:00am</td>
<td>9:00pm</td>
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unless a separate application to vary the hours of operation or trading has been submitted to and approved by Council.

62. The maximum number of persons permitted in the pub is to be restricted to a total of 440 persons.
A sign must be displayed in a prominent position in the building stating the maximum number of persons that are permitted in the building.

63. All musical entertainment is to cease by 11:00pm Monday to Saturday and 9:00pm on Sunday.

64. No music or amplified sounds other than emergency PA announcements are to be played in the smoking garden or outdoor gaming area.

65. At all times when amplified entertainment or music is conducted the Licensee must ensure that all doors and windows are to be kept closed. No amplified music is permitted in any outside areas.

66. Within 6 months of operation the noise emissions from the facility are to be monitored and assessed with a report to be prepared and submitted to the City of Newcastle confirming the recommended acoustic treatments have been implemented and are compliant with the project noise goals in accordance with the requirements of Spectrum Acoustics Noise Assessment dated September 2019.

67. The venue must maintain a closed-circuit television (CCTV) system on the premises in accordance with the following requirements:

   a) The system must record continuously from opening time until one hour after the premises is required to close (or, in the case of a premises that is not required to cease trading, continuously at all times),

   b) Recording must be in digital format and at a minimum of six (6) frames per second,

   c) Any recorded image must specify the time and date of the recorded image,

   d) The system's cameras must cover the following areas:

      i) All entry and exit points on the premises;
      ii) The footpath immediately adjacent to the premises, and
      iii) All publicly accessible areas (other than toilets) within the premises.

   The venue must also:

   a) Keep all recordings made by the CCTV system for at least 30 days,

   b) Ensure that the CCTV system is accessible at all times the system is required to operate pursuant to clause 1(a), by at least one person able to access and fully operate the system, including downloading and producing recordings of CCTV footage, and provide any recordings made by the system to a police officer or Liquor and Gaming NSW inspector within 24 hours of any request by the police officer or Liquor and Gaming NSW inspect to provide such recordings.

68. The use and occupation of the premises, including all plant and equipment installed thereon, is not to give rise to any offensive noise, as defined under the Protection of the Environment Operations Act 1997 (NSW).

   Should Council consider offensive noise has emanated from the premises, the owner/occupier of the premises will be required to submit an acoustic assessment prepared by a suitably qualified acoustical consultant recommending appropriate acoustic measures necessary to ensure future compliance with this condition and will be required to implement such measures within a nominated period. Furthermore, written certification from the said consultant confirming the recommended acoustic measures have been satisfactorily implemented will be required to be submitted to Council prior to the expiration of the nominated period.
69. The use and occupation of the premises is not to give rise to the emission of any 'air impurity' as defined under the Protection of the Environment Operations Act 1997 (NSW), that interferes unreasonably with the amenity of neighbouring premises and/or other sensitive receivers.

Should Council consider that unreasonable levels of air impurities have been emitted from the premises, the owner/occupier will be required to engage a suitably qualified consultant to recommend measures to control emissions of air impurities to an acceptable level and such measures being implemented within a nominated time period. Furthermore, written certification from the suitably qualified consultant will be required to be submitted to Council confirming that air impurity emissions from the premises do not interfere unreasonably with the amenity of neighbouring premises and/or other sensitive receptors before the expiration of the nominated period.

70. A Landscape Establishment Report is to be submitted to Council following completion of a three months maintenance period, verifying that satisfactory maintenance of the landscape works has been undertaken and any necessary rectification measures have been carried out to a high professional standard; copy of report format attached.

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

72. 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 and vehicle access. Under no circumstances are such areas to be used for the storage of goods or waste materials.

73. Any illumination (internal or external) of the signs is to limited to between the hours 7.00am to 10.00pm.

74. The signs shall meet the criteria contained in Section 3.3.3 Illumination and reflectance of the Department of Planning’s Transport Corridor Outdoor Advertising and Signage (November 2017).

75. No goods or advertising signs are to be displayed or allowed to stand on the public footpath or street.

ADVISORY MATTERS

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

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

- Prior to commencing any building works, the following provisions of Division 6.2 of the Environmental Planning and Assessment Act 1979 are to be complied with:
  
a) A Construction Certificate is to be obtained; and

b) A Principal Certifier is to be appointed for the building works and Council is to be notified of the appointment; and
c) Council is to be given at least two days notice of the date intended for commencement of building works.

- A copy of the final Fire Safety Certificate (together with a copy of the current fire safety schedule) is to be given to the Commissioner of NSW Fire Brigades and a further copy of the Certificate (together with a copy of the current fire safety schedule) is to be prominently displayed in the building.

- An annual Fire Safety Statement in the form described in Clause 175 of the *Environmental Planning and Assessment Regulation 2000* (NSW) is to be submitted to Council and a copy (together with a copy of the current fire safety schedule) is to be given to the Commissioner of New South Wales Fire Brigades. A further copy of the Statement (together with a copy of the current fire safety schedule) is to be prominently displayed in the building.

- It is recommended that, prior to commencement of work, the free national community service 'Dial before you Dig' be contacted on 1100 or by fax on 1200 652 077 regarding the location of underground services in order to prevent injury, personal liability and even death. Inquiries should provide the property details and the nearest cross street/road.

- Any necessary alterations to public utility installations are to be at the developer/demolisher’s expense and to the requirements of both Council and any other relevant authorities. Council and other service authorities should be contacted for specific requirements prior to the commencement of any works.

- 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.

- A Construction Certificate application for this project is to include a list of fire safety measures proposed to be installed in the building and/or on the land and include a separate list of any fire safety measures that already exist at the premises. The lists must describe the extent, capability and basis of design of each of the measures.

- 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).

- The proposal must be carried out in accordance with and in consultation with Ausgrid as per their referral advice (Ref:1900088126) and dated 30 November 2018.

**END OF CONDITIONS**
SCHEDULE 2

INTEGRATED DEVELOPMENT REFERRAL – GENERAL TERMS OF APPROVAL

NSW Natural Resources Access Regulator – Controlled Activity approval under the Water Management Act 2000 (WM Act)

Reference Number: IDAS1110584
Issue date of GTA: 16 November 2018
Type of Approval: Controlled Activity

Description: Alterations and additions to commercial premises, associated carpark, change of use and erection of tavern and signage

Location of work/activity: 144 Maryland Drive MARYLAND
DA Number: DA2018/01191
LGA: The Council Of The City Of Newcastle
Water Sharing Plan Area: Hunter Unregulated and Alluvial Water Sources

The GTA issued by NRAR do not constitute an approval under the Water Management Act 2000. The development consent holder must apply to NRAR for the relevant approval after development consent has been issued by Council and before the commencement of any work or activity.

Condition Number Details

Design of works and structures

GT0009-00010 Before commencing any proposed controlled activity on waterfront land, an application must be submitted to Natural Resources Access Regulator, and obtained, for a controlled activity approval under the Water Management Act 2000.

GT0019-00003 Any proposed excavation on waterfront land must be undertaken in accordance with a plan submitted as part of a controlled activity approval, to be approved by Natural Resources Access Regulator.

Erosion and sediment controls

GT0014-00007 A. The consent holder must ensure that any proposed materials or cleared vegetation, which may:
   i. obstruct water flow, or
   ii. wash into the water body, or
   iii. cause damage to riverbanks, are not stored on waterfront land, unless in accordance with a plan held by Natural Resources Access Regulator as part of a controlled activity approval.

   B. When the carrying out of the controlled activity has been completed, surplus materials must be removed from waterfront land.

GT0021-00004 The proposed erosion and sediment control works must be inspected and maintained throughout the construction or operation period of the controlled activity and must not be removed until the site is fully stabilised.
Plans, standards and guidelines

GT0002-00602

A. This General Terms of Approval (GTA) only applies to the proposed controlled activity described in the plans and associated documents found in Schedule 1, relating to Development Application 2018.01191 provided by Council to Natural Resources Access Regulator.

B. Any amendments or modifications to the proposed controlled activity may render the GTA invalid. If the proposed controlled activity is amended or modified, Natural Resources Access Regulator, Parramatta Office, must be notified in writing to determine if any variations to the GTA will be required.

GT0005-00210

A. The application for a controlled activity approval must include the following plan(s):

1. Detailed Landscape Plans;

B. The plan(s) must be prepared in accordance with Natural Resources Access Regulator's guidelines located on the website
GT0010-00006 All documents submitted to Natural Resources Access Regulator as part of an application for a controlled activity approval must be prepared by a suitably qualified person.

GT0012-00004 Any proposed controlled activity must be carried out in accordance with plans submitted as part of a controlled activity approval application and approved by Natural Resources Access Regulator.

GT0030-00006 The application for a controlled activity approval must include plans prepared in accordance with Natural Resources Access Regulator’s guidelines located on the website https://www.industry.nsw.gov.au/water/licensing-trade/approvals/controlled-activities.

Rehabilitation and maintenance

GT0023-00001 Vegetation clearance associated with the proposed controlled activity must be limited to where the controlled activity is to be carried out, as shown on the approved plan(s).

Reporting requirements

GT0016-00003 The consent holder must inform Natural Resources Access Regulator in writing when any proposed controlled activity carried out under a controlled activity approval has been completed.

SCHEDULE 1

The plans and associated documentation listed in this schedule are referred to in general terms of approval (GTA) issued by NRAR for integrated development associated with DA2018/01191 as provided by Council:

- Statement of Environmental Effects
- Stormwater Management Plan
- Site Plan
- Civil Plan
SCHEDULE 3

REASONS FOR THE DETERMINATION & CONSIDERATION OF COMMUNITY VIEWS
The determination decision was reached for the following reasons:

- The proposed development, subject to the recommended conditions, is consistent with the objectives of the applicable environmental planning instruments, being: Newcastle Local Environmental Plan 2012 (NLEP) and applicable State Environmental Planning Policies.
- The proposed development is, subject to the recommended conditions, consistent with the objectives of the Newcastle Development Control Plan 2012 (NDCP).
- The proposed development is considered to be of an appropriate scale and form for the site and the character of the locality.
- The proposed development has appropriate management and mitigation of impacts through conditions of consent.
- The proposed development, subject to the recommended conditions, will not result in unacceptable adverse impacts upon the natural or built environments.
- The proposed development is a suitable and planned use of the site and its approval is within the public interest.

REASONS WHY THE CONDITIONS HAVE BEEN IMPOSED
The following conditions are applied to:

- Confirm and clarify the terms of Council’s determination;
- Identify modifications and additional requirements that will result in improved compliance, development and environmental outcomes;
- Prevent, minimise, and/or offset adverse environmental impacts including economic and social impacts;
- Set standards and measures for acceptable environmental performance; and
- Provide for the ongoing management of the development.
DAC 3/12/19

DA2018/01191 - 144 MARYLAND DRIVE MARYLAND

Attachment C: Processing Chronology

DISTRIBUTED UNDER SEPARATE COVER
**PROCESSING CHRONOLOGY**

**DA2018/01191 – 144 MARYLAND DRIVE MARYLAND**

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
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<tbody>
<tr>
<td>19/10/2018</td>
<td>Application lodged</td>
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<tr>
<td>22/10/2018</td>
<td>Public notification</td>
</tr>
<tr>
<td>23/10/2018 &amp; 30/10/2018</td>
<td>Referrals to State agencies</td>
</tr>
<tr>
<td>16/11/2018</td>
<td>Advice received from Natural Resources Access Regulator - Formally known as Department of Primary Industries (Water)</td>
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<tr>
<td>26/11/2018</td>
<td>Application called in to DAC by two Councillors</td>
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<tr>
<td>29/11/2018</td>
<td>Advice received from NSW Police and Licensing</td>
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<tr>
<td>06/12/2018</td>
<td>Advice received from Ausgrid</td>
</tr>
<tr>
<td>21/01/2019</td>
<td>Request for additional information to address noise issues</td>
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<tr>
<td>25/03/2019 &amp; 03/04/2019</td>
<td>Consolidated request for additional information</td>
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<td>15/04/2019</td>
<td>Requests for additional information</td>
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<td>28/09/2019</td>
<td>Amended plans / additional information received</td>
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<td>10/10/2019</td>
<td>Public re-notification</td>
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<tr>
<td>16/10/2019</td>
<td>Advice received from NSW Police</td>
</tr>
</tbody>
</table>
DAC 3/12/19

DA2018/01191 - 144 MARYLAND DRIVE MARYLAND

Attachment D: General Terms of Approval - Natural Resources Access Regulator & Ausgrid

DISTRIBUTED UNDER SEPARATE COVER
General Manager
The Council Of The City Of Newcastle
PO Box 489
NEWCASTLE NSW 2300

Attention: Amanda Gale 16 November 2018

Dear Sir/Madam

Re: Integrated Development Referral – General Terms of Approval
Dev Ref: DA2018/01191
Description: Alterations and additions to commercial premises, associated carpark, change of use and erection of tavern and signage
Location: 144 Maryland Drive MARYLAND

I refer to your recent letter regarding an integrated Development Application (DA) proposed for the above location. Attached, please find Natural Resources Access Regulator’s General Terms of Approval (GTA) for part of the proposed development requiring a Controlled Activity approval under the Water Management Act 2000 (WM Act), as detailed in the subject DA.

Please note Council’s statutory obligations under section 4.47 of the Environmental Planning and Assessment Act 1979 (EPA Act) which requires a consent, granted by a consent authority, to be consistent with the general terms of any approval proposed to be granted by the approval body.

If the proposed development is approved by Council, NRAR requests these GTA be included (in their entirety) in Council’s development consent. Please also note NRAR requests notification:

- if any plans or documents are amended and these amendments significantly change the proposed development or result in additional works or activities (i) in the bed of any river, lake or estuary; (ii) on the banks of any river lake or estuary, (iii) on land within 40 metres of the highest bank of a river lake or estuary; or (iv) any excavation which interferes with an aquifer.

NRAR will ascertain from the notification if the amended plans require review of or variation/s to the GTA. This requirement applies even if the amendment is part of Council’s proposed consent conditions and do not appear in the original documentation.
if Council receives an application under s96 of the EPA Act to modify the development consent and the modifications change the proposed work or activities described in the original DA.

of any legal challenge to the consent.

As the proposed work or activity cannot commence before the applicant applies for and obtains an approval, NRAR recommends the following condition be included in the development consent:

The attached GTA issued by NRAR do not constitute an approval under the Water Management Act 2000. The development consent holder must apply to NRAR for a Controlled Activity approval after consent has been issued by Council and before the commencement of any work or activity.

A completed application form must be submitted to NRAR together with any required plans, documents, application fee, security deposit or bank guarantee (if required) and proof of Council's development consent. Finalisation of an approval can take up to eight (8) weeks from the date the application and all required supporting documentation is received.

Application forms are available from the NRAR website at:


NRAR requests that Council provide a copy of this letter to the development consent holder.

NRAR also requests a copy of the determination for this development application be provided by Council as required under section 91A (6) of the EPA Act.

Yours Sincerely

RYAN SHEPHERD
Water Regulation Officer
Water Regulatory Operations
Natural Resources Access Regulator
### General Terms of Approval

**for proposed development requiring approval**
under s89, 90 or 91 of the Water Management Act 2000

**Reference Number:** IDAS1110584

**Issue date of GTA:** 16 November 2018

**Type of Approval:** Controlled Activity

**Description:** Alterations and additions to commercial premises, associated carpark, change of use and erection of tavern and signage

**Location of work/activity:** 144 Maryland Drive MARYLAND

**DA Number:** DA2018/01191

**LGA:** The Council Of The City Of Newcastle

**Water Sharing Plan Area:** Hunter Unregulated and Alluvial Water Sources

The GTA issued by NRAR do not constitute an approval under the Water Management Act 2000. The development consent holder must apply to NRAR for the relevant approval after development consent has been issued by Council and before the commencement of any work or activity.

<table>
<thead>
<tr>
<th>Condition Number</th>
<th>Details</th>
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<tbody>
<tr>
<td><strong>Design of works and structures</strong></td>
<td></td>
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<tr>
<td>GT0009-00010</td>
<td>Before commencing any proposed controlled activity on waterfront land, an application must be submitted to Natural Resources Access Regulator, and obtained, for a controlled activity approval under the Water Management Act 2000.</td>
</tr>
<tr>
<td>GT0019-00003</td>
<td>Any proposed excavation on waterfront land must be undertaken in accordance with a plan submitted as part of a controlled activity approval, to be approved by Natural Resources Access Regulator.</td>
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<tr>
<td><strong>Erosion and sediment controls</strong></td>
<td></td>
</tr>
<tr>
<td>GT0014-00007</td>
<td>A. The consent holder must ensure that any proposed materials or cleared vegetation, which may: i. obstruct water flow, or ii. wash into the water body, or iii. cause damage to river banks, are not stored on waterfront land, unless in accordance with a plan held by Natural Resources Access Regulator as part of a controlled activity approval. B. When the carrying out of the controlled activity has been completed, surplus materials must be removed from waterfront land.</td>
</tr>
<tr>
<td>GT0021-00004</td>
<td>The proposed erosion and sediment control works must be inspected and maintained throughout the construction or operation period of the controlled activity and must not be removed until the site is fully stabilised.</td>
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<tr>
<td><strong>Plans, standards and guidelines</strong></td>
<td></td>
</tr>
<tr>
<td>GT0002-00602</td>
<td>A. This General Terms of Approval (GTA) only applies to the proposed controlled activity described in the plans and associated documents found in Schedule 1, relating to Development Application 2018.01191 provided by Council to Natural Resources Access Regulator. B. Any amendments or modifications to the proposed controlled activity may render the GTA invalid. If the proposed controlled activity is amended or modified, Natural Resources Access Regulator, Parramatta Office, must be notified in writing to determine if any variations to the GTA will be required.</td>
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<tr>
<td>GT0005-00210</td>
<td>A. The application for a controlled activity approval must include the following plan(s): - 1. Detailed Landscape Plans; 2. Detailed streamworks management plan including adequate scour protection; 3. Erosion and Sediment Control Plan. B. The plan(s) must be prepared in accordance with Natural Resources Access Regulator's guidelines located on the website</td>
</tr>
</tbody>
</table>
### General Terms of Approval

for proposed development requiring approval
under s89, 90 or 91 of the Water Management Act 2000

<table>
<thead>
<tr>
<th>Reference Number:</th>
<th>IDAS1110584</th>
</tr>
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<tbody>
<tr>
<td>Issue date of GTA:</td>
<td>16 November 2018</td>
</tr>
<tr>
<td>Type of Approval:</td>
<td>Controlled Activity</td>
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<tr>
<td>Description:</td>
<td>Alterations and additions to commercial premises, associated carpark, change of use and erection of tavern and signage</td>
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<tr>
<td>Location of work/activity:</td>
<td>144 Maryland Drive  MARYLAND</td>
</tr>
<tr>
<td>DA Number:</td>
<td>DA2018/01191</td>
</tr>
<tr>
<td>LGA:</td>
<td>The Council Of The City Of Newcastle</td>
</tr>
<tr>
<td>Water Sharing Plan Area:</td>
<td>Hunter Unregulated and Alluvial Water Sources</td>
</tr>
</tbody>
</table>

All documents submitted to Natural Resources Access Regulator as part of an application for a controlled activity approval must be prepared by a suitably qualified person.

Any proposed controlled activity must be carried out in accordance with plans submitted as part of a controlled activity approval application, and approved by Natural Resources Access Regulator.

The application for a controlled activity approval must include plans prepared in accordance with Natural Resources Access Regulator's guidelines located on the website https://www.industry.nsw.gov.au/water/licensing-trade/approvals/controlled-activities.

### Rehabilitation and maintenance

Vegetation clearance associated with the proposed controlled activity must be limited to where the controlled activity is to be carried out, as shown on the approved plan(s).

### Reporting requirements

The consent holder must inform Natural Resources Access Regulator in writing when any proposed controlled activity carried out under a controlled activity approval has been completed.
SCHEDULE 1

The plans and associated documentation listed in this schedule are referred to in general terms of approval (GTA) issued by NRAR for integrated development associated with DA2018/01191 as provided by Council:

- Statement of Environmental Effects
- Stormwater Management Plan
- Site Plan
- Civil Plan
Dear Amanda

Proposed Development at 144 Maryland Drive, Maryland
Development Application No. 2018/01191

I refer to your letter dated 30 October 2018 concerning the above development. This letter is Ausgrid’s response under clause 45(2) of the State Environmental planning Policy (Infrastructure) 2007.

As you would be aware, the assessment and evaluation of environmental impacts for a new development consent (or where a development consent is modified) is undertaken in accordance with requirements of Section 79C of the Environmental Planning and Assessment Act 1979. One of the obligations upon consent authorities, such as local councils, is to consider the suitability of the site for the development which can include a consideration of whether the proposal is compatible with the surrounding land uses and the existing environment.

In this regard, Ausgrid requires that due consideration be given to the compatibility of proposed development with existing Ausgrid’s infrastructure, particularly in relation to risks of electrocution, fire risks, Electric & Magnetic Fields (EMFs), noise, visual amenity and other matters that may impact on Ausgrid or the development.

Please note the following information in relation to the construction of the development:

Supply of Electricity

It is recommended for the developer to engage an electrical consultant/contractor to assess capacity of existing connection to accommodate any proposed increase in load.

There is an existing electricity substation ‘HS28978 BI LO MARYLAND’ and associated cables within Lot 512 DP717019 supplying existing premises.

If it is determined additional capacity of connection will be required a ‘NECF Connection Application Form’ must be submitted. An assessment will be carried out based on the information provided which may include whether or not the existing network can support the expected electrical load of the development.

If an upgrade to the electricity network is necessary, the timeframe between the submission of
the connection application and availability to connect the development will vary and may be exposed to a lengthy design and construction period. The submission of the Connection Application will allow us to begin planning and processing the connection and hopefully minimise any delays.

Please direct the developer to Ausgrid’s website, www.ausgrid.com.au for information regarding connecting to Ausgrid’s network.

**Working in Proximity to Existing Overhead Network Assets**

There are existing overhead electricity network assets in Maryland Drive adjacent to the development.

Workcover Code of Practice 2006 – Work Near Overhead Powerlines outlines the minimum safety separation requirements between these mains / poles to structures within the development throughout the construction process. It is a statutory requirement that these distances be maintained throughout construction.

It is recommended that Ausgrid is contacted on (02) 4910 1200 to discuss compliance issues regarding the relevant Workcover Code of Practice 2006 – Work Near Overhead Powerlines.

**Clearance to ‘As Constructed’ Development may not be Compliant**

The “as constructed” minimum clearances to the mains should also be considered. These distances are outlined in the Ausgrid Network Standard, NS220 Overhead Design Manual. This document can be sourced from Ausgrid’s website, www.ausgrid.com.au

The existing overhead mains may require relocating should the minimum safety clearances be compromised in either of the above scenarios, this relocation work is generally at the developers cost.

Before a Construction Certificate is issued the developer will be required to submit a survey plan to Ausgrid showing the location of all overhead mains within 5 metres of the proposed development. This drawing must contain a plan view and an elevated view clearly indicating the location of the overhead mains in relation to the development. This information should be forwarded to customer_supply_newcastle@ausgrid.com.au for further comment.

**Underground Mains**

The works described in your notification are also in the vicinity of underground electricity assets within the Boundary Road foot way.

In addition to DBYD searches I recommend that you to conduct a ground search to locate
electricity assets immediately prior to commencing work to check for updates of installed utilities.

Please refer to Ausgrid’s Network Standard 156 - Working near or around underground cables which can be found on Ausgrid’s website at www.ausgrid.com.au and Workcover Document– ‘Work Near Underground Assets’

Any alterations to Ausgrid’s underground electricity mains will be Contestable Works and funded by Developer.

Please do not hesitate to contact me if you require any further information or assistance.

Yours sincerely

Troy Tracey
Engineering Officer
Newcastle Design & Planning Portfolio

☎ 4910 1264          ☏ (02) 4951 9459
✉ ttracey@ausgrid.com.au  ✉ www.ausgrid.com.au

Ausgrid Reference: 1900088126
ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER

ITEM 19  
DA2017/00789 - 9 BELFORD STREET BROADMEADOW
ALTERATIONS TO BUILDING FOR CHANGE OF USE TO DWELLING, ERECTION OF FIVE THREE STOREY ATTACHED DWELLINGS, ASSOCIATED SITE WORKS AND ONE LOT INTO SIX LOT SUBDIVISION

Attachment A - Submitted Plans
Attachment B - Draft Schedule of Conditions
Attachment C - Processing Chronology
DEVELOPMENT APPLICATIONS COMMITTEE MEETING

3 December 2019

DA2017/00789

9 BELFORD STREET BROADMEADOW

Attachment A: Submitted Plans

DISTRIBUTED UNDER SEPARATE COVER
HAMILTON FIRE STATION

5x townhouses & subdivision + adaptive re-use - residential

NOVEMBER 2017

LOCATION
LOT 1, DP77912
9 Belford Street Broadmeadow NSW 2292

ARCHITECTURAL CONSULTANT:
Warren Haasnoot
Architect NSW No.9852
Curious Practice
1/14 Thorn Street
Newcastle NSW 2300
PO Box 113,
Carrington NSW 2294
M: 0412 066 882
E: warren@curiouspractice.com
W: www.curiouspractice.com

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Helen Mansfield
MANFIELD URBAN PTY LTD
2/22 Beaumont Street
Islington NSW 2296
P: +61 2 4041 1434
M: 0412 05 44 55

TOWN PLANNING CONSULTANT:
Wade Morris
SNL BUILDING CONSTRUCTIONS
22 Pendlebury Road,
Cardiff 2285
PO Box 4222,
Edgeworth NSW 2285
P: 02 4954 8866
0447 421 367

CIVIL CONSULTANT:
Mark Smith
FORUM CONSULTING ENGINEERS
67 McMichael Street,
Maryville 2293
PO Box 261,
Wickham NSW 2293
P: 02 4961 4980
M: 0417 529 874
E: marks@forumengs.com.au

ENVIRONMENTAL CONSULTANT:
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Building Sustainability Assessments
7 William Street HAMILTON  2303
P:(02) 4962 3439
E: enquiries@buildingsustainability.net.au
W: www.buildingsustainability.net.au

HERITAGE CONSULTANT:
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CARSTE STUDIO
PO Box 149 Wallsend 2287
M: 0427 432 720
P: (02) 4951 2578
E: stephen@carste.com.au

ENVIRONMENTAL CONSULTANT:
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CIVIL CONSULTANT:
Mark Smith
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67 McMichael Street,
Maryville 2293
PO Box 261,
Wickham NSW 2293
P: 02 4961 4980
M: 0417 529 874
E: marks@forumengs.com.au

PROJECT DETAILS:
Client
GTS Unit Trust
9 Belford Street Broadmeadow
NSW 2292

Site Address
Lot 1 // DP77912
911 m²

LGA
Newcastle City Council
R4 High Density Residential

Zoning
FNR

FSR
0:9:1

Maximum Building Floor Area (approx.)
620 m²

Building Height Limit
11 m

Minimum Lot Size
400 m²

Heritage
N/A

Flood Control Lot
N/A

Bushfire Zoning
N/A

Acid Sulphate Soils
Class 5

ISSUE C : OVERVIEW OF UPDATES

- Addition to the Fire Station is pulled back, reduced in height and rounded to be more
  subservient
- Dwelling 6 has been removed
- Other dwellings have been increased 0.4m (width) to balance the loss of dwelling 6 and
  increase the spacing between driveways.
- Dwelling 5 becomes a 4 bedroom and is articulated to address Samdon Street + relate to fire
  station addition.
- Materials have been changed to lift the character of the building and demonstrate a higher
  level of craft/finish
- Relocation of Flag pole position to be investigated
HAMITON FIRE STATION
1625-DA
Lot 1, DP No. 77912, no. 9 Belford Street
Broadmeadow, NSW, 2292

client
GTS Unit Trust

address
PO Box 4222, Edgeworth NSW 2285

workshop drawings. If in doubt
ask. Report all errors and omissions. All
dimensions are in millimetres.

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copyright. The information, ideas and concepts
contained in this document are confidential.
Dwelling Address:
9 Belford Street
Broadmeadow, NSW 2292

Certificate no.:
Assessor Name:
Gavin Chambers
Accreditation no.:
VIC/BDAV/13/1491
Certificate date:
24 November 2017

LEVEL 02 FLOOR PLAN
1 GARAGE
2 STACKED PARKING
3 ENTRY
4 LAUNDRY
5 KITCHEN
6 DINING
7 LIVING
8 PRIVATE OPEN SPACE
9 WC
10 BATHROOM
11 BEDROOM
12 EN-SUITE
13 STORAGE
14 EXISTING FIRE STATION
15 LIFT
16 COVERED OUTDOOR SPACE
17 HOME OFFICE
18 SITTING

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Roof Plan

HAMILTON FIRE STATION
1625-DA
Lot 1, DP no. 77912, no. 9 Belford Street
Broadmeadow, NSW, 2292

client
GTS Unit Trust

address
PO Box 4222, Edgeworth NSW 2285

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HAMiLTON FiRE STATION

09/11/17

Dwelling Address:

9 Belford Street
Broadmeadow, NSW
2292

Certificate no.:
Assessor Name:
Accreditation no.:
Certificate date:

0002212780
Gavin Chambers
VIC/BDAV/13/1491
24 November 2017

version: 1, Version Date: 24/11/2017

Document Set ID: 5387566

WORK TO FIGURED DIMENSIONS. DO NOT SCALE DRAWINGS. CHECK DIMENSIONS AND LEVELS ON SITE PRIOR TO THE ORDERING OF MATERIALS OR COMPLETION OF WORKSHOP DRAWINGS. IF IN DOUBT ASK. REPORT ALL ERRORS AND OMISSIONS. ALL DIMENSIONS ARE IN MILLIMETRES.

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work to figured dimensions. do not scale drawings. check dimensions and levels on site prior to the ordering of materials or completion of workshop drawings. if in doubt ask. report all errors and omissions. all dimensions are in millimetres.

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1:100

Certificate no.:
Assessor Name:
Accreditation no.:
Certificate date:

0002212780
Gavin Chambers
VIC/BDAV/13/1491
24 November 2017

Version: 1, Version Date: 24/11/2017

Document Set ID: 5387566
HAMILTON FIRE STATION
Project no. 1625-DA

Site address: Lot, 1, DP no. 77912, no. 9 Belford Street, Broadmeadow, NSW 2292

Client: GTS Unit Trust
Address: PO Box 4222, Edgeworth NSW 2285

Drawing phase: Development Application

Issue date: 09/11/2017

Scale: 1:100

Work to figured dimensions. Do not scale drawings. Check dimensions and levels on site prior to ordering of materials or completion of workshop drawings. If in doubt ask. Report all errors and omissions. All dimensions are in millimetres.

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CURIOS PRACTICE
PO BOX 113
Carrington, 2294
Warren Haasnoot
Architect NSW No.9852
M 0412 086 882
E warren@curiouspractice.com
W www.curiouspractice.com

HAMILTON FIRE STATION
project no. 1625-DA
site address Lot, 1, DP no. 77912, no. 9 Belford Street
Broadmeadow, NSW, 2292
client GTS Unit Trust
address PO Box 4222, Edgeworth NSW 2285

Fire Station Level 01
Development Application 1:100
1625-DA-12

Certificate no.:
Assessor Name:
Accreditation no.:
Certificate date:
www.nathers.gov.au
Dwelling Address:
0002212780
Gavin Chambers
VIC/BDAV/13/1491
4.6
24 November 2017
9 Belford Street
Broadmeadow, NSW
2292

Certificate no.:
Assessor Name:
Accreditation no.:
Certificate date:
www.nathers.gov.au
Dwelling Address:
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Gavin Chambers
VIC/BDAV/13/1491
4.6
24 November 2017
9 Belford Street
Broadmeadow, NSW
2292

Version: 1, Version Date: 24/11/2017
Document Set ID: 5387956
HAMILTON FIRE STATION

project no. 1625-DA

site address Lot, 1, DP no. 77912, no. 9 Belford Street Broadmeadow, NSW, 2292

client GTS Unit Trust

drawing

development application 1625-DA

1:100

site section

north elevation

1:100

14

CURIOS PRACTICE

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Carrington, 2294

Warren Haasnoot
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Certificate no.: 0002212780
Assessor Name: Gavin Chambers
Accreditation no.: VIC/BDAV/13/1491
Certificate date: 24 November 2017

Dwelling Address:
9 Belford Street
Broadmeadow, NSW
2292

Certificate no.:
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Accreditation no.:
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4.6
24 November 2017
9 Belford Street
Broadmeadow, NSW
2292

Drawing Set ID: 5387566

Document Set ID: 5387566

Version: 1, Version Date: 24/11/2017
HAMILTON FIRE STATION
1625-DA
Lot 1, DP no. 77912, 9 Belford Street
Broadmeadow, NSW 2292
GTS Unit Trust
PD Box 4222, Edgeworth NSW 2285
issue
date
C
09/11/17
drawing phase scales ref
dwg no.
East Elevation
Development Application
1:100
1625-DA-15

Certificate no.:
Assessor Name:
Accreditation no.:
Certificate date:
www.nathers.gov.au
Dwelling Address:
0002212780
Gavin Chambers
VIC/BDAV/13/1491
4.6
24 November 2017
9 Belford Street
Broadmeadow, NSW
2292

Certificate no.:
Assessor Name:
Accreditation no.:
Certificate date:
www.nathers.gov.au
Dwelling Address:
0002212780
Gavin Chambers
VIC/BDAV/13/1491
4.6
24 November 2017
9 Belford Street
Broadmeadow, NSW
2292

09/11/17
Development Application 1
Development Application 2

WH
CB
WH
WH

Work to figured dimensions. Do not scale drawings. Check dimensions and levels on site prior to the ordering of materials or completion of workshop drawings. If in doubt ask. Report all errors and omissions. All dimensions are in millimetres.

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Version: 1, Version Date: 24/11/2017

Document Set ID: 5387956

Curious Practice
PO Box 113
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Warren Haasnoot
Architect NSW No.9852
0412 086 882
warren@curiouspractice.com
www.curiouspractice.com

15
This document contains information about the design and development of the Hamilton Fire Station, project no. 1625-DA, located at Lot, 1, DP no. 77912, 9 Belford Street, Broadmeadow, NSW, 2292. The client is GTS Unit Trust, with the address PO Box 4222, Edgeworth NSW 2285.

The document includes details such as the building height limit, unit numbers (UNIT 1 to UNIT 5), and specific dimensions for various elements of the fire station. It also contains instructions for work to be figured dimensions without scaling drawings and checking dimensions and levels on site before ordering materials or completion of workshop drawings. All dimensions are in millimetres, and reproduction of the whole or part of the document constitutes an infringement of copyright.
### Window/Door Schedule

#### BROADMEADOW FIRE STATION

Dimensions indicated are nominal. Grade of Materials are subject to change. Fabrication Variations are subject to change. Final Door/Window variation to be confirmed on site.

**Apartment 1 – E**

<table>
<thead>
<tr>
<th>No.</th>
<th>Room</th>
<th>Aspect</th>
<th>Height</th>
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**Apartment 2**

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**Door Schedule**

- Doors - Other

<table>
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**Floor Plan**

- Doors - Exposed

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<th>Aspect</th>
<th>Height</th>
<th>Width</th>
<th>Area</th>
<th>Head</th>
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<td>Fixed</td>
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<td>-</td>
<td></td>
</tr>
</tbody>
</table>

**Drawing Information**

- Curious Practice
- PO Box 113
- Carrington, 2294
- M: 0421 286 832
- W: warren@curiouspractice.com
- www.curiouspractice.com

- C & H M E W
- Date: 09/11/2017
- Project No. 77912
- Drawing No. D19

- Hamilton Fire Station
- 1625 DA
- Lot 1, DP No. 77412, 9 Balford Street
- Broadmeadow, NSW, 2290
- Client: GTS Unit Trust
- Address: PD Box 4220, Edgeworth NSW 2286
- Rev: B
- Issue Date: 09/11/17
- Scale: 1:20

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9 Belford Street Broadmeadow

SUMMARY OF BASIX COMMITMENTS FOR EACH UNIT

This is a summary of the BASIX Commitments as detailed in the BASIX Certificate.
For further details please refer to curiouspractice.com

WATER COMMITMENTS

Fixtures
- 3 Star Shower Heads
- 3 Star Kitchen / Basin Taps

Alternative Water
- Minimum Tap Size (L) 2000
- 30

Taps Connected To:
- Yes

One Outdoor Tap
- Yes

Thermal Comfort Commitments - Refer to TPA Specification on plans

ENERGY COMMITMENTS

Hot Water
- Gas instantaneous 5 Star

Cooling System
- Living 2 Phase A/C Zone EER 2.3 - 2.6
- Bedrooms 2 Phase A/C Zone EER 2.3 - 2.6

Heating System
- Living 2 Phase A/C Zone EER 2.3 - 2.6
- Bedrooms 2 Phase A/C Zone EER 2.3 - 2.6

Ventilation
- 1 x Bathroom Fan ducted to outside Manual on/off
- Laundry As drawn

Natural Lighting
- Window/ Skylight in Kitchen As drawn

Artificial Lighting
- Number of bedrooms 4
- Number of Lighting/Dining rooms 1
- Kitchen Yes
- All Bathrooms/Toilets Yes
- Laundry No
- All Hallways No

OTHER COMMITMENTS

Outdoor clothes line Yes
- Ventilated refrigerator space Yes

Stove/Oven Gas cooktop & electric oven

November 2017
BASIX Reference: 12345
Building Sustainability Assessments
02 612 086 393
enquiries@building sustainabilty.net.au www.building sustainabilty.net.au

Important Note
The following specification and data is the thermal performance values indicated on
the Assessor Certificates and takes precedence over any other specification.
If different construction materials are applied the Assessor Certificate is no longer valid.

Thermal Performance Specifications
Form not apply to garages

External Wall Construction
- Insulation
- Black Venetian & UPVC

Cyclone Rating
- Raw

Interglass Construction
- rated insulation

Window Construction
- rated insulation

Leaked
- under 0.6

Ceiling Construction
- rated insulation

Roof Construction
- rated insulation

Wall
- Key

Floor + R 2 Blanket

Racking
- No

Basics Notes
Development Application
09/11/17
Drawing no.
Version Date: 24/11/2017

Certificate no.:
Assessor Name:
Accreditation no.:
Certificate date:

www.nathers.gov.au

0002212780
Gavin Chambers
VIC/BDAV/13/1491
4.6
24 November 2017
9 Belford Street
Broadmeadow, NSW
2292

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© NATHERS Pty Ltd
HAMILTON FIRE STATION
Zoning R4 High Density

CURIOUS PRACTICE
PO BOX 113
Carrington, 2294
Warren Haasnoot
Architect NSW No.9852
0412 086 882
warren@curiouspractice.com
www.curiouspractice.com

HAMILTON FIRE STATION
1625-DA
Lot, 1 DP no. 77512, no. 9 Belford Street
Broadmeadow, NSW, 2292

client
address

GTS Unit Trust
PO Box 4222, Edgeworth NSW 2285

issue
date

09/11/17

drawing
phase
ref
dwg no.

09/11/17

Development Application 1
Development Application 2

Work to figured dimensions. Do not scale drawings. Check dimensions and levels on site prior to the ordering of materials or completion of workshop drawings. If in doubt ask. Report all errors and omissions. All dimensions are in millimetres.

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WALL CLADDING 1 - (LL)
LONGLINE 305® Monument®

WALL CLADDING 2 - (BLK)
Austral GB Honed Half Height concrete block ‘porcelain’

WALL CLADDING 3 - (TIM)
Timber battens detail

WALL CLADDING 4 - (FC)
Hardies Scyon™ Matrix™ cladding

EXTERNAL LOUVRES - (TIM)
Adjustable timber louvres

WINDOW AWNINGS
Powdercoated ‘white’ mild steel

EXISTING BRICKWORK - (EX BK)
Existing dryPressed red brick

WAL ETENNCE - (TBF)
lip and cap rough sawn timber fence

HAMILTON FIRE STATION
1625-DA
Lot 1, DP no. 77912, no. 9 Belford Street
Broadmeadow, NSW 2292

GTS Unit Trust
PD Box 4222, Edgeworth NSW 2285

Materials
Development Application
1625-DA-25
HAMILTON FIRE STATION

project no. 1625-DA

site address Lot, 1, DP no. 77912, no. 9 Belford Street
Broadmeadow, NSW, 2292

client GTS Unit Trust
address PO Box 4222, Edgeworth NSW 2285

drawing phase scales ref
09/11/17

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HAMilton fire station

Project no. 1625-DA

Site address
Lot 1, DP no. 77912, no. 9 Belford Street
Broadmeadow, NSW, 2292

Client
GTS Unit Trust

Address
PO Box 4222, Edgeworth, NSW 2285

Drawing

Issue date
09/11/17

Scale
B

Comment
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PERSPECTIVE
DIXON STREET

Document Set ID: 5387956
Version: 1, Version Date: 24/11/2017
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Architect NSW No.9852
0412 086 882
warren@curiouspractice.com
www.curiouspractice.com

HAMILTON FIRE STATION
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Broadmeadow, NSW, 2292

client GTS Unit Trust
address PO Box 4222, Edgeworth NSW 2285

Perspective Belford Street

Development Application 1625-DA

rev. date B 27/06/2017 C 09/11/2017
comment Development Application 1 Development Application 2
dwg no. BC
chk. WH
chk. CB

项目 no.
site address

client
address

issue date 09/11/17
phase scales

版本: 1, 版本日期: 24/11/2017

维度: E W

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DEVELOPMENT APPLICATIONS COMMITTEE MEETING
3 DECEMBER 2019

DAC 3/12/19

DA2017/00789 - 9 BELFORD STREET BROADMEADOW

Attachment B: Draft Schedule of Conditions

DISTRIBUTED UNDER SEPARATE COVER
Application No: DA2017/00789

Land: Lot 1 DP 77912

Property Address: 9 Belford Street Broadmeadow - NSW 2292

Proposed Development: Alterations to the former Hamilton Fire Station for a change of use to a dwelling, erection of five attached three-storey dwellings, tree removal and subdivision of the land into six lots.

---

SCHEDULE 1

REASONS FOR CONDITIONS

1. The conditions of this consent have been imposed in accordance with Section 4.17 of the Environmental Planning and Assessment Act 1979 (NSW). The conditions relate to any matter referred to in Section 4.15 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>COVER PAGE</td>
<td>C</td>
<td>CURIOUS PRACTICE</td>
<td>09/11/2017</td>
</tr>
<tr>
<td>SITE CONTEXT</td>
<td>C</td>
<td>CURIOUS PRACTICE</td>
<td>09/11/2017</td>
</tr>
<tr>
<td>EXISTING FIRE STATION</td>
<td>C</td>
<td>CURIOUS PRACTICE</td>
<td>09/11/2017</td>
</tr>
<tr>
<td>SITE PLAN</td>
<td>C</td>
<td>CURIOUS PRACTICE</td>
<td>09/11/2017</td>
</tr>
<tr>
<td>GROUND FLOOR PLAN</td>
<td>C</td>
<td>CURIOUS PRACTICE</td>
<td>09/11/2017</td>
</tr>
<tr>
<td>LEVEL 1 FLOOR PLAN</td>
<td>C</td>
<td>CURIOUS PRACTICE</td>
<td>09/11/2017</td>
</tr>
<tr>
<td>LEVEL 2 FLOOR PLAN</td>
<td>C</td>
<td>CURIOUS PRACTICE</td>
<td>09/11/2017</td>
</tr>
<tr>
<td>ROOF PLAN</td>
<td>C</td>
<td>CURIOUS PRACTICE</td>
<td>09/11/2017</td>
</tr>
<tr>
<td>UNIT LAYOUT (a)</td>
<td>C</td>
<td>CURIOUS PRACTICE</td>
<td>09/11/2017</td>
</tr>
<tr>
<td>UNIT LAYOUT (b)</td>
<td>C</td>
<td>CURIOUS PRACTICE</td>
<td>09/11/2017</td>
</tr>
<tr>
<td>FIRE STATION GROUND</td>
<td>C</td>
<td>CURIOUS PRACTICE</td>
<td>09/11/2017</td>
</tr>
<tr>
<td>FIRE STATION LEVEL 01</td>
<td>C</td>
<td>CURIOUS PRACTICE</td>
<td>09/11/2017</td>
</tr>
<tr>
<td>NORTH ELEVATION</td>
<td>C</td>
<td>CURIOUS PRACTICE</td>
<td>09/11/2017</td>
</tr>
<tr>
<td>NORTH ELEVATION</td>
<td>C</td>
<td>CURIOUS PRACTICE</td>
<td>09/11/2017</td>
</tr>
<tr>
<td>EAST ELEVATION</td>
<td>C</td>
<td>CURIOUS PRACTICE</td>
<td>09/11/2017</td>
</tr>
<tr>
<td>SOUTH ELEVATION</td>
<td>C</td>
<td>CURIOUS PRACTICE</td>
<td>09/11/2017</td>
</tr>
<tr>
<td>WEST ELEVATION</td>
<td>C</td>
<td>CURIOUS PRACTICE</td>
<td>09/11/2017</td>
</tr>
<tr>
<td>SECTION</td>
<td>C</td>
<td>CURIOUS PRACTICE</td>
<td>09/11/2017</td>
</tr>
</tbody>
</table>
In the event of any inconsistency between conditions of this development consent and the plans/supporting documents referred to above, the conditions of this development consent prevail.

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

3. A total monetary contribution of $16,948.88 is to be paid to the City of Newcastle, pursuant to Section 7.12 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’s *Section 7.12 Newcastle Local Infrastructure Contributions Plan 2019*.

b) The City of Newcastle’s *Section 7.12 Newcastle Local Infrastructure Contributions Plan 2019* 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.

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 as follows:

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

Any party intending to act on this consent should contact City of Newcastle’s Customer Enquiry Centre for determination of the indexed amount of contribution on the date of payment.
4. The car parking and vehicular access is to be designed to comply with AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking and AS/NZS 2890.6:2009 - Parking facilities - Off-street parking for people with disabilities. Full details are to be included in documentation for a Construction Certificate application.

5. 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.

6. Traffic management devices in the form of revolving lights to be provided at the entry of the garages for the fire station unit. Such light should be designed to be activated at the opening of the garage door. Such devices to be constructed in accordance with AS/NZS 2890.1:2004: Parking facilities – Off-street car parking. Full details are to be included in documentation for a Construction Certificate application.

7. The relocation of the School Zone sign on Dixon Street (adjoining the driveway for Unit 5) is to be approved by Roads and Maritime Services prior to the issue of any Construction Certificate. The works associated with relocation and installation of sign will need to be undertaken to Roads and Maritime Services specifications and standards.

8. Letterboxes, landscaping and any other obstructions to visibility are to be kept clear of or limited in height to 1.2m in the 2 metre by 2.5 metre splay within the property boundary each side of the driveway entrance in accordance with AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking. Full details are to be included in documentation for a Construction Certificate application.

9. Roof water from the proposed new work is to be directed to the proposed underground water tanks for the Dixon St units and above ground tank for the fire station unit (minimum total capacity of 4,000L per unit) and being reticulated from the from 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. All stormwater runoff from the proposed development being managed in accordance with the requirements of Section 7.06 ‘Stormwater’ of Newcastle Development Control Plan 2012, as indicated on the Stormwater Management Plan prepared by Forum Consulting Engineers Dwg No. 70586-SWD-01 of 01 Rev: C, Date: 21/11/17. The junction pit at the rear of Unit 5 is to be designed with a sand filter system or fitted with a proprietary product for stormwater treatment purposed. Full details are to be included in documentation for any Construction Certificate application.

11. All downpipes discharging to the rainwater tanks are to have pre-storage insect, debris and vermin control (e.g. a rainwater head being leaf screened and vermin and insect proof) to minimise the contamination of captured roof water. A first flush device is to be provided for the inlet to the tank and a backflow prevention device is to be installed in the tank overflow outlet before connecting to the stormwater drainage system. If the roof downpipes are charged to the rainwater tank, all pipes are to be chemically welded and the stormwater system is to be designed such that the system is capable of being flushed in the event of pipe blockage (e.g. capped relief access points at the lowest level of stormwater drainage).

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

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 landscape plan and specification. The plan and specifications is to be prepared in accordance with the provisions of Newcastle Development Control Plan 2012 and is to include details of the following:

a) cross sections through the site where appropriate
b) proposed contours or spot levels
c) botanical names
d) quantities and container size of all proposed trees
e) shrubs and ground cover
f) details of proposed soil preparation
g) mulching and staking
h) treatment of external surfaces and retaining walls where proposed
i) drainage, location of taps and
j) appropriate maintenance periods.

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

14. The applicant is to comply with all requirements of the Hunter Water Corporation regarding the connection of water supply and sewerage services, including the payment of any required cash contribution towards necessary amplification of service mains in the locality as a result of the increased intensity of land use proposed. A copy of the Corporation's compliance certificate (refer s50 Hunter Water Act 1991) is to be included in documentation for a Construction Certificate application.

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

16. The proposed floodlighting of the premises is to be designed, positioned, and installed, including appropriate shielding and orientation of the lighting fixture, as to not give rise to obtrusive light, interfere with traffic safety or detract from the amenity of surrounding properties in accordance with Australian Standard 4282:1997 - Control of the obtrusive effects of outdoor lighting. Full details are to be included in the documentation for a Construction Certificate application.

17. The proposed lighting including car park lighting of the premises is to be designed, positioned, and installed, including appropriate shielding and orientation of the lighting fixture, as to not give rise to obtrusive light, interfere with traffic safety or detract from the amenity of surrounding properties in accordance with Australian Standard AS 4282: 1997 Control of the obtrusive effects of outdoor lighting. Full details are to be included
18. 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.

19. The existing ‘London Plane US Hybrid’ street trees (Council ID 26549 & 26550) are approved to be removed, subject to arrangements being made for the removal of the street tree by contacting Council's City Greening Services. All tree removal works are to be carried out by Council at the Developer's expense.

20. Three street trees are required to be planted as compensation for the removal of the existing trees. A fee, to be determined by contacting Council's City Greening Services, is to be paid to Council for the required compensatory planting and evidence of the payment of the required fee is to be included in the documentation for a Construction Certificate application. The tree selection and location of the required compensatory tree will be determined by Council's City Greening Coordinator in accordance with 'The City of Newcastle's Street Tree Master Plan'. The location of the compensatory tree planting may not be in the immediate proximity of the site.

21. The second storey of the proposed Unit at the fire station building is to be a flood refuge in a PMF event, the building is to be structurally certified, suitable for an L4 hazard rating, to withstand flood flows from a PMF event (PMF Flood Level is 7.07m AHD, velocity 0.3m/s). Full details are to be included in documentation for a Construction Certificate application.

22. The developer is to design the following works within the street frontages of the site at no cost to Council and in accordance with Council's guidelines, design specifications and Australian Standards:

a) Public Domain Works

i. New footpath and streetscape works extending 2-5m either side of the property along Dixon Street and any footpath upgrade required by Council along any other frontage.

ii. New driveways and associated works.

iii. Install new street trees and grass verge areas in accordance with Council requirements and adjust service pit levels to match new footpath level. Note: footpath to achieve maximum cross fall of 2.5%.

iv. Remove all redundant driveways, install new kerb and gutter and repair any road works.

v. Installation of drainage connection and associated roadworks.

vi. Install the required parking signs, line markings and mandatory signage.

Detailed public domain plan including civil design & details, survey, cross sections (footpath path being designed with 2.5% cross fall), longitudinal and street lighting design are to be submitted to Council for review and approval as part of the S138 Road Act Type 2 application, prior to the issue of any construction certificate.

These engineering design plans and specifications for the works being undertaken in the public road reserve are required to be prepared by a suitably qualified practising
civil, hydraulic, geotechnical engineers with experience and competence in the related field.

In this regard the separate approval from Council must be obtained for all works within the public road reserve, pursuant to Section 138 of the Roads Act 1993 (Type 2 application), prior to any Construction Certificate (excluding bulk excavation and demolition works within the site).

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

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

24. Remediation being carried out in accordance with Section 4.3 as set out in the submitted Remediation Action Plan (RAP) prepared by ESP dated 18 June 2019, and any requirements of the appointed NSW accredited Site Auditor and the conditions of this consent.

25. Tree removal and retention shall be carried out in accordance with the Arborist Report prepared by Joseph Piduti dated 31 May 2017.

26. All recommendations contained within the Statement of Heritage Impact prepared by Carste Studio dated 22 June 2017 are to be complied with.

27. 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.

28. 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.

29. 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.

30. 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.

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

32. Waste management shall be implemented in accordance with the approved Waste Management Plan. At a minimum, the following measures shall be implemented during the construction phase:

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

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

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

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

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

33. If construction / demolition work is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or involves the need to enclose a public place, a hoarding or fence must be erected between the work site and the public place. If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place. Any such hoarding, fence or awning is to be removed when the work has been completed.

34. An application is to be made to and approved by Council for the erection of a hoarding or part closure of the footway prior to construction being commenced. Such overhead structure or protective fence shall comply with the Work Health and Safety Act 2011 (NSW), Work Health and Safety Regulation 2011 (NSW) and any relevant approved industry code of practice. Notice of intention of commencement must be given to WorkCover New South Wales.

35. 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.

36. All building work must be carried out in accordance with the provisions of the National Construction Code.

37. 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.

38. 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.

39. 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.

40. 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.

41. Certification is to be prepared by a Registered Surveyor and submitted to the Principal Certifying Authority at the stages of construction indicated:

a) On completion of ground floor construction, confirming that the floor levels are in accordance with the approved levels.

b) On completion of each subsequent floor level, confirming that the floor levels are in accordance with the approved levels.

c) When the roof has been completed, confirming that the building does not exceed the approved levels.

42. 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.

43. The developer is to comply with all requirements of the telecommunications authority regarding the connection of telephone services including:

a) The payment of any required cash contribution towards the provision of underground or aerial reticulation cabling or internal block cabling.
b) Consultation with the NBN. Where the development will result in an additional connection to the network, the design and construction of the works must comply with the current National Broadband Network (NBN) standards. Development in an area affected by the publicly announced rollout maps by the NBN must be registered, with the NBN via their website.

Written evidence of consultation shall be submitted to the Principal Certifying Authority before the commencement of work.

44. 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.

45. 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.

46. 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.

47. 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.

48. 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.

The sign can be obtained by presenting your development application receipt at Council’s Customer Enquiry Counter, Wallsend Library or the Master Builders Association Newcastle.

49. 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’.

50. 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.

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

52. 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.

53. Erosion and sediment control measures are to be implemented prior to the commencement of works and be maintained during the period of construction in accordance with the details set out on the Erosion and Sediment Control Plan submitted with the application, and with the below requirements:

   a) Control over discharge of stormwater and containment of run-off and pollutants leaving the site must be undertaken through the installation of erosion control devices such as catch drains, energy dissipaters, level spreaders and sediment control devices such as hay bale barriers, filter fences, filter dams and sediment basins and controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover. Erosion and sediment control measures are to be designed in accordance with the requirements of the Managing Urban Stormwater: Soils and Construction 4th Edition - Vol. 1 (the ‘Blue Book’) published by Landcom, 2004.

54. 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.

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

56. 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).

57. During construction works, an assessment of acid sulfate soil potential is to be undertaken in the area of excavation. If acid sulfate soils are found to be present, soils are to be treated in accordance with the New South Wales Acid Sulfate Soil Management Advisory Committee’s ‘Acid Sulfate Soil Manual’.

58. 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.

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

59. 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.
60. 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.

61. The Public Domain works and Roads and Maritime Services School Zone sign relocation are to be implemented and construction works are to be completed to Council satisfaction prior to the issue of any Occupation Certificate.

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

63. Following completion of the remediation works, a validation report being prepared by a suitably qualified consultant in accordance with the relevant Environment Protection Authority Guidelines and submitted to the Principle Certifying Authority and Council prior to the issuing of Occupation Certificate.

64. Prior to the issuing of an Occupation Certificate a type A1 Site Audit Statement is to be submitted to the Principle Certifying Authority and Council. The Site Audit Statement is to certify the land is suitable for the appropriate residential land use in accordance with the NSW EPA Site Auditor Scheme.

65. A long-term Site Management Plan is to be prepared and approved by the Site Auditor to address remaining site contamination risks and to be provided to the Principle Certifying Authority and Council prior to the issuing of Occupation Certificate.

66. 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.

67. An application is to be made for a Subdivision Certificate. The application is to be supported by a survey plan of subdivision, the Administration Sheet and a Section 50 Certificate from the Hunter Water Corporation.

68. 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.

69. 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.

70. 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.

CONDITIONS TO BE SATISFIED DURING THE OPERATION AND USE THE DEVELOPMENT

71. Under no circumstances is groundwater to be extracted from the site for any use.

72. The use and occupation of the premises, including all plant and equipment installed
thereon, is not to give rise to any offensive noise, as defined under the Protection of the Environment Operations Act 1997 (NSW).

Should Council consider offensive noise has emanated from the premises, the owner/occupier of the premises will be required to submit an acoustic assessment prepared by a suitably qualified acoustical consultant recommending appropriate acoustic measures necessary to ensure future compliance with this condition and will be required to implement such measures within a nominated period. Furthermore, written certification from the said consultant confirming the recommended acoustic measures have been satisfactorily implemented will be required to be submitted to Council prior to the expiration of the nominated period.

73. The use and occupation of the premises is not to give rise to the emission of any 'air impurity' as defined under the Protection of the Environment Operations Act 1997 (NSW), that interferes unreasonably with the amenity of neighbouring premises and/or other sensitive receivers.

Should Council consider that unreasonable levels of air impurities have been emitted from the premises, the owner/occupier will be required to engage a suitably qualified consultant to recommend measures to control emissions of air impurities to an acceptable level and such measures being implemented within a nominated time period. Furthermore, written certification from the suitably qualified consultant will be required to be submitted to Council confirming that air impurity emissions from the premises do not interfere unreasonably with the amenity of neighbouring premises and/or other sensitive receptors before the expiration of the nominated period.

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

75. 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.

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

<table>
<thead>
<tr>
<th>Unit Number on plan</th>
<th>Council Allocated Street Addresses</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>House Number</td>
</tr>
<tr>
<td>1</td>
<td>8</td>
</tr>
<tr>
<td>2</td>
<td>10</td>
</tr>
<tr>
<td>3</td>
<td>12</td>
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<tr>
<td>4</td>
<td>14</td>
</tr>
<tr>
<td>5</td>
<td>16</td>
</tr>
<tr>
<td>6</td>
<td>9</td>
</tr>
</tbody>
</table>

**ADVISORY MATTERS**

- 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).

- Any necessary alterations to public utility installations are to be at the developer/demolisher’s expense and to the requirements of both City of Newcastle and any other relevant authorities. City of Newcastle and other service authorities should be contacted for specific requirements prior to the commencement of any works.
Prior to commencing any building works, the following provisions of Division 6.2 of the *Environmental Planning and Assessment Act 1979* are to be complied with:

a) A Construction Certificate is to be obtained; and  
b) A Principal Certifier is to be appointed for the building works and City of Newcastle is to be notified of the appointment; and  
c) City of Newcastle is to be given at least two days notice of the date intended for commencement of building works.

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*.

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

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

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.

**END OF CONDITIONS**
SCHEDULE 2

REASONS FOR THE DETERMINATION & CONSIDERATION OF COMMUNITY VIEWS
The determination decision was reached for the following reasons:

- The proposed development, subject to the recommended conditions, is consistent with the objectives of the applicable environmental planning instruments, being; *Newcastle Local Environmental Plan 2012* and applicable State Environmental Planning Policies.
- The proposed development is, subject to the recommended conditions, consistent with the objectives of the Newcastle Development Control Plan 2012.
- The proposed development is considered to be of an appropriate scale and form for the site and the character of the locality.
- The proposed development has appropriate management and mitigation of impacts through conditions of consent.
- The proposed development, subject to the recommended conditions, will not result in unacceptable adverse impacts upon the natural or built environments.
- The proposed development is a suitable and planned use of the site and its approval is within the public interest.
- City of Newcastle has considered and accepted the proposed development standard variation made under Clause 4.6 of the Newcastle Local Environmental Plan 2012. The proposed 8.5% variation is considered acceptable in the particular circumstances of this case as the variation will not significantly overshadow the neighbouring properties, obstruct significant view corridors or result in negative privacy issues.
- Any issues raised in submissions have been taken into account in the assessment report and where appropriate conditions of consent have been included in the determination.

REASONS WHY THE CONDITIONS HAVE BEEN IMPOSED
The following conditions are applied to:

- Confirm and clarify the terms of Council's determination;
- Identify modifications and additional requirements that will result in improved compliance, development and environmental outcomes;
- Prevent, minimise, and/or offset adverse environmental impacts including economic and social impacts;
- Set standards and measures for acceptable environmental performance; and
- Provide for the ongoing management of the development.
DAC 3/12/19

DA2017/00789 - 9 BELFORD STREET BROADMEADOW

Attachment C: Processing Chronology

DISTRIBUTED UNDER SEPARATE COVER
PROCESSING CHRONOLOGY

DA2017/00789 - 9 Belford Street Broadmeadow

10 July 2017 - Application lodged

15 June 2017 - Public Notification

26 September 2017 - Request for design amendments

24 November 2017 - Amended plans submitted

06 December 2017 - Public Notification (Amended Plans)

06 December 2018 - Contamination information submitted to Council

17 December 2018 - The proposal was amended to include remediation of the site and re-notified to all previous submitters and affected properties

20 February 2018 - Public Voice

10 January 2019 - Further contamination information submitted

16 January 2019 - Application referred to NSW EPA for comment

3 May 2019 - Comments received from NSW EPA

29 May 2019 - Amended Remediation Action Plan and addendum to Interim Site Audit Advice (following advice from NSW EPA)

20 June 2019 - Amended Remediation Action Plan submitted
ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER

ITEM 20  DA2018/01248 - 64 BRUNKER ROAD BROADMEADOW

RETAIL PREMISES (SHOP), SIGNAGE AND MINOR BUILDING ALTERATIONS

Attachment A - Submitted Plans
Attachment B - Draft Schedule of Conditions
Attachment C - Processing Chronology
DEVELOPMENT APPLICATIONS COMMITTEE MEETING
3 DECEMBER 2019

DAC 3/12/19

DA2018/01248 - 64 BRUNKER ROAD BROADMEADOW

Attachment A: Submitted Plans

DISTRIBUTED UNDER SEPARATE COVER
Attachment B: Draft Schedule of Conditions

DISTRIBUTED UNDER SEPARATE COVER
Application No: DA2018/01248

Land: Lot 183 DP 1045853

Property Address: 64 Brunker Road Broadmeadow NSW 2292

Proposed Development: Retail premises (neighbourhood supermarket), four signs and minor building alterations

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SCHEDULE 1

APPROVED DOCUMENTATION

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

<table>
<thead>
<tr>
<th>Plan No / Supporting Document</th>
<th>Reference / Version</th>
<th>Prepared by</th>
<th>Dated</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site Plan and 3D Views</td>
<td>A01 of 02 Issue 05</td>
<td>The Plan Centre</td>
<td>06/09/2018</td>
</tr>
<tr>
<td>Floor Plans</td>
<td>A02 of 02 Issue 05</td>
<td>The Plan Centre</td>
<td>06/09/2018</td>
</tr>
<tr>
<td>Traffic &amp; Parking Assessment</td>
<td>n/a</td>
<td>Intersect Traffic</td>
<td>12/09/2019</td>
</tr>
<tr>
<td>Waste management Plan</td>
<td>n/a</td>
<td>n/a</td>
<td>n/a</td>
</tr>
<tr>
<td>Statement of Environmental Effects</td>
<td>n/a</td>
<td>ADW Johnson Pty Ltd</td>
<td>October 2018</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

2. On-site parking accommodation is to be provided for a minimum of 36 cars, one motorcycle and facilities for six bicycles 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. Parking is not to be specifically allocated to staff or businesses operating on site. Full details are to be included in documentation for a Construction Certificate application.

3. A total monetary contribution of $750.00 is to be paid to the City of Newcastle, pursuant to Section 7.12 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’s Section 7.12 Newcastle Local Infrastructure Contributions Plan 2019.
b) The City of Newcastle’s Section 7.12 Newcastle Local Infrastructure Contributions Plan 2019 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.

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 as follows:

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

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

4. The car parking and ramp is to be designed to comply with AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking and AS/NZS 2890.6:2009 - Parking facilities - Off-street parking for people with disabilities. Full details are to be included in documentation for a Construction Certificate application.

5. A loading bay with capacity to accommodate a 12.5m long heavy rigid vehicle (HRV) is to be provided consistent with the approved site plans, or to the satisfaction of Council. 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. Kerbing or dwarf walls having a minimum height of 100mm are to be constructed along the edge of all garden or lawn areas adjacent to driveways and parking bays sufficient to discourage the encroachment of vehicles thereon. Full details are to be included in documentation for a Construction Certificate application.

8. All new impervious surfaces, including roof areas and driveway hardstand are to be drained to the existing internal drainage system, full details are to be included in documentation for a Construction Certificate application.

9. 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. The consent must be obtained, or other satisfactory arrangements confirmed in writing from Council, before the issue of a Construction Certificate.

10. For traffic safety, convex mirrors shall be installed directly outside of the existing loading bay roller door serving the future tenancy. Full details are to be included in
11. The existing building is to be upgraded so as to comply with the Performance Requirements of Parts D, E & F of Volume One of the Building Code of Australia, with any Performance Solution being prepared in accordance with Parts A0 of the Code. Full details are to be included in the application for a construction certificate.

12. The design and construction of the proposed development is to be in accordance with the relevant requirements of the Australian Standard 4674-2004 Design, Construction and Fit-Out of Food Premises. Full details are to be included in the documentation for the Construction Certificate application.

13. The disposal of liquid waste from the food preparation areas must be disposed of via the sewer. Hunter Water may require a suitable grease arrestor to remove any solids and waste from the system. The grease arrestor must be located and accessed for cleaning purposes, externally to any areas used for food preparation. Approval is required from Hunter Water prior to the issue of the Construction Certificate.

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

14. All building work must be carried out in accordance with the provisions of the National Construction Code.

15. 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.

16. 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.

17. On-site car parking accommodation is to be provided for a minimum of 36 cars, one motorcycle and facilities for six bicycles and such being set out generally in accordance with the details indicated on the submitted plans except as otherwise provided by the conditions of consent.

18. All parking and loading bays are to be permanently marked out on the pavement surface, with loading bays and visitor parking facilities being clearly indicated by signs.

19. The vehicular entrance and exit driveways and the direction of traffic movement within the site are to be clearly indicated by means of reflectorised signs and pavement markings.

20. 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).

21. Erosion and sediment control measures are to be implemented prior to the commencement of works and maintained during the period of construction in accordance with the details set out on an Erosion and Sediment Control Plan that is to be submitted for approval with the Construction Certificate application. The Erosion and Sediment Control Plan shall satisfy the requirements of Managing Urban Stormwater; Soils and Construction 4th Edition - Vol. 1 (the "Blue Book") published by Landcom, 2004 and Newcastle City Council’s Technical Manual: Stormwater and Water Efficiency for Development 2013. Controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover.
22. 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).

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

24. 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.

25. 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.

26. 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.

27. 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.

28. All demolition material incapable of being re-used in future redevelopment of the site is to be removed from the site and the site being cleared and levelled.

Note: Where reusable building materials are to be stored on site for use in future building works, such materials are to be neatly stacked at least 150 mm above the ground.

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

30. Waste management shall be implemented in accordance with the approved Waste Management Plan. At a minimum, the following measures shall be implemented during the construction phase:

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

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

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

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

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

31. 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.

32. 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.
33. 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.

34. 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.

35. 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.

36. 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.

The sign can be obtained by presenting your development application receipt at Council’s Customer Enquiry Counter, Wallsend Library or the Master Builders Association Newcastle.

37. 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.

38. 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).

39. 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.

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

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

41. 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.

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

43. Prior to issue of an Occupation Certificate, the food business must notify the relevant enforcement agency, under the Food Act 2003 and (for licensed food businesses) under the Food Regulation 2010.

Notification is to be provided to Council by going to www.newcastle.gov.au and download a copy of the ‘Council Food Business Notification Form’ or contact Council’s Regulatory, Planning and Assessment on (02) 4974 2525.

CONDITIONS TO BE SATISFIED DURING THE OPERATION AND USE THE DEVELOPMENT

44. Waste management (recyclable and non-recyclable) is to be collected from the carpark refuse storage area, as identified on the approved plans, serviced from Coolah Road and returned immediately to the refuse storage area. Under no circumstances are garbage bins to remain at kerbside after collection.

45. Signage is to be erected in accordance with the approved plans. It will be necessary to obtain development consent from Council for any additional signage on this site unless the signage is considered exempt development as outlined in State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

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

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

48. 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.

49. The maximum size of any service vehicle visiting the site shall be no greater than a 12.5m long heavy rigid vehicle (HRV).

50. The hours of operation or trading of the premises are to be not more than from:

<table>
<thead>
<tr>
<th>DAY</th>
<th>START</th>
<th>FINISH</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monday</td>
<td>6 am</td>
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</tr>
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</tr>
<tr>
<td>Sunday</td>
<td>6 am</td>
<td>10pm</td>
</tr>
</tbody>
</table>

unless a separate application to vary the hours of operation or trading has been submitted to and approved by Council.

51. The use and occupation of the premises, including all plant and equipment installed thereon, is not to give rise to any offensive noise, as defined under the Protection of the Environment Operations Act 1997 (NSW).

Should Council consider offensive noise has emanated from the premises, the
owner/occupier of the premises will be required to submit an acoustic assessment prepared by a suitably qualified acoustical consultant recommending appropriate acoustic measures necessary to ensure future compliance with this condition and will be required to implement such measures within a nominated period. Furthermore, written certification from the said consultant confirming the recommended acoustic measures have been satisfactorily implemented will be required to be submitted to Council prior to the expiration of the nominated period.

52. No goods or advertising signs are to be displayed or allowed to stand on the public footpath or street.

53. A closed-circuit television (CCTV) system is to be maintained on the premises in accordance with the following requirements:

   a. The system must record continuously from the opening time until one hour after the premises is required to close;
   b. Recordings must be in digital format and at a minimum of six frames per second;
   c. Any recorded image must specify the time and date of the recorded image;
   d. The system’s cameras must cover the following areas:
      i. All entry and exit points on the premises;
      ii. The footpath immediately adjacent to the premises, and;
      iii. All publicly accessible areas (other than toilets) within the premises.

The licensee will also:

   a. Keep all recordings made by the CCTV system for at least 30 days;
   b. Ensure that the CCTV system is accessible at all times by at least one person able to access and fully operate the system, including downloading and producing recordings of CCTV footage, and provide any recordings made by the system to a police officer or Liquor and Gaming NSW Inspector within 24 hours of any request by the police officer or Liquor and Gaming NSW Inspector to provide such recordings.

54. The hours of alcohol sales are restricted to the following:

   • Monday to Saturday - 09:00 am – 8:00 pm
   • Sunday – 10:00 am – 8:00 pm

55. No refrigerated liquor products are to be sold from the licensed premises.

56. The liquor sales area is to be adequately defined from the rest of the supermarket by means of a fixed, solid and permanent barrier.

ADVISORY MATTERS

• Prior to commencing any building works, the following provisions of Division 6.2 of the Environmental Planning and Assessment Act 1979 are to be complied with:

   a) A Construction Certificate is to be obtained; and
   b) A Principal Certifier is to be appointed for the building works and Council is to be notified of the appointment; and
   c) Council is to be given at least two days notice of the date intended for commencement of building works.

• A Construction Certificate application for this project is to include a list of fire safety measures proposed to be installed in the building and/or on the land and include a separate list of any fire safety measures that already exist at the premises. The lists
must describe the extent, capability and basis of design of each of the measures.

• Development applications are not assessed against the provisions of the National Construction Code. An application to modify the application 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.

• 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).

• A copy of the final Fire Safety Certificate (together with a copy of the current fire safety schedule) is to be given to the Commissioner of NSW Fire Brigades and a further copy of the Certificate (together with a copy of the current fire safety schedule) is to be prominently displayed in the building.

• An annual Fire Safety Statement in the form described in Clause 175 of the *Environmental Planning and Assessment Regulation 2000* (NSW) is to be submitted to Council and a copy (together with a copy of the current fire safety schedule) is to be given to the Commissioner of New South Wales Fire Brigades. A further copy of the Statement (together with a copy of the current fire safety schedule) is to be prominently displayed in the building.

• Any proposed business identification sign or advertising sign should be designed in accordance with the provisions of Newcastle Development Control Plan 2012 and be the subject of a separate Development Application approved prior to erection or placement in position.

• It is recommended that, prior to commencement of work, the free national community service 'Dial before you Dig' be contacted on 1100 or by fax on 1200 652 077 regarding the location of underground services in order to prevent injury, personal liability and even death. Inquiries should provide the property details and the nearest cross street/road.

• Any necessary alterations to public utility installations are to be at the developer/demolisher’s expense and to the requirements of both Council and any other relevant authorities. Council and other service authorities should be contacted for specific requirements prior to the commencement of any works.

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

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

**END OF CONDITIONS**
SCHEDULE 2

REASONS FOR THE DETERMINATION & CONSIDERATION OF COMMUNITY VIEWS
The determination decision was reached for the following reasons:

• The proposed development, subject to the recommended conditions, is consistent with the objectives of the applicable environmental planning instruments, being; Newcastle Local Environmental Plan 2012 (NLEP) and applicable State Environmental Planning Policies.
• The proposed development is, subject to the recommended conditions, consistent with the objectives of the Newcastle Development Control Plan 2012 (NDCP).
• The proposed development is considered to be of an appropriate scale and form for the site and the character of the locality.
• The proposed development has appropriate management and mitigation of impacts through conditions of consent.
• The proposed development, subject to the recommended conditions, will not result in unacceptable adverse impacts upon the natural or built environments.
• The proposed development is a suitable and planned use of the site and its approval is within the public interest.

REASONS WHY THE CONDITIONS HAVE BEEN IMPOSED
The following conditions are applied to:

• Confirm and clarify the terms of Council’s determination;
• Identify modifications and additional requirements that will result in improved compliance, development and environmental outcomes;
• Prevent, minimise, and/or offset adverse environmental impacts including economic and social impacts;
• Set standards and measures for acceptable environmental performance; and
• Provide for the ongoing management of the development.
DAC 3/12/19

DA2018/01248 - 64 BRUNKER ROAD BROADMEADOW

Attachment C: Processing Chronology

DISTRIBUTED UNDER SEPARATE COVER
**PROCESSING CHRONOLOGY**

**DA 2018/01248 – 64 Brunker Road, Broadmeadow**

<table>
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<tr>
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<td>01/11/2018</td>
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<tr>
<td>12/03/2019</td>
<td>Request for additional information from Assessing Officer</td>
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<tr>
<td>6/9/2019</td>
<td>Response to request for additional information from Applicant</td>
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<td>19/11/2019</td>
<td>Presentation of Public Voice Report to Council</td>
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ITEM 21  2019/00339 - 48-56 HUNTER STREET NEWCASTLE

ALTERATIONS AND ADDITIONS TO A HERITAGE LISTED BUILDING, INCLUDING AN ADDITIONAL STOREY FOR USE AS A SINGLE RESIDENTIAL DWELLING

Attachment A:  Submitted Plans
Attachment B:  Draft Conditions of Consent
Attachment B:  Processing Chronology
Attachment D:  Clause 4.6 Variation
Attachment E:  Visual Assessment
DAC 3/12/19

DA2019/00339 - 48-56 HUNTER STREET NEWCASTLE

Attachment A: Submitted Plans

DISTRIBUTED UNDER SEPARATE COVER
DEVELOPED DESIGN
Newcastle Penthouse
New Penthouse to an Existing Heritage Building in Newcastle

REVISION H

SITE
48-56 Hunter Street,
Newcastle NSW

CLIENT
Aviator Capital

DATE
18.03.19

PROJECT NO.
3977
FOR APPROVAL

ADDRESS
48-56 Hunter Street, Newcastle, 2300
Lot 4  DP76454 (Facade)
Lot 1  DP1099235
Lot 3  DP304766

LOCAL COUNCIL
Newcastle City Council

HISTORY
50 Hunter Street is a historically significant building in Newcastle. Known as the “Sun Building” for its use as the main office for the local newspaper, The Newcastle Sun. The detailed facade is heritage listed and dates back to 1925 and remains in mostly original condition. The building is part of a heritage conservation area and is surrounded by various eras of heritage buildings.

The building is located in Newcastle East, which is now part of a major development area, with approvals for residential apartments, mixed-use facilities and commercial space. The building currently houses several commercial business tenancies throughout its levels.

There are a wide range of commercial and retail services surrounding the site, many contained within other historic buildings with detailed facades. Some prominent historical architectural features are Customs House Clock Tower, former National Bank, T&B Mutual Life Assurance Building and the Great Northern Hotel.

The site is also surrounded significant natural landmarks such as Pacific Park, Newcastle Beach and Newcastle Harbour.

NOTES

REGIONAL CONTEXT

LOCAL CONTEXT

SITE CONTEXT

3977
SK1001
Location Plan
Newcastle Penthouse
48-56 Hunter Street, Newcastle

RevH 18.03.19

NON-LISTED ARCHITECT SCOTT HAMILTON (SHACT) (ABN 32 177 666 846)
Calm 1%
FOR APPROVAL

LEGEND

AREA USED TO CALCULATE FSR

PROPOSED ALTERED AREA (NOT ADDITIONAL)

PROPOSED ADDITIONAL AREA

FSR CALCULATIONS

AREA CALCULATION

LEVEL

AREA

BASEMENT

NA

GROUND FLOOR

487 m²

FIRST FLOOR

502 m²

SECOND FLOOR

477 m²

THIRD FLOOR

472 m²

FOURTH FLOOR

470 m²

FIFTH FLOOR

462 m²

TOTAL EXISTING FLOOR AREA

2,870 m²

FIFTH FLOOR (ALTERED AREA)

51 m²

SIXTH FLOOR (ADDITIONAL AREA)

390 m²

TOTAL PROPOSED FLOOR AREA

3,260 m²

MAXIMUM ALLOWABLE FSR

3.0:1 (NCC LEP 2012)

SITE AREA

586 m²

EXISTING FSR

4.90:1

PROPOSED FSR

5.56:1

Gross Floor Area (GFA) as defined in the Newcastle LEP 2012:

gross floor area means the sum of the floor area of each floor of a building measured from the internal face of external walls, or from the internal face of walls separating the building from any other building, measured at a height of 1.4 metres above the floor, and includes:

(a) the area of a mezzanine, and

(b) habitable rooms in a basement or an attic, and

c) any shop, auditorium, cinema, and the like, in a basement or attic, but excludes:

d) any area for common vertical circulation, such as lifts and stairs, and

(e) any basement:

(f) storage, and

(ii) vehicular access, loading areas, garbage and services, and

(f) plant rooms, lift towers and other areas used exclusively for mechanical services or ducting, and

g) car parking to meet any requirements of the consent authority (including access to that car parking), and

(h) any space used for the loading or unloading of goods (including access to it), and

(i) terraces and balconies with outer walls less than 1.4 metres high, and

(j) voids above a floor at the level of a storey or storey above.
1. Dimensions are in millimeters unless otherwise shown.
2. Work to given dimensions. Do not scale from drawing.
3. Check all dimensions on site prior to construction and fabrication.
4. Bring any discrepancies to the attention of the proprietor & architect.
FOR APPROVAL

1. Dimensions are in millimeters unless otherwise shown.
2. Work to given dimensions. Do not scale from drawing.
3. Check all dimensions on site prior to construction and fabrication.
4. Bring any discrepancies to the attention of the proprietor & architect.

East Elevation

For 3977

Newcastle Penthouse

48-56 Hunter Street, Newcastle
North Elevation

Newcastle Penthouse
48-56 Hunter Street, Newcastle

- Dimensions are in millimeters unless otherwise shown.
- Work to given dimensions. Do not scale from drawing.
- Check all dimensions on site prior to construction and fabrication.
- Bring any discrepancies to the attention of the proprietor & architect.

- Existing laneway used by existing and neighbouring buildings for carpark access (see site plan)
- Dash indicates basement below

FINISHES LEGEND

- Clear Glass
- Longline Metal Cladding Matte Dark Finish
- White Paint Finish
- Dark Paint Finish
- Fine Texture Render White Finish
- External Feature Timber Cladding
FOR APPROVAL

1. Dimensions are in millimeters unless otherwise shown.
2. Work to given dimensions. Do not scale from drawing.
3. Check all dimensions on site prior to construction and fabrication.
4. Bring any discrepancies to the attention of the proprietor & architect.

3977
SK3104

West Elevation
Newcastle Penthouse
48-56 Hunter Street, Newcastle

HEIGHT OF EXISTING POOL TOWER TO BE DEMOLISHED; WILL REDUCE VISUAL IMPACT FOR NEIGHBOURS
HEIGHT OF APPROVED DA FOR NEIGHBOURING BUILDING

APPROXIMATE LOCATIONS OF TATTERSALLS APARTMENTS DECKS TO ADJOINING BOUNDARY
NARROW WINDOWS REFLECT THE PROPORTION OF EXISTING HERITAGE WINDOWS; FIRE RATED AS REQUIRED
LIGHTWEIGHT METAL CLADDING IN SELECTED DARK FINISH TO EXTERNAL WALLS
SCREENED AREA CONCEALS RELOCATED A/C UNITS
DASH INDICATES BASEMENT BELOW EXISTING LANEWAY USED BY EXISTING AND NEIGHBOURING BUILDINGS FOR CARPARK ACCESS (SEE SITE PLAN)

HEIGHT TO TOP OF LIFT OVERRUN FOLLOWING 24m HEIGHT PLANE
HEIGHT TO TOP OF LIFT OVERRUN FOLLOWING 24m HEIGHT PLANE

WALL AND SCREEN TO EXTERNAL SPACE MAINTAINS PRIVACY FOR RESIDENTS

HEIGHT OF APPROVED DA FOR NEIGHBOURING BUILDING

APPROXIMATE LOCATIONS OF TATTERSALLS APARTMENTS DECKS TO ADJOINING BOUNDARY
NARROW WINDOWS REFLECT THE PROPORTION OF EXISTING HERITAGE WINDOWS; FIRE RATED AS REQUIRED
LIGHTWEIGHT METAL CLADDING IN SELECTED DARK FINISH TO EXTERNAL WALLS
SCREENED AREA CONCEALS RELOCATED A/C UNITS
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HEIGHT TO TOP OF LIFT OVERRUN FOLLOWING 24m HEIGHT PLANE
HEIGHT TO TOP OF LIFT OVERRUN FOLLOWING 24m HEIGHT PLANE

WALL AND SCREEN TO EXTERNAL SPACE MAINTAINS PRIVACY FOR RESIDENTS

HEIGHT OF APPROVED DA FOR NEIGHBOURING BUILDING

APPROXIMATE LOCATIONS OF TATTERSALLS APARTMENTS DECKS TO ADJOINING BOUNDARY
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HEIGHT TO TOP OF LIFT OVERRUN FOLLOWING 24m HEIGHT PLANE
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WALL AND SCREEN TO EXTERNAL SPACE MAINTAINS PRIVACY FOR RESIDENTS

HEIGHT OF APPROVED DA FOR NEIGHBOURING BUILDING

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HEIGHT TO TOP OF LIFT OVERRUN FOLLOWING 24m HEIGHT PLANE
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HEIGHT OF APPROVED DA FOR NEIGHBOURING BUILDING

APPROXIMATE LOCATIONS OF TATTERSALLS APARTMENTS DECKS TO ADJOINING BOUNDARY
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LIGHTWEIGHT METAL CLADDING IN SELECTED DARK FINISH TO EXTERNAL WALLS
SCREENED AREA CONCEALS RELOCATED A/C UNITS
DASH INDICATES BASEMENT BELOW EXISTING LANEWAY USED BY EXISTING AND NEIGHBOURING BUILDINGS FOR CARPARK ACCESS (SEE SITE PLAN)
FOR APPROVAL

1. Check all calculations and take into consideration and modification.
2. Ensure all plans are in accordance with the Building Code of NSW.
3. Only apply changes as per the plans issued.
4. Ensure all plans are in accordance with the Building Code of NSW.

<table>
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<tr>
<th>No</th>
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<td>Plan changes</td>
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3977
SK3204
Section C
Newcastle Penthouse
48-56 Hunter Street, Newcastle

RevD 18.03.19
FOR APPROVAL

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<tr>
<td>1</td>
<td>Nov 19</td>
<td>View 1</td>
<td>Ground level view from the corner of Watt and Hunter Street</td>
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</tbody>
</table>

ANALYSIS

VIEW 1: Ground level view from the corner of Watt and Hunter Street

EXISTING

PROPOSED
EXISTING

PROPOSED

VIEW 2: Seventh Floor view from Eslington Apartments balcony directly across Hunter Street
VIEW 3: Ninth Floor view from Eslington Apartments balcony

EXISTING

PROPOSED
The proposal, while being higher overall, is much more sympathetic to the historic building and removes the dominant pool tower element.
Concept Materiality

Newcastle Penthouse
48-56 Hunter Street, Newcastle
DAC 3/12/19

DA2019/00339 - 48-56 HUNTER STREET NEWCASTLE

Attachment B: Draft Schedule of Conditions
**Application No:** DA2019/00339  
**Land:** Lot 4 DP 76454, Lot 1 DP 1099255  
Lot 1 DP 304766  
**Property Address:** 48-56 Hunter Street Newcastle NSW 2300  
**Proposed Development:** Mixed use development (alterations and additions to include penthouse dwelling)

---

**SCHEDULE 1**

1. 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>
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<tr>
<td>Proposed Site Plan</td>
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<td>Demolition Roof Plan</td>
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<td>18/03/19</td>
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<td>Roof Plan</td>
<td>3977 SK2401 Rev: E</td>
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<td>Floor Space Ratio Analysis</td>
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<td>SHAC Architects</td>
<td>18/03/19</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

2. The construction or erection of appropriate swimming pool safety fences and gates and all associated work is to be carried out in accordance with the Swimming Pool Act 1992 and Regulations. Full details are to be included in the documentation for a Construction Certificate application.

3. A total monetary contribution of $45,000.00 is to be paid to Council, pursuant to Section 7.12 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: i) This condition is imposed in accordance with the provisions of the City of Newcastle’s Section 7.12 Newcastle Local Infrastructure Contributions Plan 2019.

   ii) The City of Newcastle’s Section 7.12 Newcastle Local Infrastructure Contributions Plan 2019 permits deferred or periodic payment of levies in certain circumstances. A formal modification of the condition will be required to enter into a deferred or periodic payment arrangement.

   ii) 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 and approx release dates:  
   
<table>
<thead>
<tr>
<th>Indexation quarters</th>
<th>Approx release date</th>
</tr>
</thead>
<tbody>
<tr>
<td>September</td>
<td>Late October</td>
</tr>
<tr>
<td>December</td>
<td>Late January</td>
</tr>
<tr>
<td>March</td>
<td>Late April</td>
</tr>
<tr>
<td>June</td>
<td>Late July</td>
</tr>
</tbody>
</table>

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

4. The existing fire hydrant system serving the building on site is to be upgraded so as to comply with Performance Requirement EP1.3 of Volume One of the Building Code of Australia. Full details on means of compliance are to be nominated in Construction Certificate documentation.

5. Working drawings and specifications of the proposed building are to be submitted to the NSW Mine Subsidence Board for approval prior to an application for a Construction Certificate and any requirements of the Board are to be included in the documentation for a Construction Certificate application.
CONDITIONS TO BE SATISFIED PRIOR TO THE COMMENCEMENT OF WORK AND DURING THE CONSTRUCTION PHASE

6. 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.

7. Two car parking spaces are to be allocated to the residential unit within the basement car parking area. The remaining 14 spaces are to form part of the common property and are not to be assigned to individual tenancies in the building.

8. All building work must be carried out in accordance with the provisions of the National Construction Code.

9. In the case of residential building work for which the Home Building Act 1989 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.

10. 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 City of Newcastle reserves including the road reserve is not permitted.

11. A separate application must be lodged and consent obtained from City of Newcastle for any works within the road reserve pursuant to Section 138 Roads Act 1993, before the commencement of works.

12. All roof and surface waters are to be conveyed to the street gutter by way of a sealed pipe system, extending through the footway to City of Newcastle requirements, in accordance with Element 7.06 ‘Stormwater’ of Newcastle Development Control Plan 2012.

13. 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.

14. City of Newcastle’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 City of Newcastle for the duration of demolition and construction work.
Note: City of Newcastle’s ‘PREVENT POLLUTION’ sign can be obtained by presenting your development application receipt at City of Newcastle’s Customer Enquiry Counter.

15. 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, or

c) Be a temporary chemical closet approved under the Local Government Act 1993.

16. 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 City of Newcastle (marked to Attention: Regulatory Services) and the demolisher prior to commencement of work.

17. 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 SafeWork 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 City of Newcastle Officers upon request

d) Seven working days’ notice in writing is to be given to City of Newcastle 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 City of Newcastle’s contact telephone number (49742000) and the SafeWork 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.

18. 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.

19. 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 City of Newcastle’s approval to position the container on the adjacent public road in accordance with City of Newcastle’s adopted Building Waste Container Policy.

20. All demolition material incapable of being re-used in future redevelopment of the site is to be removed from the site and the site being cleared and levelled.

Note: Where reusable building materials are to be stored on site for use in future building works, such materials are to be neatly stacked at least 150 mm above the ground.

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

22. Waste management shall be implemented in accordance with the approved Waste Management Plan. At a minimum, the following measures shall be implemented during the construction phase:

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

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

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

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

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

23. 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 City of Newcastle by a Surveyor registered under the Surveying and Spatial Information Act 2002.

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

24. Prior to the issue of an Occupation Certificate, the existing fire hydrant system on site is to be upgraded so as to comply with Performance Requirement EP1.3 of Volume One of the Building Code of Australia. Full details on means of compliance are to be provided to the Principal Certifying Authority.

25. 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.

26. 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 City of Newcastle’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.

CONDITIONS TO BE SATISFIED DURING THE OPERATION AND USE THE DEVELOPMENT

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

<table>
<thead>
<tr>
<th>Unit/ Dwelling/ Lot Number on plan</th>
<th>City of Newcastle Allocated Street Addresses</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>House Number</td>
</tr>
<tr>
<td>Proposed Penthouse</td>
<td>601/50</td>
</tr>
</tbody>
</table>

28. The use and occupation of the premises, including all plant and equipment installed thereon, is not to give rise to any offensive noise, as defined under the Protection of the Environment Operations Act 1997 (NSW).

Should Council consider offensive noise has emanated from the premises, the owner/occupier of the premises will be required to submit an acoustic assessment prepared by a suitably qualified acoustical consultant recommending appropriate acoustic measures necessary to ensure future compliance with this condition and will be required to implement such measures within a nominated period. Furthermore, written certification from the said consultant confirming the recommended acoustic measures have been satisfactorily implemented will be required to be submitted to Council prior to the expiration of the nominated period.

29. 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.

30. Waste management (recyclable and non-recyclable) is to be collected from the carpark refuse storage area, serviced from Pacific Street and returned immediately to the refuse storage area. Under no circumstances are garbage bins to remain at kerbside after collection.

ADVISORY MATTERS

- Prior to commencing any building works, the following provisions of Division 6.2 of the Environmental Planning and Assessment Act 1979 are to be complied with:

  a) A Construction Certificate is to be obtained; and

  b) A Principal Certifier is to be appointed for the building works and City of Newcastle is to be notified of the appointment; and

  c) City of Newcastle is to be given at least two days notice of the date intended for commencement of building works.

- A Construction Certificate application for this project is to include a list of fire safety measures proposed to be installed in the building and/or on the land and include a separate list of any fire safety measures that already exist at the premises. The lists must describe the extent, capability and basis of design of each of the measures.
• 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*.

• A copy of the final Fire Safety Certificate (together with a copy of the current fire safety schedule) is to be given to the Commissioner of NSW Fire Brigades and a further copy of the Certificate (together with a copy of the current fire safety schedule) is to be prominently displayed in the building.

• An annual Fire Safety Statement in the form described in Clause 175 of the *Environmental Planning and Assessment Regulation 2000* is to be submitted to City of Newcastle and a copy (together with a copy of the current fire safety schedule) is to be given to the Commissioner of New South Wales Fire Brigades. A further copy of the Statement (together with a copy of the current fire safety schedule) is to be prominently displayed in the building.

• The owner of the premises on which a swimming pool/spa is situated must ensure that the pool details are entered into the State Swimming Pool Register. The register is accessible at www.swimmingpoolregister.nsw.gov.au.

• Any necessary alterations to public utility installations are to be at the developer/demolisher’s expense and to the requirements of both City of Newcastle and any other relevant authorities. City of Newcastle and other service authorities should be contacted for specific requirements prior to the commencement of any works.

• 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*.

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

**END OF CONDITIONS**
SCHEDULE 2

REASONS FOR THE DETERMINATION & CONSIDERATION OF COMMUNITY VIEWS
The determination decision was reached for the following reasons:

- The proposed development, subject to the recommended conditions, is consistent with the objectives of the applicable environmental planning instruments, being; Newcastle Local Environmental Plan 2012 and applicable State Environmental Planning Policies.
- The proposed development is, subject to the recommended conditions, consistent with the objectives of the Newcastle Development Control Plan 2012.
- The proposed development is considered to be of an appropriate scale and form for the site and the character of the locality.
- The proposed development, subject to the recommended conditions, will not result in unacceptable adverse impacts upon the natural or built environments.
- The proposed development is a suitable and planned use of the site and its approval is within the public interest.
- City of Newcastle has considered and accepted the proposed development standard variations made under Clause 4.6 of the Newcastle Local Environmental Plan 2012. The proposed variations are considered acceptable in the particular circumstances of this case as the variations will not adversely affect the amenity of the area.

REASONS WHY THE CONDITIONS HAVE BEEN IMPOSED
The conditions are applied to:

- Confirm and clarify the terms of City of Newcastle’s determination;
- Identify modifications and additional requirements that will result in improved compliance, development and environmental outcomes;
- Prevent, minimise, and/or offset adverse environmental impacts including economic and social impacts;
- Set standards and measures for acceptable environmental performance; and
- Provide for the ongoing management of the development.
Attachment C: Processing Chronology
## PROCESSING CHRONOLOGY

**DA2019/00339 – 48/56 Hunter Street Newcastle**

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
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<tbody>
<tr>
<td>25 March 2019</td>
<td>Development application lodged</td>
</tr>
<tr>
<td>10 April 2019</td>
<td>Public exhibition</td>
</tr>
<tr>
<td>30 April 2019</td>
<td>Applicant advised of issues raised after technical assessment of the application</td>
</tr>
<tr>
<td>23 May 2019</td>
<td>Response received from applicant.</td>
</tr>
<tr>
<td>Not sure of date??</td>
<td>Additional public exhibition</td>
</tr>
<tr>
<td>28 October 2019</td>
<td>Request for clarification of building heights proposed</td>
</tr>
<tr>
<td>1 November 2019</td>
<td>The applicant provided a clarification on the proposed building heights and a detailed visual impact assessment</td>
</tr>
<tr>
<td>3 December 2019</td>
<td>The application is presented to the Development Assessment Committee due to over 10% variation to building height and FSR development standard</td>
</tr>
</tbody>
</table>
Attachment D: Clause 4.6 Variation

DISTRIBUTED UNDER SEPARATE COVER
1 November 2019

The General Manager
Newcastle City Council
PO Box 489
NEWCASTLE NSW 2300

Clause 4.6 Exception to Development Standards Letter

RE: Penthouse Addition to Commercial Building (Shop Top Housing) at 48-56 Hunter Street, Newcastle

1 Introduction

The development to which this application relates is the proposed *penthouse addition to an existing commercial building* at 48-56 Hunter Street, Newcastle (the site).

Specifically, the proposal seeks to add an additional level to an existing commercial building for the purpose of a four-bedroom penthouse apartment.

The proposal generally complies with the provisions of the Newcastle Local Environmental Plan 2012 (NLEP 2012), with the exception of two development standard exceedances related to height and floor space ratio.

The objectives of clause 4.6 are to provide an appropriate degree of flexibility in applying the development standards to achieve better outcomes for, and from, development. An assessment of the variations are provided in the following pages in accordance the requirements of Clause 4.6 of the NLEP 2012.

2 Site Details

The site is located at the eastern end of Hunter Street within the Newcastle CBD, which falls within the Local Government Area (LGA) of Newcastle. The site contains primary frontage to Hunter Street. Refer to the Locality Plan at Figure 1.
The subject site is identified as 48-56 Hunter Street and is legally described as Lot 1 in DP304766, Lot 4 in DP76454 and Lot 1 in DP1099255. Refer to Figure 2 for Cadastral Plan for the existing lot layout.

The existing five storey commercial building occupying the site includes a basement car park and is tenanted by a number of operators across its five levels including: SIDCORN Chartered Accountants, Garaty Murnane Insurance Brokers Pty Ltd, Yogurtland Head Office, Reynolds Property and Yoga Loft.

3 Exception to Development Standards

The Department of Planning and Infrastructure’s publication “Varying Development Standards: A Guide” (August 2011), states that:

*The NSW planning system currently has two mechanisms that provide the ability to vary development standards contained within environmental planning instruments:*
Clause 4.6 of the Standard Instrument Local Environment Plan (SI LEP); and
State Environment Planning Policy No 1 – Development Standards (SEPP1).

In this instance, SEPP 1 does not apply as the NLEP 2012 is a Standard Instrument LEP.

3.1 Development Standards to be Varied

Clause 4.3 of the Newcastle LEP 2012 (the development standard) sets a maximum height of 24 metres for buildings on the site.

Clause 4.4 of the Newcastle LEP 2012 (the development standard) sets a maximum floor space ratio of 4:1 for buildings on the site. However, Clause 7.10A also applies to the site where a maximum of 3:1 is prescribed due to the size of the site being less than 1,500m².

The proposal to add an additional level to the building, including lift overrun results in an overall height of 27.72m at the highest point of the site, exceeding the maximum permitted height by 3.72m (15.5% variation) and floor space ratio of 5.56:1, exceeding the maximum by 2.56:1 (85% variation).

<table>
<thead>
<tr>
<th>Clause</th>
<th>Control</th>
<th>Existing</th>
<th>Existing Variation</th>
<th>Proposed</th>
<th>Change</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Clause 4.3</td>
<td>24m</td>
<td>29.83m</td>
<td>24.4%</td>
<td>27.72m</td>
<td>-2.11m (-8.9%)</td>
<td>15.5%</td>
</tr>
<tr>
<td>Clause 7.10A</td>
<td>3:1</td>
<td>4.9:1</td>
<td>63%</td>
<td>5.56:1</td>
<td>+0.66:1 (22%)</td>
<td>85%</td>
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</tbody>
</table>

Given the slope of the site from south-east to north-west the height exceedance varies significantly across the site. The exceedance measures:

- 1.80m to the roof at the Hunter Street boundary;
- 2.78m to the lift overrun;
- 2.88m to the skylight windows;
- 3.25m to the northern end of the plant; and
- 3.72m to the roof at the northern boundary.

This is illustrated in Figure 3 below.

Figure 3 – Western Elevation

Overall the height of the building will decrease with the removal of the pool tower which is currently 5.83m above the height limit as illustrated in Figure 4. Further details of the height exceedance are demonstrated within the Elevation Plans at Appendix A of this application.
As can be seen in the above table, the heritage building in its current form has an existing FSR exceedance. An extension of this is considered appropriate, given the multi-use nature of the site and the sensitive design of the addition which overall has little to no negative consequence to the bulk and scale of the building maintaining the streetscape and amenity of the area.

3.2 Justification under Clause 4.6 of Newcastle Local Environmental Plan 2012

(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.

The contravention of the height and FSR development standards as part of the proposed development will allow the erection of a luxury penthouse apartment, whilst conserving the fabric of the heritage façade of the building. The proposed additional level is considerate of the heritage significance of the building and surrounding heritage items and will improve compliance of the building height through the demolition of the tower element and in its place, the erection of a new roof that is seamlessly integrated into the existing building and heritage façade. The proposal achieves a better outcome for the site through an effective design resolution that enhances views and vistas in the area.

(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

Height

Clause 4.3 has two objectives; to ensure that the scale of development makes a positive contribution towards the desired built form; and to allow reasonable daylight access to all developments including the public domain.

The proposed height variation of 3.72m is considered acceptable given the proposed height achieves both objectives of the clause. The design of the new level and roof is sympathetic to the existing building and heritage façade with complementary window widths and inward sloping walls. The new level is stepped back from the front façade and includes a mansard roof with clad in metal that will appear similar to traditional folded seam copper and lead roofing. A perspective from Hunter Street of the proposal against the existing
built form is provided below. As can be seen in Figure 5, the resulting level will be a subtle addition, and not dominate the skyline.

Figure 5 – Hunter Street Streetscape - Existing and Proposed

The proposed height will not limit daylight access to either the existing development, surrounding sites or the public domain. Shadow diagrams are included at Appendix A where it is evident the proposal will have minimal impact in terms of limiting solar access.

Floor Space Ratio

Clause 7.10A does not have any objectives but those of the standard control, Clause 4.4 may be adopted. The objectives are to provide an appropriate density of development consistent with the established centres hierarchy; and to ensure building density, bulk and scale makes a positive contribution towards the desired built form as identified by the established centres hierarchy.

The site is located within the East End of the Newcastle CBD, where larger buildings are to be expected. The subject site is opposite land within the R4 zone where a greater floor space ratio and height allowance is permitted. Therefore, the subject site may be developed in excess of the FSR control without resulting in inappropriate bulk or scale given the built form established in the immediate area. This is particularly relevant considering the existing building exceeds the FSR controls, sitting at 4.9:1 but is not considered an overdevelopment.

Overall, the proposal remains consistent with the streetscape and setting, and the additional level presents a sympathetic design which does not result in a bulk and scale inappropriate for the area.

Based on the consistency of the proposed height and FSR with the objectives of each Clause, and the lack of impact created to both the public domain and existing/future residents by the proposed building height and FSR, it is considered that strict compliance in this instance is unnecessary.

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.
The proposed penthouse addition is compliant with applicable Planning Policies and is generally compliant with the DCP 2012. The proposed height and FSR exceedance will not cause any unreasonable impact on adjoining properties or the natural or built environments. Solar access will not be negatively impacted; loss of views or vistas will not be significantly diminished; and the proposal does not dominate the streetscape of the heritage conservation area in which it is located.

Particular consideration has been made during the design stage to ensure the proposal will not result in any privacy impacts to the adjoining properties. The chosen materials and design is sensitive to the existing building and character of the area therefore not considered to result in a ‘bulky’ development. Alongside the chosen materials, the setback of the addition ensures visibility from the street level is minimal. Furthermore, it is emphasized that while the proposed height does not comply, the proposal in effect reduces the overall height of the existing development.

Recognising that the proposal remains generally compliant with the applicable Planning Policies and DCP 2012, it is believed there are sufficient planning grounds to justify varying Clause 4.3 and Clause 7.10A of the LEP 2012.

(4) Development consent must not be granted for development that contravenes a development standard unless:
   (a) the consent authority is satisfied that:
      i. the applicant’s written request has adequately addressed the matters required to be demonstrated by subclause (3), and
      ii. the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
   (b) the concurrence of the Secretary has been obtained.

Objectives of the Standards

Clause 4.3 Height of Buildings

(1) The objectives of this clause are as follows:
   (a) to ensure the scale of development makes a positive contribution towards the desired built form, consistent with the established centres hierarchy,
   (b) to allow reasonable daylight access to all developments and the public domain.

Clause 4.4 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

As detailed above, the proposal is consistent with the objectives for height and FSR as contained within the LEP 2012. The proposed penthouse level has been designed to ensure the addition does not result in detrimental impacts to the height, bulk and scale of the existing building. The resultant development will remain of an appropriate bulk and scale to the locality, consistent with other existing and new developments in the area.

Perspectives of the proposal in the context of surrounding properties is provided within the Architectural Plans attached at Appendix A.

Objectives of the Zone
The objectives for the B4 Mixed Use Zone within which the site exists, are:

- To provide a mixture of compatible land uses.
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
- To support nearby or adjacent commercial centres without adversely impacting on the viability of those centres.

The proposal is for an additional level to an existing commercial building that currently includes offices, business premises and indoor recreation. The proposal introduces a residential element, defined as shop top housing which is permissible within the zone. The penthouse will be separate from the rest of the building in terms of finishes and material however this will assist in its subtlety in the streetscape and from adjoining properties.

The proposal consisting of appropriate infill development represents a sustainable approach and will allow public transport patronage to be maximized as well as encourage walking and cycling due to the central location.

Finally, the proposal is complementary to the surrounding commercial centre but does not jeopardise the viability of those centres. With this said, the proposed shop top housing is consistent with all the objectives of the B4 zone.

(5) In deciding whether to grant concurrence, the Secretary must consider:

(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and

The variation sought to the height and FSR does not have any state or regional environmental planning implications. The heritage item on the site is not state listed.

(b) the public benefit of maintaining the development standard, and

In this instance maintaining the development standards is considered appropriate and in fact irrelevant as both standards are currently exceeded. Given the sites location and nature of the surrounding locality, it is considered in the public benefit to enforce a reduced height and FSR would not achieve any better outcome at the site.

(c) any other matters required to be taken into consideration by the Secretary before granting concurrence.

Roof line

The proposal includes an overall reduction in height with the removal of the existing visually dominant pool tower element. This element is irregular in the roof line and design of the building which sticks out and creates an inconsistent built form across the site.

The proposal will remove the pool tower and install a new, clean roof line with a lift overrun that is less obtrusive and better integrated into the building. The pitch of the proposed roof is low to minimise the overall scale of the building.

Materials/Design

The proposed addition has been thoughtfully designed to decrease the bulk of the new level with the use of a mansard roof form. The angled walls and complementary windows teamed with understated yet neat grey finishes result in a subtle addition to the existing building which will conserve the architectural significance of the façade. The proposed materials have been purposely chosen to contribute to the building design whilst also enhance views within the conservation area.
4 Conclusion

The proposed variation to Clauses 4.3 and 7.10A of NLEP 2012 is considered justified, as demonstrated throughout this written submission. In summary, the proposed variation is considered reasonable on the basis that:

- The proposal clearly meets the objectives of each development standard and is a compatible form of development for the East End precinct that does not result in unreasonable amenity impact;
- The proposed addition has been architecturally designed to reduce the potential contribution to the overall height and bulk of the building, resulting in an overall built form that will enhance views within the conservation area;
- The existing building currently exceeds the height and FSR controls of the LEP 2012 and the proposal will reduce the overall height of the building through the demolition of the visually dominant tower element;
- From a heritage perspective the exceedance in height and FSR will not have a detrimental impact on the significant fabric of the building but includes mitigative measures within the design to enhance the heritage façade.
- The application satisfies other numerical standards set out in the NLEP 2012 and development controls set out in the Newcastle DCP 2012, resulting in a high-quality design outcome at the site.

The variation in this instance should therefore be supported.

Yours sincerely

Roxanne Willing
Town Planner
KDC Pty Ltd
Attachment E: Visual Assessment
Our ref: 18323

01 November 2019

The General Manager
City of Newcastle
PO BOX 489
NEWCASTLE NSW 2300

Attention: David Paine

RE: View Sharing Analysis of Proposed Additions to Existing Commercial Building at 48-56 Hunter Street, Newcastle NSW 2300

1 INTRODUCTION

This View Sharing Analysis has been prepared in response to Council’s request on 11 September 2019. The purpose of this View Sharing Analysis is to assess elements of the proposed additions currently being sought to the existing building at 48-56 Hunter Street, Newcastle (DA2019/00339). Accompanying documents prepared to support this View Sharing Analysis include a View Analysis (SK8101-8105) Plan Set prepared by SHAC Architects (Appendix A).

This analysis has been carried out against Council’s Development Control Plan (DCP) objectives for view sharing and the established planning principles outlined within Tenacity Consulting v Waringah [2004] NSWLEC 140. The analysis has been based upon the viewpoints from submitters balconies and living areas who specifically raised concerns regarding the impact to their views.

2 RELEVANT SITE DETAILS

Part of the site (lot 4 DP 76454) is a heritage listed item 1392 Sun Building (facade only) of local significance. The whole of the site is within the Newcastle City Centre Heritage Conservation Area and there are a number of heritage items within the vicinity of the site as shown in Figure 2 below.
3 NEWCASTLE DEVELOPMENT CONTROL PLAN 2012

Under the Newcastle DCP 2012 Section 6.01 Newcastle City Centre provides controls relating to new development retaining significant views. Extracts of the relevant performance criteria is provided below:

Section 6.01 >B2.1 Performance Criteria
Public views and sight lines to key public spaces, the waterfront, prominent heritage items and landmarks are protected.

Section 6.01 >B2.2 Performance Criteria
New development achieves equitable view sharing from adjacent development.

The proposed development is considered to meet the objectives to Section 6.01 - B2 Views and Vistas for the following reasons:

+ The proposed development will not adversely impact views and sightlines to the waterfront, in this instance being the Harbour and Nobby’s beach;
+ The proposed development will not adversely impact views and sightlines to any prominent heritage items; and
+ The proposed addition maintains reasonable view sharing from adjacent developments, particularly the Essington Apartments adjacent the site on Hunter Street.

A visual analysis of existing views and proposed views to these key public places is presented in the following sections.
3.1 HARBOUR VIEWS

Figure 2 – Sixth Floor view from Essington Apartment 608 Balcony

Figure 3 – Seventh Floor view from Essington Apartment 708 Balcony

Based on the above, it is evident that the views of the harbour from the submitter’s balconies at 608 and 708 of the Essington Apartments will not be affected at all at 608 and have a minimal effect at 708.

3.2 NOBBY’S LIGHTHOUSE VIEWS

Figure 4 – Seventh Floor view from Essington Apartment 707 Balcony
As per the above, it is also evident that views across the harbour towards Nobby’s are maintained.

Consequently, the proposal complies with the DCP controls regarding view sharing as public views and sight lines to key public spaces, the waterfront, prominent heritage items and landmarks are protected.

### 4 PLANNING PRINCIPLE

A Planning Principle for view sharing has been established under Tenacity Consulting v Waringah [2004] NSWLEC 140. Tenacity Consulting v Waringah [2004] NSWLEC 140 sets out a four (4) step assessment process when considering the view sharing impact on neighbours.

The first step is the assessment of views to be affected. Water views are valued more highly than land views. Iconic views (e.g., the Opera House, the Harbour Bridge or North Head) are valued more highly than views without icons. Whole views are valued more highly than partial views, e.g., a water view in which the interface between land and water is visible is more valuable than one in which it is obscured.

The second step is to consider from what part of the property the views are obtained. For example, the protection of views across side boundaries is more difficult than the protection of views from front and rear boundaries. In addition, whether the view is enjoyed from a standing or sitting position may also be relevant. Sitting views are more difficult to protect than standing views. The expectation to retain side views and sitting views is often unrealistic.

The third step is to assess the extent of the impact. This should be done for the whole of the property, not just for the view that is affected. The impact on views from living areas is more significant than from bedrooms or service areas (though views from kitchens are highly valued because people spend so much time in them). The impact may be assessed
quantitatively, but in many cases this can be meaningless. For example, it is unhelpful to say that the view loss is 20% if it includes one of the sails of the Opera House. It is usually more useful to assess the view loss qualitatively as negligible, minor, moderate, severe or devastating.

The fourth step is to assess the reasonableness of the proposal that is causing the impact. A development that complies with all planning controls would be considered more reasonable than one that breaches them. Where an impact on views arises as a result of non-compliance with one or more planning controls, even a moderate impact may be considered unreasonable. With a complying proposal, the question should be asked whether a more skilful design could provide the applicant with the same development potential and amenity and reduce the impact on the views of neighbours. If the answer to that question is no, then the view impact of a complying development would probably be considered acceptable and the view sharing reasonable.

5 ASSESSMENT OF PLANNING PRINCIPLE

This section of the View Sharing Analysis assesses the current views from the adjacent properties, namely the sixth, seventh and eighth floors of the adjacent Essington Apartments, against the future views upon completion of the proposed development on the subject site. The following provides an assessment against each of the four (4) steps established under Tenacity Consulting v Waringah [2004] NSWLEC 140:

Step 1 – The first step is to establish the value of the views, noting that water views and iconic views are more highly valued compared to land views and whole views more highly than partial views.

The View Analysis included within the Plans enclosed, alongside the extracted Figures 2 – 6 presented above, demonstrate the existing view and proposed view to the Newcastle Harbour, Nobbys Lighthouse, Nobbys Beach and beyond.

In accordance with this Planning Principle, it is established that the Essington Apartments achieve whole water views.

Apartments 608, 707, 708 and 808/807 all currently experience obscured views straight across to the harbour. As presented in the figures above, this will remain generally unchanged. Each Apartment will continue to achieve views across to Nobby’s lighthouse, beach and adjacent expanse of harbour which are considered whole views, uninterrupted by the proposed development.

Step 2 – This step is to consider from what part of the adjacent properties the views are obtained and whether the views are enjoyed via sitting or standing.

The views to Newcastle Harbour, Nobbys beach and beyond can be obtained from the north and part east facing windows and balconies. It is considered that the views can be achieved by both sitting and standing. These views are achieved from a habitable area, being the balcony and in some cases the kitchen and dining areas. It was noted by Senior Commissioner Roseth SC during the four-step assessment that it is unrealistic to expect sitting views to be retained and that the protection of standing views is difficult.

As presented in Figures 2 – 6, water views are largely protected, and the proposed development will not adversely obscure existing views achieved from the sixth to the eighth floor balconies of the Essington Apartments.

Step 3 – The third step is to assess the extent of the impact for the whole property and to determine the types of rooms affected (e.g. kitchen area, living room, bedroom).

It is understood that the extent of impact to the Essington Apartments apply to the north and part east facing apartment balconies and rooms such as bedrooms, living rooms and kitchens which are orientated towards to the north/eastern corner.

Senior Commissioner Roseth SC considers views from kitchens to be highly valued because people spend so much time in them. It is not believed that any kitchen windows are significantly impacted as a part of the proposal. Some submissions
raise concerns about a loss of views from bedrooms and seated locations in the apartment which are not considered significant views as a part of this four-part test. Behind kitchens, living areas are considered more significant than bedrooms and service areas.

**Step 4 – The fourth step is to assess the reasonableness of the proposal, taking note of compliance with planning controls and non-compliances.**

The proposed development has been designed with consideration made towards the surrounding locality and Council’s statutory and non-statutory controls where possible. It is acknowledged that the proposed development results in variations to the Newcastle LEP 2012 building height control and floor space ratio (FSR) applicable to the site. The subsequent non-compliances include a 10.45% variation to height and an 85% variation to FSR. These LEP variations are addressed and considered justified within the 4.6 variation letter submitted with the DA.

To reiterate the justification provided within the submitted 4.6 variation letter, the proposed development and resulting variations sought to the Newcastle LEP 2012 are considered reasonable for the following reasons:

+ The existing built form comprises a tower component (outlined in red in Figure 7 and 8) which results in a height not too dissimilar to what is proposed. For context the tower component is also reflected in the ‘existing’ extracts in Figures 2-6 above. The tower component is proposed to be removed, with the proposed development to be slightly lower in height, refer to Figure 7 and 8.
+ Overshadowing plans have been prepared to distinguish whether the proposed height exceedance results in any overshadowing on surrounding properties. The proposed height exceedance will not limit solar access to surrounding sites or the public domain.
+ The proposed built form is considered consistent with the locality, with the height and FSR variation sought difficult to depict, refer to Figure 8. The proposed additional does not result in unreasonable bulk in comparison to the locality and in not considered to result in adverse amenity or environmental impacts.
+ The proposal is considered to satisfy the objectives of height and FSR applicable to the site.

Based on the above and the submitted 4.6 variation letter which further justifies the LEP variation sought, it is considered the proposal is reasonable in view loss.

**Figure 7 – Extract Detailing Existing Tower VS Proposed Height**
6 CONCLUSION

The assessment against the four (4) steps established under Tenacity Consulting v Waringah [2004] NSWLEC 140, as well as Council DCP objectives, revealed that the overall proposed development will have little to no impact to existing views from the adjacent Essington Apartments at 31-39 Hunter Street, Newcastle.

Yours sincerely

Nicole Sellen
Town Planner
KDC Pty Ltd
1. Dimensions are in millimeters unless otherwise shown.
2. Work to given dimensions. Do not scale from drawing.
3. Check all dimensions prior to construction and fabrication.
4. Bring any discrepancies to the attention of the proprietor & architect.

ESSINGTON APARTMENT 608 BALCONY VIEW
CURRENT

ESSINGTON APARTMENT 608 BALCONY VIEW
PROPOSED

Disclaimer: The surrounding buildings and land pictured are approximate only. Surrounding building location, heights, size and details have been modelled as accurately as possible from information provided to SHAC or available online. Concept images provide only an impression of the proposal.
1. Dimensions are in millimeters unless otherwise shown.
2. Work to given dimensions. Do not scale from drawing.
3. Check all dimensions on site prior to construction and fabrication.
4. Bring any discrepancies to the attention of the proprietor & architect.

ESSINGTON APARTMENT 707 BALCONY VIEW
CURRENT

ESSINGTON APARTMENT 707 BALCONY VIEW
PROPOSED

DISCLAIMER: THE SURROUNDING BUILDINGS AND LAND PICTURED ARE APPROXIMATE ONLY. SURROUNDING BUILDING LOCATION, HEIGHTS, SIZE AND DETAILS HAVE BEEN MODELLED AS ACCURATELY AS POSSIBLE FROM INFORMATION PROVIDED TO SHAC OR AVAILABLE ONLINE. CONCEPT IMAGES PROVIDE ONLY AN IMPRESSION OF THE PROPOSAL.
1. Dimensions are in millimeters unless otherwise shown.
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3. Check all dimensions prior to construction and fabrication.
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ESSINGTON APARTMENT 807 KITCHEN VIEW CURRENT

ESSINGTON APARTMENT 807 KITCHEN VIEW PROPOSED

DISCLAIMER: THE SURROUNDING BUILDINGS AND LAND PICTURED ARE APPROXIMATE ONLY. SURROUNDING BUILDING LOCATION, HEIGHTS, SIZE AND DETAILS HAVE BEEN MODELLED AS ACCURATELY AS POSSIBLE FROM INFORMATION PROVIDED TO SHAC OR AVAILABLE ONLINE. CONCEPT IMAGES PROVIDE ONLY AN IMPRESSION OF THE PROPOSAL.
ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER

ITEM 22  DA2015-08763.02 - 29 Laman Street Cooks Hill

MODIFICATION - CHANGES TO FLOOR PLAN LAYOUT WINDOWS AND ELEVATIONS

Attachment A - Submitted Plans
Attachment B - Draft Schedule of Conditions
Attachment C - Processing Chronology
Attachment D - Agreement between applicant and owners of 33 Laman Street Cooks Hill
DAC 3/12/19

DA2015/0876.02 - 29 LAMAN STREET COOKS HILL

Attachment A: Submitted Plans
Your roof is protecting your most precious investments, your home and family. You can be confident knowing COLORBOND steel is versatile, lightweight, durable, and capable of meeting the changing needs of your lifestyle. Simply visit colorbond.com/create to determine the most suitable steel choices for your home.

Also available in COLORBOND steel can meet the needs that your home demands. Simply visit colorbond.com/create to determine the most suitable steel choices for your home.

For further details on the legend, please refer to the back page. With Final Consultant Drawings and PCA Conditions Prior To Construction.

NOTE: THESE ARCHITECTURAL DRAWINGS REQUIRE CO-ORDINATION WITH FINAL CONSULTANT DRAWINGS AND PCA CONDITIONS PRIOR TO CONSTRUCTION.
NOTE: SIZE AND LOCATION OF VENTILATION LOUVERS TO BASEMENT LEVEL CARPARK TBC

ELEVATION LEGEND

CONP: CONCRETE PAINT FINISH
CON: CONCRETE BLOCKWORK
CBP: CONCRETE BLOCKWORK PAINT FINISH
BKP: BRICKWORK PAINT FINISH
FBK1: FACE BRICKWORK SELECTION 1
FBK2: FACE BRICKWORK SELECTION 2
MC: MASONRY
RSM: ROOF SHEET METAL

1. DULUX LIMED WHITE P106 TBC
2. DULUX NATURAL 4* P1080
3. DULUX PURPLE EMPIRE P1087
4. COLORBOND MONUMENT

CONSTRUCTION CERTIFICATE ISSUE

NOTE: THESE ARCHITECTURAL DRAWINGS REQUIRE CO-ORDINATION WITH FINAL CONSULTANT DRAWINGS AND PCA CONDITIONS PRIOR TO CONSTRUCTION.

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NOTE: THESE ARCHITECTURAL DRAWINGS REQUIRE CO-ORDINATION WITH FINAL CONSULTANT DRAWINGS AND PCA CONDITIONS PRIOR TO CONSTRUCTION.
The two bedroom windows facing west in Unit 201 are to be of obscure glazing.
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Changes by Oceania Clarke Pty Limited

S4.55(1A) CHANGES BY OCEANIA CLARKE PTY LIMITED

A
S4.55(1A) CHANGES BY OCEANIA CLARKE PTY LIMITED

A

A 30/09/19 GB

A
Development Applications Committee Meeting
3 December 2019

DAC 3/12/19

DA2015/0876.02 - 29 Laman Street Cooks Hill

Attachment B: Draft Schedule of Conditions

Distributed under separate cover
DRAFT SCHEDULE OF CONDITIONS

Application No: DA2015/0876.02

Property Address: 29 Laman Street Cooks Hill NSW  2300
31 Laman Street Cooks Hill NSW  2300

Proposed Development: Changes to floor plan, windows and elevations

S4.55 MODIFIED CONDITIONS

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>
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<tr>
<td>S4.55 (1A) Town Planning Report</td>
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<td>Valley Planning</td>
<td>30/09/2019</td>
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<td>Basement Floor Plans</td>
<td>A201 (A)</td>
<td>Seymour Architects - S4.55(1A) changes by Oceania Clarke Pty Ltd</td>
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<td>Seymour Architects - S4.55(1A) changes by Oceania Clarke Pty Ltd</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.
S4.55 ADDITIONAL CONDITIONS

54.1 The air conditioning units located at ground level, on the western elevation must be removed and relocated to within the basement level prior to issue of a Final Occupation Certificate. Full details are to be included in documentation for a Final Occupation Certificate.

54.2 The area of roof adjacent to the living room of unit 201 is to be recorded on the strata plan as common property for roof and maintenance access only. Under no circumstances is the roof space to be used for residential purposes. Full details are to be included in documentation for a Final Occupation Certificate.

All other conditions remain unchanged
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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<td>30/09/2019</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 The recommendations of the Heritage Report prepared by EJE Heritage Ref No. 10059-SOHI-001 Issue C and as revised by Oceania Clarke are to be implemented as part of the Public Domain Submission for Glovers Lane Works. Heritage interpretation design and details as recommended in the Heritage Report are to be submitted to Council for review and approval prior to the issue of any construction certificate and heritage interpretation works to be completed prior to any occupation certificate.

4 A total monetary contribution of $24,880.38 is to be paid to Council, pursuant to Section 94A of the Environmental Planning and Assessment Act 1979, such contribution to be payable prior to the issue of a Construction Certificate in respect of the proposed development.

Note:

a) This condition is imposed in accordance with the provisions of The City of Newcastle S94A Development Contributions Plan 2009 (updated version operational from 15 March 2011). A copy of the plan may be inspected at Council’s Customer Enquiry Centre, ground floor of the City Administration Centre, 282 King Street Newcastle 8.30 am to 5.00 pm, excluding public holidays.

b) The City of Newcastle S94A Development Contributions Plan 2009 permits deferred or periodic payment of levies in certain circumstances. A formal modification of this condition will be required to enter into a deferred or periodic payment arrangement. Refer to the s94A Development Contributions Plan 2009.

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

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

<table>
<thead>
<tr>
<th>Indexation quarters</th>
<th>Approx release date</th>
</tr>
</thead>
<tbody>
<tr>
<td>September</td>
<td>Late October</td>
</tr>
<tr>
<td>December</td>
<td>Late January</td>
</tr>
<tr>
<td>March</td>
<td>Late April</td>
</tr>
<tr>
<td>June</td>
<td>Late July</td>
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</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.
5 The developer is to design and construct the following works within Glovers Lane and Laman Street frontage adjacent to the site at no cost to Council and in accordance with Council’s guidelines, design specification and City Centre Public Domain Technical Manual:

a) Public Domain Works (Laman Street frontage)

   i. New footpath, retain/install stone kerb and gutter. The scope of footpath works to extend 5m beyond the property boundary at either side of the property.
   ii. Ensure adequate means to protect existing stone kerb and gutter (both on the street and along the property boundary retaining wall) are provided during demolition/construction of building works.
   iii. Install new street trees in accordance with Council requirements (as necessary) and adjust service pit levels to match new footpath.
   iv. Upgrade/install street lighting within 10m-20m of the vicinity of the development to Ausgrid requirements and P2 lighting category as per City Centre Public Domain Technical Manual.
   v. Remove all redundant driveways, install new kerb and gutter and repair any road works.
   vi. Install any required parking and mandatory signage.
   vii. Repair any damages caused during construction and ensure the survey mark is protected at all times.

b) Public Domain Works (Glovers Lane frontage)

   i. New road pavement (design for life of 50 years), new kerb and gutter on either side of the laneway, drainage and associated streetscape. Ensure that adjoining property driveways and proposed new driveway design is included.
   ii. End treatment including turning are at the end of the laneway.
   iii. The extent of works on the south is to extend to the southern boundary of 1 Glovers Lane & 14 Dawson St property.
   iv. Install new street trees in accordance with Council requirements (as necessary) and adjust service pit levels to match new footpath/roadway.
   v. Upgrade/install street lighting within 20m of the vicinity of the development to Ausgrid requirements and P4 lighting category as per City Centre Public Domain Technical Manual.
   vi. Remove all redundant driveways, install new kerb and gutter and repair any road works.
   vii. Install any required parking and mandatory signage.
   viii. Repair any damages caused during construction and ensure the survey mark is protected at all times.

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

6 A dilapidation report prepared by a suitability qualified person shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate. The dilapidation report shall document and photograph the current structural condition of the adjoining buildings, infrastructure and roads.
7 The building is to be provided with adequate means of access for persons with disabilities, to the extent necessary to comply with the Commonwealth Disability (Access to Premises - Buildings) Standards 2010. Full details are to be included in documentation for a Construction Certificate application.

8 On-site parking accommodation is to be provided for a minimum of 13 vehicles and 6 Bicycle space 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.

9 The proposed garage door openings are to be a minimum width of 5.40m clear. Full details are to be included in documentation for a Construction Certificate application.

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

11 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.

12 Letterboxes, landscaping and any other obstructions to visibility are to be kept clear of or limited in height to 1.2m in the 2 metre by 2.5 metre splay within the property boundary each side of the driveway entrance in accordance with AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking. Full details are to be included in documentation for a Construction Certificate application.

13 Roof water from the proposed new work is to be directed to the rainwater tank (minimum size 5m³) and being reticulated there from to any new toilet cisterns and cold water washing machine taps, with a mains water top up being installed to maintain between 10% and 15% of the tank capacity to the ground floor units only. Alternatively, an electronically activated mechanical valve device is to be installed to switch any new toilet cisterns and laundry taps to mains water when the tank falls below 10% capacity. The water tank and plumbing is to be installed in accordance with Australian Standard AS 3500, the relevant plumbing regulations and the requirements of the Hunter Water Corporation. Full details are to be included in documentation for a Construction Certificate application.

14 Overflows from the On Site Retention/Detention, WSUD structures and any additional discharge controls (if required) are to be directed to Council’s drainage system by means of an interallotment drainage line or underground pipe directly to Council’s Drainage System. Full details are to be provided with the Construction Certificate application.

15 All downpipes discharging to the rainwater tanks are to have pre-storage insect, debris and vermin control (e.g. a rainwater head being leaf screened and vermin and insect proof) to minimise the contamination of captured roof water. A first flush device is to be provided for the inlet to the tank and a backflow prevention device is to be installed in the tank overflow outlet before connecting to the stormwater drainage system. If the roof downpipes are charged to the rainwater tank, all pipes are to be chemically welded and the stormwater system is to be
designed such that the system is capable of being flushed in the event of pipe blockage (e.g. capped relief access points at the lowest level of stormwater drainage).

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

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

18 Overflows from the On Site Retention/Detention, WSUD structures and any additional discharge controls (if required) are to be directed to Council’s drainage system by means of an interallotment drainage line or underground pipe directly to Council’s Drainage System. Full details are to be provided with the Construction Certificate application.

19 All stormwater runoff from the proposed development being managed in accordance with the requirements of Section 7.06 ‘Stormwater’ of Newcastle Development Control Plan 2012, as indicated on the concept stormwater management plan prepared by MPC Consulting Engineers Job No. 14-094 Dwg. No. C04 Issue 3 dated 30/07/2015 and Architectural Plan Dwg No. A1.01-D dated 04/01/2016 indicating the 5000L rainwater tank. Full details are to be included in documentation for a Construction Certificate application.

20 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.

21 The floor level of all proposed buildings or building additions is to be not below 6.20m Australian Height Datum and being indicated on plans for a Construction Certificate application. The finished floor levels are to be certified by a registered Surveyor prior to the placement of the floor material and a copy of the Surveyor’s Certificate is to be forwarded to the Principal Certifying Authority.

22 The whole of the proposed structure below known flood level (ie reduced level 6.20m Australian Height Datum) is to be constructed in materials and finishes that are resistant to damage from floodwaters/tidal waters. Any new machinery or equipment, electrical circuitry or fitting, storage unit or similar items likely to be damaged by floodwaters/tidal waters being installed above the said height or alternatively being of materials and functional capability resistant to the effects of floodwaters/tidal waters. Full details are to be included in documentation for a Construction Certificate application.

23 The proposed development is not to increase upstream or downstream flooding for floods over a range of storms from 1:1 to 1:100 year events. This is to be verified by the provision of stormwater control details included in documentation for a Construction Certificate application.
24 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.

25 Adequate facilities are to be provided in a screened location within the premises for the storage of garbage, discarded or returnable packaging or other forms of trade wastes and arrangements being made for regular removal and disposal of same. The required garbage facility is to be suitable for the accommodation of Council approved wheel type bins or bulk waste containers. Full details are to be included in documentation for a Construction Certificate application.

26 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.

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

28 The proposed lighting including car park lighting of the premises is to be designed, positioned, and installed, including appropriate shielding and orientation of the lighting fixture, as to not give rise to obtrusive light, interfere with traffic safety or detract from the amenity of surrounding properties in accordance with Australian Standard AS 4282: 1997 Control of the obtrusive effects of outdoor lighting. At least 2 security cameras are to be installed along Glovers Lane for security and surveillance purposes. Full details are to be included in the documentation for a Construction Certificate application.

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

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

30 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.

31 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.

32 Commercial type vehicular crossings 6m wide respectively are to be constructed across the public footway at each of the proposed driveway entrance/exits at no
cost to Council and in accordance with Council’s A1000 Series design specifications and City Centre Public Domain Manual and such crossing being properly maintained. Detailed design is to be submitted with the Public Domain Plan submission prior to the issue of any construction certificate.

Note: A separate approval from Council must be obtained for all works within the public road reserve pursuant to Section 138 of the Roads Act 1993. For further information contact Council’s Works Depot on 4974 6000 to request a Road Opening Approval. A fee will be payable in this regard.

33 Any proposed paving works within the public footway are to be in accordance with the requirements of Council’s specifications and City Centre Public Domain Manual.

Note: It will be necessary for the Developer to notify water, telecommunications, gas and electricity authorities of the proposed paving works in order to enable the various authorities to carry out and complete any necessary repairs and/or amplification to their respective services before such works are commenced.

34 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.

35 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.

36 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.

37 All roof and surface waters are to be conveyed to the street drainage system by way of a sealed pipe system, extending through the footway to Council requirements, in accordance with Element 7.06 ‘Stormwater’ of Newcastle Development Control Plan 2012.

38 All parking bays are to be permanently marked out on the pavement surface.

39 The vehicular entrance and exit driveways and the direction of traffic movement within the site are to be clearly indicated by means of reflectorised signs and pavement markings.

40 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’.

41 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

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

43 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.

44 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).

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

45 A Green Travel Plan with Public Transport Routes and Bicycle Network is to be prepared and made available to the new residents and commercial premises tenants. The Public Transport and Bicycle Network Plans are to be installed in common areas prior to any Occupation Certificate. Use of alternative modes of transport is to be encouraged.

46 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.

47 The Public Domain works referenced in condition no. 5 are to be implemented and construction works are to be completed to Council satisfaction prior to the issue of any Occupation Certificate.

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

Note: An additional fee will be required by Council for the assessment of engineering plans submitted for the public road works. In this regard the developer is advised to confer with Council’s Development & Building Services Section in order to confirm this fee.
49 All works within the road reserve required by this consent are to be completed prior to the issue of a Final Occupation Certificate.

50 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.

51 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.

52 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.

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

54 A post construction dilapidation report prepared by a suitability qualified person shall be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate, to ascertain if any structural damage has occurred to the adjoining buildings, infrastructure and roads. The reports shall be forwarded to Council and will be made available in any private dispute between neighbours regarding damage arising from construction works.

54.1 The air conditioning units located at ground level, on the western elevation must be removed and relocated to within the basement level prior to issue of a Final Occupation Certificate. Full details are to be included in documentation for a Final Occupation Certificate.

54.2 The area of roof adjacent to the living room of unit 201 is to be recorded on the strata plan as common property for roof and maintenance access only. Under no circumstances is the roof space to be used for residential purposes. Full details are to be included in documentation for a Final Occupation Certificate.

CONDITIONS TO BE SATISFIED DURING THE OPERATION AND USE THE DEVELOPMENT

55 A Waste Management Plan is to be prepared in accordance with Newcastle DCP 2012. 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).

56 Waste Collection from the proposed development is restricted to between 7:00am and 6:00pm daily.

57 The waste collection from the site is to be serviced only by private waste contractors.

58 A Maintenance Manual for all water quality devices is be prepared in accordance with Council’s Stormwater and Water Efficiency for Development Technical Manual (Updated 2013). The Maintenance Manual is to address maintenance issues concerning the water quality devices including routine monitoring and regular maintenance and be kept on site at all times. Establishment and maintenance of the water quality devices in accordance with the Maintenance Manual prepared by the applicant is to be completed prior to occupation of this site for the intended use.

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

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

61 On-site car parking accommodation is to be provided for a minimum of 13 vehicles and 6 Bicycle spaces vehicles and such being set out generally in accordance with the details indicated on the submitted plans except as otherwise provided by the conditions of consent.

62 Vehicles are to be loaded or unloaded standing wholly within the premises and within loading bays designated on the submitted plans or as otherwise provided in accordance with the conditions of this consent and under no circumstances are vehicles to be loaded or unloaded at the kerbside, across the public footpath or in a manner which obstructs vehicular access to the site.

63 Any vehicle or plant owned or operated by the occupants of the premises in connection with the conduct of their business is to be parked within the confines of the site in spaces designated on the submitted plans, or otherwise provided in accordance with the conditions of this consent.

64 The development is to be serviced by vans or small fixed-wheelbase delivery vehicles capable of being turned on-site.
65 All vehicular movement to and from the site is to be in a forward direction except car spaces 14 and 15.

66 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.

67 The use and occupation of the premises, including all plant and equipment installed thereon, is not to give rise to any offensive noise, as defined under the Protection of the Environment Operations Act 1997 (NSW).

Should Council consider offensive noise has emanated from the premises, the owner/occupier of the premises will be required to submit an acoustic assessment prepared by a suitably qualified acoustical consultant recommending appropriate acoustic measures necessary to ensure future compliance with this condition and will be required to implement such measures within a nominated period. Furthermore, written certification from the said consultant confirming the recommended acoustic measures have been satisfactorily implemented will be required to be submitted to Council prior to the expiration of the nominated period.

ADVISORY MATTERS

68 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.

69 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.

70 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.

71 A Construction Certificate application for this project is to include a list of fire safety measures proposed to be installed in the building and/or on the land and include a separate list of any fire safety measures that already exist at the
premises. The lists must describe the extent, capability and basis of design of each of the measures.

72 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.

73 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).

74 A copy of the final Fire Safety Certificate (together with a copy of the current fire safety schedule) is to be given to the Commissioner of NSW Fire Brigades and a further copy of the Certificate (together with a copy of the current fire safety schedule) is to be prominently displayed in the building.

75 An annual Fire Safety Statement in the form described in Clause 175 of the Environmental Planning and Assessment Regulation 2000 (NSW) is to be submitted to Council and a copy (together with a copy of the current fire safety schedule) is to be given to the Commissioner of New South Wales Fire Brigades. A further copy of the Statement (together with a copy of the current fire safety schedule) is to be prominently displayed in the building.

END OF CONDITIONS
SCHEDULE 2

REASONS FOR THE DETERMINATION & CONSIDERATION OF COMMUNITY VIEWS

The determination decision was reached for the following reasons:

- The proposed development, subject to the recommended conditions, is consistent with the objectives of the applicable environmental planning instruments, being; Newcastle Local Environmental Plan 2012 (NLEP) and applicable State Environmental Planning Policies.
- The proposed development is, subject to the recommended conditions, consistent with the objectives of the Newcastle Development Control Plan 2012 (NDCP).
- The proposed development is considered to be of an appropriate scale and form for the site and the character of the locality.
- The proposed development has appropriate management and mitigation of impacts through conditions of consent.
- The proposed development, subject to the recommended conditions, will not result in unacceptable adverse impacts upon the natural or built environments.
- The proposed development is a suitable and planned use of the site and its approval is within the public interest

REASONS WHY THE CONDITIONS HAVE BEEN IMPOSED

The conditions in Schedule 1 have been applied to:

- Confirm and clarify the terms of Council’s determination;
- Identify modifications and additional requirements that will result in improved compliance, development and environmental outcomes;
- Prevent, minimise, and/or offset adverse environmental impacts including economic and social impacts;
- Set standards and measures for acceptable environmental performance; and
- Provide for the ongoing management of the development.
- Ensure the development is undertaken in an orderly manner.
DAC 3/12/19

DA2015/0876.02 - 29 LAMAN STREET COOKS HILL

Attachment C: Processing Chronology

DISTRIBUTED UNDER SEPARATE COVER
## PROCESSING CHRONOLOGY

**DA2015/0876.02 - 29 Laman Street Cooks Hill**

- **3 April 2019**
  - Modification application submitted

- **11 April 2019**
  - Public notification

- **20 May 2019**
  - Additional information requested

- **13 June 2019**
  - Additional information and amended plans received

- **20 August 2019**
  - Public Voice Committee

- **20 September**
  - Suitable design solutions accepting of the neighbour at 33 Laman Street were agreed to

- **30 October 2019**
  - Amended Plans submitted in response
Attachment D: Agreement between applicant and owners of 33 Laman Street Cooks Hill
Dear Chris,

Thank you very much indeed for your e-mail of September 13 concerning the changes that will be made to the development at 29-31 Laman Street. Please see our responses set out below:

a. A screening panel will be installed on the inner face of the parapet wall. This will screen the lower half of the two bedroom windows. It will be made of aluminium panels, installed in a horizontal pattern of spacing 15mm apart. The screen will be painted the colour monument which is the same colour as the cladding on the wall immediately behind. The screen will be 5.4m in length and cover to height of 1.7m as measured from the finished floor level on the inside of the bedroom. (I have sent through under cover of a separate email, the photomontage of this)

Response: This arrangement is agreeable to us

b. The western facing living room window will be deleted to return to part of the wall.

Response: This proposed change is essential

c. The sliding doors currently giving access to the roof top will be removed. The space will be made into a solid wall up to a height of 750mm from the finished floor level to create a new sill. The remainder of the space will form a large window. The window will comprise of two openable panels on the sides and the centre pane will comprise a large fixed glass panel.

Response: We agree that this would be a reasonable solution to the problem. This mechanism will prevent access to the roof space which will become common property in the Strata plan.

d. (1) 10 x brick courses will be removed from the parapet wall of the upper light well.
   (2) 9 x brick courses will be removed from the parapet wall of the lower light well.

Response: This arrangement is agreeable to us

e. The roof will remain as such. No balustrade will be installed. The entire area will remain as common property in the Strata Plan. Access is now restricted due to point c above.

Response: agreed, see (c) above.

f. The painted colour of the render within the light well will be changed to Natural Stone, the same light colour that is within the building on the front façade.

Response: Appreciated; this will lessen the impact of the light void.

g. The air conditioning compressors will be relocated within the basement.
Response: Yes this is an absolute requirement for us

h. The vents to the basement on the side of the building have now been restored to a wall.

Response: The exterior aspect of these vent openings are still temporary; it is important that they are now sealed and rendered on the outside and made compliant with the relevant fire regulations as they are within 3 m of our house.

With these changes implemented, we hope the project can go through to completion pending Council approval.

Regards

Robert John Aitken FRSE, FRSN, FAHMS, FAA
ATTACHMENTS DISTRIBUTED UNDER SEPARATE COVER

ITEM 23  DA2019/00968 - 6 BAVIN ROAD BROADMEADOW

RECREATION FACILITY (INDOOR) ASSOCIATED AMENITIES BUILDING, CARPARK AND SIGNAGE

Attachment A - Submitted Plans
Attachment B - Draft Schedule of Conditions
Attachment C - Processing Chronology
DAC 3/12/19

DA2019/00588 - 6 BAVIN ROAD BROADMEADOW

Attachment A: Submitted Plans
WORK IN FIGURED DIMENSIONS IN PREFERENCE TO SCALE. CHECK DIMENSIONS AND LEVELS ON SITE PRIOR TO THE ORDERING OF MATERIALS OR THE COMPLETION OF WORKSHOP DRAWINGS. IF IN DOUBT ASK. REPORT ALL ERRORS AND OMISSIONS.

COMMENTS

DATE

REV

PROJECT:

DRAWN:

DATE:

SCALES @ A3:

REV:

PROJECT No:

DRAWING:

CLIENT:

SITE:

DRN

CHKD

VRFD

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EJE ARCHITECTURE

BC/TH 20/08/2019

DISTRICT PARK BROADMEADOW, NSW 2292

1:1500

DRAINAGE

CHANNEL

EXISTING UNDERGROUND SERVICES

SEWER LINE

WATER LINE

TELSTRA LINE

EXISTING TREE

PROPOSED TREE (REFER TO LANDSCAPE ARCH PLANS)

EXISTING TREE

PROPOSED TREE (REFER TO LANDSCAPE ARCH PLANS)

LEGEND

LEGEND

EXISTING UNDERGROUND SERVICES

WATER LINE

SEWER LINE

TELSTRA LINE

EXISTING TREE

PROPOSED TREE (REFER TO LANDSCAPE ARCH PLANS)

EXISTING TREE

PROPOSED TREE (REFER TO LANDSCAPE ARCH PLANS)

EXISTING UNDERGROUND SERVICES

WATER LINE

SEWER LINE

TELSTRA LINE

EXISTING TREE

PROPOSED TREE (REFER TO LANDSCAPE ARCH PLANS)

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LEGEND

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TELSTRA LINE

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TELSTRA LINE

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EXISTING TREE

PROPOSED TREE (REFER TO LANDSCAPE ARCH PLANS)

EXISTING UNDERGROUND SERVICES

WATER LINE

SEWER LINE

TELSTRA LINE

EXISTING TREE

PROPOSED TREE (REFER TO LANDSCAPE ARCH PLANS)

EXISTING TREE

PROPOSED TREE (REFER TO LANDSCAPE ARCH PLANS)

EXISTING UNDERGROUND SERVICES

WATER LINE

SEWER LINE

TELSTRA LINE

EXISTING TREE

PROPOSED TREE (REFER TO LANDSCAPE ARCH PLANS)

EXISTING TREE

PROPOSED TREE (REFER TO LANDSCAPE ARCH PLANS)

EXISTING UNDERGROUND SERVICES

WATER LINE

SEWER LINE

TELSTRA LINE

EXISTING TREE

PROPOSED TREE (REFER TO LANDSCAPE ARCH PLANS)

EXISTING TREE

PROPOSED TREE (REFER TO LANDSCAPE ARCH PLANS)
WORK IN FIGURED DIMENSIONS IN PREFERENCE TO SCALE. CHECK DIMENSIONS AND LEVELS ON SITE PRIOR TO THE ORDERING OF MATERIALS OR THE COMPLETION OF WORKSHOP DRAWINGS. IF IN DOUBT ASK. REPORT ALL ERRORS AND OMISSIONS.

COMMENTS

DATE

REV

PROJECT : DRAWN : DATE : SCALES @ A3 :

REV : PROJECT No :

DRAWING : CLIENT :

SITE :

DRN  CHKD  VRFD

COMPLETION OF THE QUALITY ASSURANCE CHECKS IS VERIFICATION THAT THE DOCUMENT CONFORMS WITH THE REQUIREMENTS OF THE QUALITY PROJECT PLAN. WHERE THE QUALITY ASSURANCE CHECK IS INCOMPLETE THIS DOCUMENT IS PRELIMINARY FOR INFORMATION PURPOSES ONLY, OR SUCH PURPOSES AS STATED IN THE REVISION COLUMN.

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ACN 002 912 843  |  ABN 82 644 649 849

Nominated Architect - Bernard Collins
NSW Architects Registration No.4438

12441-WD Knights CoE_Revised

1:1500

DISTRICT PARK BROADMEADOW,
NSW 2292

BC/TH 6/11/2019

120°31'46"79.06
277°08'40"194.38
240°48'10"473.46
188°33'05"29.175
15°02'15"103.49
6°35'15"114.69
53°49'20"4.22
277°10'45"242.755

12441 WD A02 K
CENTRE OF EXCELLENCE - EXTERNAL PERSPECTIVE 01
CENTRE OF EXCELLENCE - EXTERNAL PERSPECTIVE 02
WESTERN SCREENING
A PERFORATED METAL SCREEN IS PROPOSED TO THE FACADE TO PROTECT THE BUILDING FROM THE AFTERNOON SUN.

THE SIZE OF PERFORATIONS WILL BE INCREASED WHERE VIEWS TO THE TRAINING FIELD ARE DESIRED.

PRECEDENT IMAGES
PERFORATED METAL SCREEN, POWDERCOAT FINISH
PAINT FINISH
BLACK WINDOW FRAMES
ILLUMINATED ACRYLIC LOGO
POWDERCOATED WINDOW HOODS
POWDERCOATED LOUVRES
TIMBER LOOK SOFFIT
PAVERS
ARTIFICIAL TURF

COMMENTS
DATE
REV

PROJECT:
DRAWN:
DATE:
SCALES @ A3:

DRAWING No:
PHASE:
PROJECT No:

FILENAME: 12441-WD Knights CoE_Revised

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Nominated Architect - Bernard Collins
NSW Architects Registration No. 4438

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P +61 2 4929 2353   |   F +61 2 4926 3069   |   E mail@eje.com.au   |   W www.eje.com.au

KNIGHTS CENTRE OF EXCELLENCE
WESTS GROUP
88 HOBART ROAD, NEW LAMBTON
NSW, 2305
SIGNAGE - EASTERN ELEVATION 1:50
ILLUMINATED ACRYLIC LIGHTBOX
COLOUR SELECTIONS TBC

SIGNAGE - WESTERN ELEVATION 1:50
ILLUMINATED ACRYLIC LIGHTBOX
COLOUR SELECTIONS TBC

SIGNAGE - SOUTHERN ELEVATION 1:100
PRINTED VINYL ON ACRYLIC PANELS
COLOUR SELECTIONS TBC

SIGNAGE - WESTERN ELEVATION 1:100
ILLUMINATED ACRYLIC LIGHTBOX
COLOUR SELECTIONS TBC
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<th>REV. No</th>
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<td>D</td>
<td>18/7/19</td>
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<td>D</td>
<td>18/7/19</td>
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landscape development application

KNIGHTS CENTRE OF EXCELLENCE
WESTS GROUP
DISTRICT PARK BROADMEADOW, NSW 2292
EXISTING TREES TO BE RETAINED
1.5 METER WIDE RUNNING TRACK
STY CREEK DRAINAGE CANAL
EXISTING SHARED PATH AND PEDESTRIAN BRIDGE
PROPOSED AMENITIES BUILDING
EXISTING AMENITIES BUILDING TO BE DEMOLISHED
CENTRE OF EXCELLENCE CARPARK
GARBAGE TRUCK PICKUP POINT
EXISTING CARPARK TO BE RETAINED

1. EXISTING TREES TO BE RETAINED
2. 1.5 METER WIDE RUNNING TRACK
3. STY CREEK DRAINAGE CANAL
4. EXISTING SHARED PATH AND PEDESTRIAN BRIDGE
5. PROPOSED AMENITIES BUILDING
6. EXISTING AMENITIES BUILDING TO BE DEMOLISHED
7. CENTRE OF EXCELLENCE CARPARK
8. GARBAGE TRUCK PICKUP POINT
9. EXISTING CARPARK TO BE RETAINED

EXISTING TREES TO BE RETAINED
1.5 METER WIDE RUNNING TRACK
STY CREEK DRAINAGE CANAL
EXISTING SHARED PATH AND PEDESTRIAN BRIDGE
PROPOSED AMENITIES BUILDING
EXISTING AMENITIES BUILDING TO BE DEMOLISHED
CENTRE OF EXCELLENCE CARPARK
GARBAGE TRUCK PICKUP POINT
EXISTING CARPARK TO BE RETAINED
EXISTING CAR PARK

BAVIN ROAD

LP

188°33'05"
29.175
15°02'15"
103.49
6°35'15"
114.69

TELSTRA LINE

BAVIN ROAD

KNIGHTS TRAINING FIELD

RW TANK

BIKES

CAR PARK

- 27 SPACES

-CARPARK

- 42 SPACES

EXISTING CAR PARK

BAVIN ROAD

KNIGHTS CENTRE OF EXCELLENCE

DRAINAGE CANAL

BAVIN ROAD

KNIGHTS CENTRE OF EXCELLENCE

DRAINAGE CANAL

BAVIN ROAD

KNIGHTS CENTRE OF EXCELLENCE

DRAINAGE CANAL

BAVIN ROAD

KNIGHTS CENTRE OF EXCELLENCE

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KNIGHTS CENTRE OF EXCELLENCE

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KNIGHTS CENTRE OF EXCELLENCE

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KNIGHTS CENTRE OF EXCELLENCE

DRAINAGE CANAL

BAVIN ROAD

KNIGHTS CENTRE OF EXCELLENCE

DRAINAGE CANAL

BAVIN ROAD

KNIGHTS CENTRE OF EXCELLENCE

DRAINAGE CANAL

BAVIN ROAD

KNIGHTS CENTER OF EXCELLENCE

L101

CAR PARK TREE PLANTING OF Lophostemon confertus (BRUSH BOX) TO PROVIDE YEAR ROUND GREENING TO THE SITE AND RELATE TO EXISTING STREET TREE PLANTINGS IN SURROUNDING AREA.

CAR PARK AND OUTDOOR FACILITIES TO ARCHITECT'S DETAIL

FEATURE PLANTINGS OF Acer 'JEFFERSRED' (MAPLE) TO PROVIDE SOLAR ACCESS TO COMMUNAL SPACES AND SEASONAL COLOUR

FEATURE PLANTINGS OF Zelkova serrata 'Green Vase' (JAPANESE ELM) TO PROVIDE SEASONAL INTEREST AND SUMMER SHADE TO THE AREA

BIKE RACKS AS SHOWN. EXTERNAL PATHWAYS, STAIRS AND HANDRAILS TO ARCHITECT'S DETAIL

GARBAGE TRUCK PICKUP POINT. DETAILED DESIGN TO BE PROVIDED AS PART OF THE S138 APPLICATION

SCALE: 1:500

DATE: 6/1/2019

DRAWN: PHILIP S. ABEL

REV: D

PHASE: JOB NUMBER: DWG No: 12441.5 CoE DA_REV D.vwx 19/7/19

CLIENT: DISTRICT PARK BROADMEADOW, NSW 2292

PROJECT: WESTS GROUP

PRELIM. ISSUE 15/5/19A

OS / PW @A3MAY 2019

CAR PARK AND OUTDOOR FACILITIES TO ARCHITECT'S DETAIL

SCALE: 1:500

DATE: 6/1/2019

DRAWN: PHILIP S. ABEL

REV: D

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CLIENT: DISTRICT PARK BROADMEADOW, NSW 2292

PROJECT: WESTS GROUP

PRELIM. ISSUE 15/5/19A

OS / PW @A3MAY 2019
1. Acer x freemontii 'Jeffersred'
2. Lophostemon confertus
3. Zelkova serrata 'Green Vase'
4. Senecio serpens
5. Zamia furfuracea

6. Lomandra tanika
7. Wahlenbergia nutans
8. Nandina domestica 'Gulf Stream'
9. Dianella caerulea

Acer x freemontii 'Jeffersred'  Autumn Blaze Maple  Lophostemon confertus  Zelkova serrata 'Green Vase'  Senecio serpens  Zamia furfuracea  Lomandra tanika  Wahlenbergia nutans  Nandina domestica 'Gulf Stream'  Dianella caerulea
Attachment B: Draft Schedule of Conditions
Application No: DA2019/00588
Land: Lot 3284 DP 1049501
Property Address: 6 Bavin Road Broadmeadow NSW 2292
Proposed Development: Staged development for a Recreation facility (indoor), associated amenities building, car parking and signage

SCHEDULE 1

APPROVED DOCUMENTATION

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

<table>
<thead>
<tr>
<th>Plan No / Supporting Document</th>
<th>Version</th>
<th>Prepared by</th>
<th>Dated</th>
</tr>
</thead>
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<tr>
<td>A00 COVER SHEET</td>
<td>C</td>
<td>ELK</td>
<td>20.08.2019</td>
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<tr>
<td>A01 SITE ANALYSIS PLAN</td>
<td>C</td>
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<td>A02 SITE PLAN</td>
<td>K</td>
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<td>06.11.2019</td>
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<td>A03 GROUND FLOOR PLAN</td>
<td>G</td>
<td>ELK</td>
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<td>A04 GROUND FLOOR PLAN - NORTH</td>
<td>G</td>
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<td>A05 GROUND FLOOR PLAN - SOUTH</td>
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<tr>
<td>A06 FIRST FLOOR PLAN</td>
<td>D</td>
<td>ELK</td>
<td>20.08.2019</td>
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<tr>
<td>A07 ROOF PLAN</td>
<td>D</td>
<td>ELK</td>
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<td>E</td>
<td>ELK</td>
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<td>C</td>
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<td>A10 AMENITIES BUILDING</td>
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<td>D</td>
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<td>A13 PERPSECTIVES</td>
<td>C</td>
<td>ELK</td>
<td>20.08.2019</td>
</tr>
<tr>
<td>A14 EXTERNAL SCREEN</td>
<td>C</td>
<td>ELK</td>
<td>20.08.2019</td>
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<td>A15 SCHEDULE OF MATERIALS</td>
<td>C</td>
<td>ELK</td>
<td>20.08.2019</td>
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<td>A16 SIGNAGE</td>
<td>C</td>
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<td>20.08.2019</td>
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<td>MAY 2019</td>
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<td>02</td>
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<td>Arborist Report</td>
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<td>22.05.2019</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 shall prevail.
consent prevail.

2. Each stage of the development is to be undertaken in the specific order given below:

   Stage 1: Southern section of proposed building, 43 space, 28 space and 68 space car parks and separate amenities building.

   Stage 2: Northern section of proposed building.

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

3. A total monetary contribution of $184,536.00 is to be paid to the City of Newcastle, pursuant to Section 7.12 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 development.

   Note:
   a) This condition is imposed in accordance with the provisions of the City of Newcastle’s Section 7.12 Newcastle Local Infrastructure Contributions Plan 2019.
   b) The City of Newcastle’s Section 7.12 Newcastle Local Infrastructure Contributions Plan 2019 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.
   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 as follows:

<table>
<thead>
<tr>
<th>Indexation quarters</th>
<th>Approx release date</th>
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<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 City of Newcastle’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 139 vehicles (including 6 disability accessible spaces) and meet the minimum parking layout standards indicated in Element 7.03 ‘Traffic, Parking and Access’ of Council’s adopted Newcastle Development Control Plan 2012. Details are to be included in documentation for a Construction Certificate application. No car spaces within the car park immediately to the south of the CoE building or the western car park shall be marked, signposted or otherwise identified as being for the sole use of staff only.

5. The car parking and vehicular access is to be designed to comply with AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking and AS/NZS 2890.6:2009 - Parking facilities - Off-street parking for people with disabilities. Full details are to be included in documentation for a Construction Certificate application.
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. A concrete pedestrian pathway is to be provided within the site, along the full Perth Road and Bavin Road frontages, linking to the pedestrian refuge required under Condition 16(d) of this consent. Full details are to be included in documentation for a Construction Certificate application.

8. All stormwater runoff from the 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. The 27 and 42 spaced car parking areas must be provided with either retention systems with sand filter or detention with runoff from the detention being treated via landscaped water sensitive areas prior to discharge. The minimum retention/detention storage must be calculated based on 25m$^3$ per 1,000m$^2$ and a MUSIC modelling must be done to demonstrate that the design has achieved the water quantity and quality targets set in Element 7.06 ‘Stormwater’ of Newcastle Development Control Plan 2012. Full details are to be included in documentation for any Construction Certificate application.

9. Roof water from the Centre of Excellence (COE) building is to be directed to the proposed 6 x 22,700 Litre rainwater tanks and be reticulated to new toilet cisterns and cold-water washing machine taps in the building and landscaped areas. A separate rainwater tank must be provided (which can be either underground or above ground) and the discharge from the 6 x 22,700L tanks and any additional roof and hardstand areas should be connected to this tank. The separate rainwater tank should be designed by an appropriately qualified hydraulic consultant for the purpose of irrigating the Knights Training playing Field. Appropriate form of stormwater treatment should be provided to mitigate any health issues relating to reuse of the stormwater for irrigation of the Training Field. The water tanks, Irrigation facilities and the associated infrastructure are to be installed in accordance with the relevant Codes, Australian and Industry. Full details are to be included in documentation for any Construction Certificate application.

10. Overflows from the rainwater tanks and any additional discharge controls (if required) are to be directed to Hunter Water drainage system by means of an interallotment drainage line or underground pipe directly to the Hunter Water Channel. Approval from Hunter Water is to be obtained and full details are to be provided with any Construction Certificate application.

11. The floor level of the proposed COE building is to be not below RL 8.1m Australian Height Datum and being indicated on plans for a Construction Certificate application. The finished floor levels are to be certified by a registered Surveyor prior to the placement of the floor material and a copy of the Surveyor’s Certificate is to be forwarded to the Principal Certifying Authority.

12. A flood emergency response plan is to be prepared, by independent consulting engineers experienced in flood management, and put in place by the applicant prior to occupation of the building.

The plan is to include an education and awareness component for the workforce; to detail evacuation procedures; to interface with the local flood warning system; to include the local State Emergency Services plan; and to include provisions for any third parties likely to be involved.

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

a) likely flood behaviour
b) flood warning systems
c) education awareness program  
d) evacuation and evasion procedures  
e) evacuation routes and flood refuges and  
f) flood preparedness and awareness procedures for residents and visitors

Considerations should include the full range of flood risks, the proposed use of the site, site access constraints and local area evacuation routes to high ground. As much as possible, the plan is to be aimed at self-directed evacuation or evasion to minimise the draw on limited State Emergency Services resources. The plan is to be updated and maintained by the occupiers. 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 landscape plan and specification. The plan and specifications is to be prepared in accordance with the provisions of Newcastle Development Control Plan 2012 and is to include details of the following:

a) cross sections through the site where appropriate  
b) proposed contours or spot levels  
c) botanical names  
d) quantities and container size of all proposed trees  
e) shrubs and ground cover  
f) details of proposed soil preparation  
g) mulching and staking  
h) treatment of external surfaces and retaining walls where proposed  
i) drainage, location of taps and  
j) appropriate maintenance periods.

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

14. The applicant is to comply with all requirements of the Hunter Water Corporation regarding the connection of water supply and sewerage services, including the payment of any required cash contribution towards necessary amplification of service mains in the locality as a result of the increased intensity of land use proposed. A copy of the Corporation’s compliance certificate (refer s50 Hunter Water Act 1991) is to be included in documentation for a Construction Certificate application.

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

16. The Developer designing and constructing the following works in connection with the development, at no cost to Council and in accordance with Council’s guidelines and design specifications:
a) Extension of Perth Road through to the eastern road boundary of the unformed Bavin Road, such comprising road pavement, kerb and gutter, drainage, vehicular barrier fencing, street lighting and signage

b) Provision of a 6.0m wide sealed access road from the proposed Perth Road extension to the proposed 28 space car park entry/exit, such comprising road pavement, vehicular barrier fencing, street lighting, signage and line marking

c) Installation of bollards and/or fencing along both sides of Bavin Road full length with associated regulatory signage to prevent parking and street lighting

d) Concrete pedestrian pathway and pedestrian crossing facility in Perth Road linking the development site to existing footway paving located on the western side of Bavin Road at Lambton Road.

Engineering design plans and specifications for the works being undertaken within the public road reserve are required to be prepared by a suitably qualified practising civil engineer with experience and competence in the related field and submitted to Council for approval pursuant to Section 138 of the Roads Act 1993 (NSW). The consent must be obtained, or other satisfactory arrangements confirmed in writing from Council, before the issue of a Construction Certificate.

17. 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. The consent must be obtained, or other satisfactory arrangements confirmed in writing from Council, before the issue of a Construction Certificate.

18. The design and construction of the development is to be in accordance with the relevant requirements of Australian Standard 4674:2004 - Design, Construction and Fit-Out of Food Premises. Full details are to be included in the documentation for the Construction Certificate application.

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

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

20. Tree removal and retention shall be carried out in accordance with the Arborist Report prepared by Terras dated 22 May 2017.

21. All recommendations contained within the Statement of Heritage Impact prepared by EJE Heritage dated May 2019 are to be complied with.

22. 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.

23. 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.

24. The demolisher is to ensure that all demolition material is kept clear of the public footway and carriageway as well as adjoining premises.
25. Waste management shall be implemented in accordance with the approved Waste Management Plan. At a minimum, the following measures shall be implemented during the construction phase:

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

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

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

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

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

26. If construction / demolition work is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or involves the need to enclose a public place, a hoarding or fence must be erected between the work site and the public place. If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place. Any such hoarding, fence or awning is to be removed when the work has been completed.

27. An application is to be made to and approved by Council for the erection of a hoarding or part closure of the footway prior to construction being commenced. Such overhead structure or protective fence shall comply with the Work Health and Safety Act 2011 (NSW), Work Health and Safety Regulation 2011 (NSW) and any relevant approved industry code of practice. Notice of intention of commencement must be given to WorkCover New South Wales.

28. The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

29. 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.

30. All building work must be carried out in accordance with the provisions of the National Construction Code.

31. 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.

32. All building materials, plant and equipment is to be placed on the site of the development so as to ensure that pedestrian and vehicular access in public places is not restricted and to prevent damage to the road reserve. The storage of building materials on Council reserves including the road reserve is not permitted.

33. 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.

34. 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.

35. Any alteration to natural surface levels on the site is to be undertaken in such a manner as to ensure that there is no increase in surface water runoff to adjoining properties or that runoff is impounded on adjoining properties, as a result of the development.

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

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

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

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

38. 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.

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

40. 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.

41. 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.

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

43. The development being carried out in accordance with the details set out in the Acid Sulfate Soil Management Plan prepared by Douglas Partners dated May 2019.

44. A construction and environmental management plan (CEMP) shall be prepared by the contractor which outlines procedures for soil handling, segregation and is to include an unexpected finds protocol in accordance with the recommendations of the Targeted Detailed Site Investigation for Contamination, prepared by Douglas Partners Pty Ltd, December 2018. The CEMP shall be implemented for the duration of remediation and construction works as required.

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

45. 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.

46. All works within the road reserve required by this consent for each stage are to be completed prior to the issue of any Occupation Certificate for each stage.

47. 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 development.

48. 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.

49. A Landscape Practical Completion Report is to be submitted to the Principal Certifying Authority prior to the issue of the Final Occupation Certificate of stage 1. 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.

50. Prior to issue of an Occupation Certificate for stage 1, the food business must notify the relevant enforcement agencies, under the Food Act 2003 (NSW) and (for licensed food businesses) under the Food Regulation 2010 (NSW). Notification is to be provided to Council and the NSW Food Authority.
Note: To arrange notification of the food business with Council go to www.newcastle.gov.au and download a copy of the ‘Council Food Business Notification Form’ or contact Council’s Environmental Health Services on (02) 4974 2525. To notify with the NSW Food Authority go to www.foodnotify.nsw.gov.au and follow the instructions.

CONDITIONS TO BE SATISFIED DURING THE OPERATION AND USE THE DEVELOPMENT

51. Waste management (recyclable and non-recyclable) is to be collected from the refuse storage areas, as identified on the approved plans, serviced from Bavin Road and returned immediately to the refuse storage areas. Under no circumstances are garbage bins to be presented to Bavin Road for kerbside collection or remain at kerbside after collection. Clear thoroughfare must be maintained at all times along Bavin Road.

52. The hours of operation of the premises are to be not more than from:

<table>
<thead>
<tr>
<th>DAY</th>
<th>START</th>
<th>FINISH</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monday</td>
<td>6:00am</td>
<td>10:00pm</td>
</tr>
<tr>
<td>Tuesday</td>
<td>6:00am</td>
<td>10:00pm</td>
</tr>
<tr>
<td>Wednesday</td>
<td>6:00am</td>
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<tr>
<td>Thursday</td>
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<tr>
<td>Friday</td>
<td>6:00am</td>
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<tr>
<td>Saturday</td>
<td>6:00am</td>
<td>10:00pm</td>
</tr>
<tr>
<td>Sunday</td>
<td>6:00am</td>
<td>10:00pm</td>
</tr>
</tbody>
</table>

unless a separate application to vary the hours of operation or trading has been submitted to and approved by Council.

53. The use and occupation of the premises, including all plant and equipment installed thereon, is not to give rise to any offensive noise, as defined under the Protection of the Environment Operations Act 1997 (NSW).

Should Council consider offensive noise has emanated from the premises, the owner/occupier of the premises will be required to submit an acoustic assessment prepared by a suitably qualified acoustical consultant recommending appropriate acoustic measures necessary to ensure future compliance with this condition and will be required to implement such measures within a nominated period. Furthermore, written certification from the said consultant confirming the recommended acoustic measures have been satisfactorily implemented will be required to be submitted to Council prior to the expiration of the nominated period.

54. The use and occupation of the premises is not to give rise to the emission of any ‘air impurity’ as defined under the Protection of the Environment Operations Act 1997 (NSW), that interferes unreasonably with the amenity of neighbouring premises and/or other sensitive receivers.

Should Council consider that unreasonable levels of air impurities have been emitted from the premises, the owner/occupier will be required to engage a suitably qualified consultant to recommend measures to control emissions of air impurities to an acceptable level and such measures being implemented within a nominated time period. Furthermore, written certification from the suitably qualified consultant will be required to be submitted to Council confirming that air impurity emissions from the premises do not interfere unreasonably with the amenity of neighbouring premises and/or other sensitive receptors before the expiration of the nominated period.
ADVISORY MATTERS

- It is recommended that, prior to commencement of work, the free national community service 'Dial before you Dig' be contacted on 1100 or by fax on 1200 652 077 regarding the location of underground services in order to prevent injury, personal liability and even death. Inquiries should provide the property details and the nearest cross street/road.

- Any necessary alterations to public utility installations are to be at the developer/demolisher’s expense and to the requirements of both Council and any other relevant authorities. Council and other service authorities should be contacted for specific requirements prior to the commencement of any works.

- Prior to commencing any building works, the following provisions of Division 6.2 of the *Environmental Planning and Assessment Act 1979* are to be complied with:
  a) A Construction Certificate is to be obtained; and
  b) A Principal Certifier is to be appointed for the building works and Council is to be notified of the appointment; and
  c) Council is to be given at least two days notice of the date intended for commencement of building works.

- 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 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).

- A copy of the final Fire Safety Certificate (together with a copy of the current fire safety schedule) is to be given to the Commissioner of NSW Fire Brigades and a further copy of the Certificate (together with a copy of the current fire safety schedule) is to be prominently displayed in the building.

- An annual Fire Safety Statement in the form described in Clause 175 of the *Environmental Planning and Assessment Regulation 2000* (NSW) is to be submitted to Council and a copy (together with a copy of the current fire safety schedule) is to be given to the Commissioner of New South Wales Fire Brigades. A further copy of the Statement (together with a copy of the current fire safety schedule) is to be prominently displayed in the building.

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

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

- For the purpose of applying the provisions of the National Construction Code for class 1, 2, 3, 4, 9a (health care) and 9c (aged care) buildings, it is advised that the proposed building is located in a Flood Hazard Area and the:
  a) Defined Flood Level (DFL) is 7.5m Australian Height Datum (AHD)
  b) Flood Hazard Level is 8.0m AHD (Freeboard is 500mm above DFL)
  c) Maximum Flow Velocity of floodwaters for the Defined Flood Event is 0.3m/s
END OF CONDITIONS
SCHEDULE 2

REASONS FOR THE DETERMINATION & CONSIDERATION OF COMMUNITY VIEWS

The determination decision was reached for the following reasons:

- The proposed development, subject to the recommended conditions, is consistent with the objectives of the applicable environmental planning instruments, being; *Newcastle Local Environmental Plan 2012* (NLEP) and applicable State Environmental Planning Policies.
- The proposed development is, subject to the recommended conditions, consistent with the objectives of the Newcastle Development Control Plan 2012 (NDCP).
- The proposed development is considered to be of an appropriate scale and form for the site and the character of the locality.
- The proposed development has appropriate management and mitigation of impacts through conditions of consent.
- The proposed development, subject to the recommended conditions, will not result in unacceptable adverse impacts upon the natural or built environments.
- The proposed development is a suitable and planned use of the site and its approval is within the public interest.

REASONS WHY THE CONDITIONS HAVE BEEN IMPOSED

The following conditions are applied to:

- Confirm and clarify the terms of Council’s determination;
- Identify modifications and additional requirements that will result in improved compliance, development and environmental outcomes;
- Prevent, minimise, and/or offset adverse environmental impacts including economic and social impacts;
- Set standards and measures for acceptable environmental performance; and
- Provide for the ongoing management of the development.
DAC 3/12/19

DA2019/00588 - 6 BAVIN ROAD BROADMEADOW

Attachment C: Processing Chronology
## PROCESSING CHRONOLOGY

**DA2019/00588**

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
</tr>
</thead>
<tbody>
<tr>
<td>21 March 2019</td>
<td>Pre-Development Application meeting</td>
</tr>
<tr>
<td>27 May 2019</td>
<td>Development application submitted</td>
</tr>
<tr>
<td>11 June – 27 June 2019</td>
<td>Public notification</td>
</tr>
<tr>
<td>9 July 2019</td>
<td>Meeting to discuss traffic and engineering issues.</td>
</tr>
<tr>
<td>30 July 2019</td>
<td>Submission from Westpac Rescue Helicopter Service received</td>
</tr>
<tr>
<td>6 November 2019</td>
<td>Amended Plans and formal response to matters raised Westpac Rescue Helicopter Service’s submission.</td>
</tr>
</tbody>
</table>
ITEM 24  DA2018/01301 - 59 DARBY STREET COOKS HILL
DEMOLITION OF STRUCTURE, ERECTION OF SIX-STOREY MIXED
USE DEVELOPMENT, INCLUDING COMMERCIAL, SERVICED
APARTMENTS AND RESIDENTIAL APARTMENTS

Attachment A - Submitted Plans
Attachment B - Draft Schedule of Conditions
Attachment C - Processing Chronology
Attachment D - Clause 4.6 Variation Statement
DAC 3/12/19

DA2018/01301 - 59 DARBY STREET COOKS HILL

Attachment A: Submitted Plans

DISTRIBUTED UNDER SEPARATE COVER
Our clients brief for the development site, located at the corner of Darby St & Queen St Cooks Hill, was to design a high end, mixed use building and to create a distinctive project unique to this area of Newcastle that embraces environmental, social and aesthetic elements. The development will benchmark bold and innovative design for not only Cooks Hill, but also the entire Newcastle Region.

This significant site is located at the intersection of three different DCP Precincts - Darby St/Cooks Hill Precinct, East End Precinct & the Civic Precinct. We believe the unique situation justifies a landmark building signifying the transition from the Suburban Precincts into the City Precincts & setting the standard for the Newcastle CBD.

The built form is conceived as two buildings on the site: the western building being Serviced Apartments while the eastern building contains Residential Apartments. The buildings are separated by 12m internally which provides a high level of amenity to the residents and also creates an opportunity for a north facing internal courtyard filled with lush landscaping & good amenity for residents.

In lieu of building a podium hard to the boundaries, we have proposed to create a semi transparent façade which reinforces the streetwall height yet opens up & allows pedestrians to flow through to the public plaza on the ground floor which becomes a seamless extension of the footpath. With a predominantly commercial use on the ground floor, the tenancies have been pushed back from the boundaries to create a public plaza filled with outdoor dining, art installations, extensive landscaping & a visually interesting soffit. The development provides an active street frontage and defines the beginning of the Civic precinct and its transition to the City Centre. The zero setback of this building reinforces the urban edge and utilizing the topography of Queen Street, allows a 4.7m floor to floor for the ground floor along Darby St to allow flexibility for the end user.

The client is proposing that one of the ground floor tenancies will be a designated gallery space which provides a connection to the Newcastle Regional Art Gallery on the opposite side of Darby Street. The ‘organic’ façade structure has been pulled apart at this location in response to this connection & encourages people to flow between the two galleries. We envisage the public plaza also featuring some sculpture art installations.

The design of the façade came from a historical analysis & interpretation. The site was acquired in 1955 & plans for a new Divisional Office for the Department of Main Roads were prepared & a contract was let for the erection of the building which occurred in 1956. The Department of Main Roads Office Building survived numerous departmental name changes but continued to serve under its original function until as recently as August 2017 when the State Government offered the site for sale. One of the last functions the building served was to accommodate those working on the Pacific Highway upgrade works. We thought it was important to reference the previous use of the site being the old RTA Building. After looking at the existing street pattern of the immediate context, we were able to develop a pattern which incorporated the form pattern formed from the main streets in the area. This pattern then informed the design of the entire screen with certain areas being opened up to encourage activation of the ground plane & addressing the context. This is further explained through diagrams in the Architectural package.

Building A (Serviced Apartments) consists of 32 apartments which are accessed via a corridor on the eastern side of the building that overlooks the internal landscaped courtyard. This building has its main frontage facing Darby St & wraps around Queen St. The design intent was for this building to appear as if it was growing up through the podium facade & spilling out over the top in a more organic form. The serviced apartments are accessed via a corridor on the eastern side of the building which overlooks the internal landscaped courtyard.

Building B (Residential Apartments) is located on the eastern portion of the site facing Queen St & contains 24 residential apartments. It was important that this building did not compete with the more ‘organic design’ of Building A therefore it the architecture is simple with clean lines allowing Building B to be the showpiece. Both buildings are accessed via a common foyer which links to the café/bar, a club lounge for residents & a view area to the gallery space below. The glass roof allows for a visual connection between the foyer & the landscaped courtyard.

The design incorporates sustainable principles and will benchmark future developments to contribute to the streetscape and public realm. Establishing such a standard will produce not only quality mixed use developments and a sense of place, but also enrich the character of the area and representing an exciting new development to be appreciated by existing and new residents.

Bede Campbell
Principal - EJE Architecture
Registered Architect
Board Reg 9837
### SITE AREA

**SITE AREA** | 2,681 m²
---|---

### CAR PARKING

**GFA FOR EACH LEVEL** | m²
---|---

### GROUND FLOOR:

**RETAIL / LOBBY** | 971
**TOTAL GROUND FLOOR** | 971

### LEVEL 1:

**BUILDING A** | 504
**BUILDING B** | 636
**COMMON** | 53
**TOTAL LEVEL 1** | 1,193

### LEVEL 2:

**BUILDING A** | 504
**BUILDING B** | 636
**TOTAL LEVEL 2** | 1,140

### LEVEL 3:

**BUILDING A** | 463
**BUILDING B** | 636
**TOTAL LEVEL 3** | 1,099

### LEVEL 4:

**BUILDING A** | 463
**BUILDING B** | 636
**TOTAL LEVEL 4** | 1,099

### LEVEL 5:

**BUILDING A** | 121
**BUILDING B** | 0
**TOTAL LEVEL 4** | 121

### TOTAL GFA

**TOTAL GFA** | 5,623 m²

### PROPOSED FSR:

**PROPOSED FSR** | 5,623/2,681
**ALLOWABLE FSR** | 2.50:1

### RETAIL - STAFF PARKING ONLY

**FOOD STORE @ 1/60m²** | 4 SPACES
**GALLERY @ 1/60m²** | 3 SPACES
**BAR/REST @ 1/60m²** | 4 SPACES
**RETAIL TOTAL** | 11 SPACES

### BUILDING A - SERVICED APARTMENTS

**30 ROOMS @ 1 SPACE PER ROOM** | 30 SPACES
**10 STAFF @ 1 SPACE PER 2 STAFF** | 5 SPACES
**BUILDING A TOTAL** | 35 SPACES

### BUILDING B - RESIDENTIAL APARTMENTS

**4 x 3 BED @ 1.4 SPACES PER DWELLING** | 5.6 SPACES
**16 x 2 BED @ 0.9 SPACE PER DWELLING** | 14.4 SPACES
**4 x 1 BED @ 0.6 SPACE PER DWELLING** | 2.4 SPACES
**BUILDING B TOTAL** | 23 SPACES

### VISITORS @ 1 SPACE PER 5 DWELLINGS (54) = 11 SPACES

**TOTAL CAR SPACES REQUIRED** | 80 SPACES
**TOTAL CAR SPACES PROPOSED** | 80 SPACES
18m STREET WALL
16m STREET WALL
14m STREET WALL
2 STOREY STREET WALL
HERITAGE ITEM
PUBLIC RECREATION

Certificate date: 25 October 2018
ACN: 0003286370
Certificate no.: VIC/BDAV/17/1827
Andrew Lorriman
59 Darby Street
COOKS HILL, NSW 2300

client:
JGM PROPERTY INVESTMENTS PTY LTD

Project:
MIXED USE DEVELOPMENT

Building A:
GROUND FLOOR:
RETAIL / LOBBY: 971 m²
FOOD STORE: 4 m²
BAR/REST: 4 m²

LEVEL 1:
STAFF PARKING: 5 SPACES

LEVEL 2:
32 ROOMS: 32 SPACES
GALLERY: 3 SPACES

LEVEL 3:
335 m²

LEVEL 4:
1,139 m²

LEVEL 5:
1,139 m²

Building B:
GROUND FLOOR:
RETAIL / LOBBY: 971 m²
FOOD STORE: 4 m²
BAR/REST: 4 m²

LEVEL 1:
STAFF PARKING: 5 SPACES

LEVEL 2:
335 m²

LEVEL 3:
335 m²

LEVEL 4:
1,139 m²

LEVEL 5:
1,139 m²

Total GFA:
Building A: 5,862 m²
Building B: 2,681 m²
Total: 8,543 m²

Total Car Spaces Required:
83

Total Retail Spaces:
11

Total Serviced Apartments Spaces:
23

PROJECT:
MIXED USE DEVELOPMENT

CLIENT:
JGM PROPERTY INVESTMENTS PTY LTD

ADDRESS:
59 DARBY STREET, COOKS HILL,
NSW 2300

Dwelling Address:
www.nathers.gov.au
0003286370
Andrew Lorriman
VIC/BDAV/17/1827
5.8
25 October 2018
59 Darby Street
COOKS HILL, NSW
2300
DCP SETBACKS ABOVE 16m
- 6m STREET SETBACKS
- 6m SIDE & REAR SETBACKS

ADG BUILDING SEPARATION
- 6m NON HABITABLE TO NON HABITABLE
- 9m HABITABLE TO NON HABITABLE
- 12m HABITABLE TO HABITABLE

PROPOSED SITE ARRANGEMENT
- 0m STREET SETBACKS
- 6m SIDE & REAR SETBACKS
- 6m NON HABITABLE TO NON HABITABLE
- 9m HABITABLE TO NON HABITABLE
- 12m HABITABLE TO HABITABLE
NATURAL VENTILATION
- MORE THAN 60% OF UNITS WILL HAVE NATURAL CROSS VENTILATION

VIEWS & PRIVACY
- TAKE ADVANTAGE OF VIEWS OVER CIVIC PARK, DOWN DARBY STREET & POSSIBLY HARBOUR VIEWS
- PROVIDE VISUAL & ACOUSTIC PRIVACY TO & FROM NEIGHBOURS

COMMUNAL OPEN SPACE
- COMMUNAL LANDSCAPED PODIUM LEVEL
- COMMUNAL ROOFTOP TERRACE ON SERVICED APARTMENT BUILDING WITH LANDSCAPING, VIEWS, SHELTER & DIRECT SOLAR ACCESS.
SITE ANALYSIS PLAN

59 Darby Street
Cooks Hill, NSW 2300
25 October 2018

Project: MIXED USE DEVELOPMENT
Client: JGM Property Investments Pty Ltd

Total GFA 5,862 m²

BUILDING B
- TOTAL LEVEL 1
  - RETAIL / LOBBY 971
- TOTAL LEVEL 2
  - 32 ROOMS 32
- TOTAL LEVEL 3
  - 1,139
- TOTAL LEVEL 4
  - 1,139

BUILDING A
- TOTAL GROUND FLOOR
  - 206
- TOTAL LEVEL 1
  - 4 x 1 BED 2.4
- TOTAL LEVEL 2
  - 16 x 2 BED 14.4
- TOTAL LEVEL 3
  - 4 x 3 BED 5.6
- TOTAL LEVEL 4
  - 636

Car Parking:
- TOTAL CAR SPACES REQUIRED 83
- 10 STAFF 5
- 4 x 1 BED 2.4
- 4 x 3 BED 5.6
- 32 ROOMS 32
- 16 x 2 BED 14.4
- 4 x 1 BED 2.4
- 4 x 3 BED 5.6
- 32 ROOMS 32
- 16 x 2 BED 14.4

Traffic:
- INTERSECTION
- BUSY INTERSECTION
- WINTER SOLSTICE SUNSET
- HOT WESTERLY WINDS
- EAST BREEZE
- SUMMER SOLSTICE SUNSET
- COOL NORTH EAST BREEZE

Dwelling Address: 0003286370
Andrew Lorriman
VIC/BDAV/17/1827
5.8
25 October 2018
59 Darby Street
Cooks Hill, NSW 2300

Certificate no.: 0003286370
Assessor Name: Andrew Lorriman
Accreditation no.: VIC/BDAV/17/1827
Certificate date: 25 October 2018

www.eje.com.au | mail@eje.com.au | NSW Architects Registration No. 4438

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It is recommended that to improve the internal acoustic amenity of the
south facing units
Use double glazing and Low solar gain

Single clear

REFER ACOUSTIC CONSULTANTS REPORT
It is recommended that to improve the internal acoustic amenity of the building, double glazing and low solar gain window systems are used. Standard aluminium windows with a high solar gain are not recommended for this purpose. Refer to BASIX report for further details.

The following materials are specified for the construction of the building:

- Roof: Suspended concrete
- Floors: Concrete
- Internal walls: Plasterboard
- External walls: Brickwork

Refer to structural documentation for more details.

Light residential windows on a handful of units have a high solar gain (Uval) of 0.33, group B (or equivalent to Group A), and a SHGC of 0.8. These windows are not recommended for use in units below ground level as they will result in excessive heat gain and glare, which can cause discomfort to occupants. It is recommended that these windows be replaced with units with lower solar gain (Uval) and SHGC to improve the indoor environment.

For further details, refer to the BASIX report.
WORK IN FIGURED DIMENSIONS IN PREFERENCE TO SCALE.

CHECK DIMENSIONS AND LEVELS ON SITE PRIOR TO THE ORDERING OF MATERIALS OR THE COMPLETION OF WORKSHOP DRAWINGS.

IF IN DOUBT ASK.

REPORT ALL ERRORS AND OMISSIONS.

COMMENTS

DATE

REV

PROJECT:

DRAWN:

DATE:

SCALES:

REV:

PROJECT No

DRAWING No

CLIENT

SITE

DRN

CHKD

VRFD

COMPLETION OF THE QUALITY ASSURANCE CHECKS IS VERIFICATION THAT THE DOCUMENT CONFORMS WITH THE REQUIREMENTS OF THE QUALITY PROJECT PLAN.

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EJE ARCHITECTURE
BC 20/09/2019
59 DARBY STREET, COOKS HILL, NEW 2300
ADDITIONAL INFORMATION TO COUNCIL
PROPOSED SERVICED APARTMENT LAYOUTS
1 x 1 BED + 1 x 2 BED UNITS

PROPOSED RESIDENTIAL APARTMENT
CONVERTED TO 1 x 3 BED + STUDY UNIT
 Clause 4.6 Variation

RE: Development Application for Proposed Construction of Five-Storey Mixed Use Development with Roof Top Terrace at 59 Darby Street, Cooks Hill

1 Introduction

The development to which this submission relates is for the construction of a five-storey mixed-use development with roof top terrace located at 59 Darby Street, Cooks Hill NSW 2300.

Specifically, the Development Application proposal seeks approval for:

- Basement with 67 car spaces and services;
- Retail podium with ground floor commercial/retail spaces fronting Darby Street, 13 parking spaces, plant/services, vehicle and pedestrian access, public forecourt comprising outdoor dining, art and landscaping;
- Building A: Serviced apartment tower comprising 30 apartments with rooftop terrace;
- Building B: Residential apartment tower comprising 24 units; and
- Associated landscaping, services and necessary site infrastructure.

The development standard sought to be varied is contained in Clause 4.3 of the Newcastle Local Environmental Plan 2012 (NLEP 2012), which relates to building height.

In summary, the proposal largely complies with the provisions of the NLEP 2012, except for the proposed exceedance to building height. An assessment of this variation is provided in the following pages in accordance to the requirements of Clause 4.6 of NLEP 2012.

The proposed variation is considered reasonable on the basis that:

- The proposed development satisfies the objectives of the B4 Mixed Use Zone and the objectives of Clause 4.3 Height of Buildings;
- The proposed height exceedances are situated locations which will not result in any detrimental impact to any sensitive land uses and therefore the impact will be negligible;
- The proposed built form will reflect the emerging contemporary character of the locality and positively upgrade the existing streetscape;
- The proposed built form implements design features which reduces impacts from the proposed height variation. Design considerations include light coloured finishes for the structural ‘web’, which acts as a visual contrast to the darkened materials and finishes of the behind built form, ensuring that the projection of the building above the height limit will not result in an overbearing visual impact;
- Strict compliance with the exact standards would not achieve a greater planning or urban design outcome on the basis that the proposed development is well within the FSR provision, indicating that the proposal is not an overdevelopment of the site. The proposed development is consistent with the
building transition along Queen Street and the proposed areas of height exceedance do not result in any adverse amenity impacts on neighbouring properties; and

- The proposed height variation is considered in the public interest given the site’s prominent location and the unique design that complements the locality, through incorporating a mix of architectural features, materials and finishes that minimise the impacts of the height exceedance.

2 Site Details

2.1 Site Location and Context

The site is located on the corner of Darby Street and Queen Street, situated within the Local Government Area (LGA) of Newcastle. The site is generally known as 59 Darby Street, Cooks Hill, and contains five (5) parcels of land legally identified as:

- Lots 63 and 64 in DP1109172;
- Lot 44 in DP150066;
- Lot 27 in DP150134; and
- Lot 53 in DP151167.

The site contains an approximate area of 2,681m² and currently supports a two-storey office building (previous RMS offices) with onsite car parking and access via Queen Street and Darby Street.

The location of the site is presented in Figure 1.

Figure 1 – Locality Plan
3 Exception to development standards

The Department of Planning and Environment’s publication “Varying Development Standards: A Guide” (August 2011), states that:

The NSW planning system currently has two mechanisms that provide the ability to vary development standards contained within environmental planning instruments:

- Clause 4.6 of the Standard Instrument Local Environment Plan (SI LEP); and
- State Environment Planning Policy No 1 – Development Standards (SEPP1).

In this instance, SEPP 1 does not apply as the NLEP 2012 is a Standard Instrument LEP. It is noted that the Guidelines do not identify any other mechanisms (such as a Planning Proposal) to vary a development standard.

3.1 Clause 4.6

Clause 4.6 of the NLEP 2012 aims to provide an appropriate degree of flexibility in applying certain development standards to achieve better planning outcomes.

(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.

The proposal seeks to vary the building height standard applicable to the site. Clause 4.6 outlines when this clause is not to be used, namely:

- a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:
  (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or
  (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

- a development standard for complying development

- a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated

- clause 5.4

- clause 8.1 or 8.2
Neither the site nor the proposal is included within these criteria and therefore the use of Clause 4.6 is available to vary the height standard in this instance.

3.2 Legal context to varying development standards

This submission has been prepared having regard to the latest authority on Clause 4.6, contained in the following NSW Land and Environment Court (Court) judgements:

- Winten Property Group Limited v North Sydney Council [2001] NSWLEC 46
- Wehbe v Pittwater Council [2007] NSWLEC 827
- Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009 (Four2Five No 1)
- Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 (Four2Five No 2)
- Four2Five Pty Ltd v Ashfield Council [2015] NSWCA 248 (Four2Five No 3)

The Court has established questions to be addressed in variations to development standards. The objection principles identified in the decision of Justice Lloyd in *Winten Property Group Limited v North Sydney Council* are outlined below:

(1) Is the planning control in question a development standard;
(2) What is the underlying object or purpose of the standard;
(3) Is compliance with the development standard consistent with the aims of the Policy, and in particular does compliance with the development standard tend to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the EP&A Act 1979;
(4) Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case;
(5) Is a development which complies with the development standard unreasonable or unnecessary; and
(6) Is the objection well founded.

In the decision of *Wehbe v Pittwater Council* [2007] NSW LEC 827 Chief Justice Preston outlined the rationale for development standards, and the ways by which a standard might be considered unnecessary and/or unreasonable. At paragraph 43 of his decision in that case Preston CJ noted:

“The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development offers an alternative means of achieving the objective, strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served).”

*Wehbe V Pittwater* [2007] NSW LEC 827 also established the ‘five part test’ to determine whether compliance with a development standard is unreasonable or unnecessary based on the following:

(1) Would the proposal, despite numerical non-compliance, be consistent with the relevant environmental or planning objectives;
(2) Is the underlying objective or purpose of the standard not relevant to the development thereby making compliance with any such development standard is unnecessary;
(3) Would the underlying objective or purpose be defeated or thwarted were compliance required, making compliance with any such development standard unreasonable;
(4) Has Council by its own actions, abandoned or destroyed the development standard, by granting consent that depart from the standard, making compliance with the development standard by others both unnecessary and unreasonable; or
(5) Is the “zoning of particular land” unreasonable or inappropriate so that a development standard appropriate for that zoning was also unreasonable and unnecessary as it applied to that land. Consequently, compliance with that development standard is unnecessary and unreasonable.
Of particular relevance in this instance is Part 1, that “the proposal, despite numerical non-compliance, [would] be consistent with the relevant environment or planning objectives”.

Further discussion in response to Winten Property Group Limited v North Sydney Council objection principles and Wehbe V Pittwater five-part test is provided in Section 5 of this variation letter.

4 Development standard to be varied

What is the name of the environmental planning instrument that applies to the land?

Newcastle Local Environmental Plan 2012.

What is the zoning of the land?

NLEP 2012 indicates that the site is within the B4 Mixed Use Zone, as illustrated in Figure 2.

Figure 2 – Land Zoning Map Extract (Map LZN_004G)

What are the objectives of the zone?

- To provide a mixture of compatible land uses.
- To integrate suitable business, office, residential, retail and other development in accessible locations to maximise public transport patronage and encourage walking and cycling.
- To support nearby or adjacent commercial centres without adversely impacting on the viability of those centres.

What are the development standards being varied?

The building height development standard contained in Clause 4.3 of the NLEP 2012.
Are the standards to be varied a development standard?

Yes, the standard is considered to be a development standard in accordance with the definition contained in Section 1.4 of the Environmental Planning and Assessment Act 1979; and not a prohibition.

What are the objectives of the development standard?

The objectives of Clause 4.3 – Height of Buildings are as follows:

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

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

What is the numeric value of the development standard in the environmental planning instrument?

The maximum height under the NLEP 2012 is 14 metres, as shown in Figure 3.

Figure 3 - Height of Building Map Extract (Map 004G)

What is the proposed numeric value of the development standard in your development application?

The extent of the proposed height variation is outlined in detail in the table below:

The numerical value of the proposed height and percentage variation are detailed in the following table.
Table 1 – Numerical details relating to compliance

<table>
<thead>
<tr>
<th>Built Form</th>
<th>Reduced Level (AHD)</th>
<th>Maximum Proposed Height (m)</th>
<th>Variation (m)</th>
<th>Variation (%)</th>
<th>Area of site affected (%)</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Building A Lift overrun</td>
<td>29.4</td>
<td>19.4</td>
<td>5.4</td>
<td>38.5</td>
<td>0.5</td>
<td>The extent of this maximum variation relates to a very small area of the site, well set back from the site boundaries. The need for the higher lift overrun directly relates to the provision of the roof top terrace, which is discussed below.</td>
</tr>
<tr>
<td>Building A common room and fire stairs</td>
<td>28.65</td>
<td>18.65</td>
<td>4.65</td>
<td>33.2</td>
<td>7.5</td>
<td>The extent of this variation relates only to the provision of a communal roof top terrace, which provides a higher level of amenity to the future occupants of the building. It is noted that generally the UDCG actively encourage the provision of these roof top spaces, and that it does not provide any additional yield to the development, rather just a higher quality outcome.</td>
</tr>
<tr>
<td>Building A balustrade of terrace</td>
<td>26.5</td>
<td>Ranging from approximately 16.2-18.2</td>
<td>2.2-4.2</td>
<td>15.7-30</td>
<td>29.2</td>
<td>As above, the extent of this variation relates only to the provision of the roof top terrace.</td>
</tr>
<tr>
<td>Building A</td>
<td>Ceiling height of Level 4</td>
<td>Building B Lift overrun</td>
<td>Building B fire stair</td>
<td>Building B main roof line</td>
<td></td>
<td></td>
</tr>
<tr>
<td>------------</td>
<td>---------------------------</td>
<td>-------------------------</td>
<td>----------------------</td>
<td>--------------------------</td>
<td></td>
<td></td>
</tr>
<tr>
<td>25.5</td>
<td>Ranging from approximately 15-17.2</td>
<td>26.4</td>
<td>16.2</td>
<td>25.9</td>
<td></td>
<td></td>
</tr>
<tr>
<td>1-3.2</td>
<td></td>
<td>2.2</td>
<td>15.7</td>
<td>1.8</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7-22.8</td>
<td></td>
<td>0.5</td>
<td>0.5</td>
<td>12.85</td>
<td></td>
<td></td>
</tr>
<tr>
<td>17.2</td>
<td></td>
<td></td>
<td>As above.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The extent of this variation is exacerbated by the variation to the site levels across the site. The overall height to the ceiling of Level 4 is the result of providing a high quality design outcome in relation to floor to ceiling heights. Reduction to the floor to ceiling heights would result in internal bulkheads or external air conditioning plant on the building or balconies, resulting in a less attractive building.

<table>
<thead>
<tr>
<th>Building B Lift overrun</th>
<th>Building B fire stair</th>
<th>Building B main roof line</th>
</tr>
</thead>
<tbody>
<tr>
<td>26.4</td>
<td>25.9</td>
<td>25.9</td>
</tr>
<tr>
<td>16.2</td>
<td>15.8</td>
<td>Ranging from approximately 13.2 – 17</td>
</tr>
<tr>
<td>2.2</td>
<td>1.8</td>
<td>0-3</td>
</tr>
<tr>
<td>15.7</td>
<td>12.85</td>
<td>0-21.4</td>
</tr>
<tr>
<td>0.5</td>
<td>0.5</td>
<td>26.2</td>
</tr>
</tbody>
</table>

The extent of this maximum variation relates to a very small area of the site, well set back from the site boundaries.

As above.

The extent of this variation is exacerbated by the variation to the site levels across the site. The overall height to the main roof line is the result of providing a high quality design outcome in relation to floor to ceiling heights. Reduction to the floor to ceiling heights would result in internal bulkheads or external air conditioning plant on the building or balconies, resulting in a less attractive building.

Note:
Newcastle LEP 2012 defines building height as the following:
**building height (or height of building)** means:
(a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or
(b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like

The numerical values in the table above in relation to building height are the vertical distance from ground level (existing) to the highest point of the building, as opposed to the reduced level (RL) of the building.

5 Justification for the Contravention

This section addresses Section (3), (4) and (5) of Clause 4.6 and seeks to justify the contravention from the development standard contained in Clause 4.3.

(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.

(4) **Development consent must not be granted for development that contravenes a development standard unless:**

(a) the consent authority is satisfied that:
   (i) the applicant’s written request has adequately addressed the matters required to be demonstrated by subclause (3), and

   (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(b) the concurrence of the Secretary has been obtained.

(5) **In deciding whether to grant concurrence, the Secretary must consider:**

(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and

(b) the public benefit of maintaining the development standard, and

(c) any other matters required to be taken into consideration by the Secretary before granting concurrence.

5.1 Compliance is unreasonable or unnecessary

As mentioned above, compliance with a development standard might be shown as unreasonable or unnecessary if the objectives of the standard are achieved notwithstanding noncompliance with the standard.

Having regard to numerical compliance, as demonstrated in Table 1, the greatest extent of the non-compliance relates to the Building A lift overruns, which comprise a very small proportion of the site (approximately 0.5%), as demonstrated by Figure 4. The location of the lift overrun ensures that this aspect of the building will not have any unreasonable impacts in relation to visual bulk and scale, overshadowing or view loss.
Further the height exceedance, resulting from the provision of a rooftop terrace, has been designed to enhance the appearance of the development, as well as to provide a high level of amenity for the future occupants. The proposed rooftop level has also incorporated cascading landscaping to create visual interest. The provision of this terrace and associated communal room results in positive social and amenity outcomes for future users, without resulting in any unreasonable impacts.

The extent of the height variation from the areas of the building associated with the provision of the residential and serviced apartments are in part reflective of the change in levels across the site and street frontage, and in part generated from the increased floor to ceiling height at the podium and lower levels to maximise solar access, outlook, ventilation, activation, all of which contribute to the overall public amenity when utilising ground level tenancies. It should be acknowledged the height variation is not seeking additional development yield, given the proposal is well below the permitted FSR for the site, but rather aims to maximise amenity.

The following design measures have been implemented to ensure a contributory street presence:

- Zero setback to the street edge is relevant to the street character of the immediate vicinity and the prominent corner site. The proposal introduces a frieze which will define the street edge as appropriate.
- Proposed Building A (fronting Darby Street) contains base, middle and top articulation in the form of providing an open plan ground floor, standard rectangular shaped balconies with glazed balustrades from the First Floor to the Third Floor and a curved balcony design for the Fourth Floor and rooftop level.
- The podium levels and precast concrete screen consist of three storeys, are generally consistent with the adjacent office building to the north. The top of the screen aligns with the parapet level of that building unifying the two buildings in the Darby Street streetscape and in views from the direction of Civic Park. At the rear of the site on Queen Street, similar to the existing building, the proposal steps down to a single storey adjacent to the residential area.
- The proposed development draws not only on the forms of the buildings within the civic precinct of the Heritage Conservation Area such as the Cultural Centre, Art Gallery, Council and University buildings, it also takes inspiration from the trees of Civic Park, and the topography of 'The Hill' which is the proposal's backdrop. The proposal respects the other buildings within the Newcastle City Centre Heritage Conservation Area by providing the appropriate prominence required of the corner site without overpowering the buildings of the Civic precinct of the city.
- Inclusion of high-quality design measures were the predominant driver of this development, with the aim of providing the public with a unique and complementary development aesthetic, positively contributing to the streetscape.

As discussed in the SEPP65 Design Statement in Appendix B of the Statement of Environmental Effects, the proposed development has undergone and significant review process to guide the design it to the current form. This entailed going through the Newcastle City Council's Urban Design Consultative Group (UDCG) panel review on three occasions.

In relation to the proposed height variation, the UDCG panel however suggested that a height exceedance could potentially be supported on the basis of reducing Building A's height exceedance by removing one level (Building A has been amended to reflect this recommendation) and ensuring the proposed rooftop communal spaces did not result in any adverse impacts to overshadowing or view loss.

The extent of the building height exceedance is shown in Figures 5, 6 and 7.

Figure 5 – Extent of Building Height exceedance
Acknowledging the UDCG’s recommendation and overall planning merit of the proposal, compliance with Clause 4.3 of the NLEP2012 is considered unreasonable for the following reasons:

1. The proposed built form has been purposely designed to ensure design excellence and to contribute to the artistic atmosphere of the Darby Street precinct and nearby Art Gallery, which is considered to be of public interest;
2. The height breach does not result in an overdevelopment of the site given the proposed FSR (2.10:1) is well under the applicable 2.5:1;
3. The proposed height of the development integrates with building height transition that occurs from The Hill towards the adjacent Newcastle Art Gallery (refer to Figure 8);
4. The proposed height exceedance does not result in any unreasonable amenity impacts in relation to overshadowing, privacy or view loss, to neighbouring properties;
5. The proposed overall development offers a variety of uses including the provision for residential apartments and high-quality serviced apartments with communal open space and amenities, and a mix of ground floor uses including a food shop for surrounding locals/tourists and an integrated public art gallery and a bar/restaurant with an abundance of open space to support pedestrian flows, landscaping and seating arrangements;
6. The proposed satisfies the objectives of the B4 Mixed Use Zone; and
7. The proposal satisfies the objectives of Clause 4.3 (further detailed below).

As outlined in point 3, the height was guided by the slope of the land and the heights of the surrounding buildings. Figures 8, 9 and 10 below demonstrates the that having regard to height, that the proposed design successfully responds to the surrounding streetscape.

Figure 8 – Building height in context to streetscape and neighbouring buildings 1

The SEPP65 guidelines have been considered as part of the design, and the building achieves adequate building separation, ensuring that no unreasonable impacts result from the proposal. It is noted that the SEPP65 guidelines require that at the boundary between a change in zone from apartment buildings to a lower density area, the building setback is to be increased by 3m. In this regard, the site is at the transition between a B4 Mixed Use zone, and an R3 Medium Density Zone, wherein residential flat buildings are permissible in both zones. Accordingly, it is not considered that there is a ‘blunt’ transition between zones. Notwithstanding, the eastern façade of Building B has been amended to provide high level windows where the building interfaces Unit 16 of the ‘Regency Park’ estate. Incorporation of high level windows enables the subject unit to maintain natural light whilst also addressing any privacy impacts on the adjoining resident. Based on these amendments, alongside the provided setback and separation distance to the medium density area, the proposed development is considered to result in an adequate separation to the residential development east of the site.

In relation to the northern boundary, the ADG bases appropriate building separation on building height, meaning that a separation distance between 6m and 12m is required. Noting that the site to the north is currently utilised as a commercial land use it is considered the proposed development achieves appropriate separation distances. It is acknowledged that the site may redevelop, however the area of potential non-compliances relates specifically to the fire stairs and a service apartments within Building A, adjacent to the northern boundary. The setback of the fire stairs and serviced apartments would not result in any privacy impacts, as the area of encroachment does not include windows. Being to the south of the neighbouring land, the encroachment also does not result in solar access impacts to potential future development. Any future development within the site to the north would be able to readily comply with the ADG controls as part of a future development application.

Clause 4.3 – Height of Buildings

The proposed development achieves the objectives of Clause 4.3:

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

The proposed development has been designed by EJE Architecture and consists of a high quality, architecturally designed building that makes a positive contribution to the street frontage of Darby Street and
importantly to the prominent corner of the three adjoining precincts, being the Civic Precinct, the East End Precinct and the Darby Street/Cooks Hill Precinct.

The proposal reflects the transition of building heights from The Hill and the associated downslope towards the Darby Street Precinct, as presented in Figure 8 above. Whilst not strictly adhering to the building height standards for the site, the design response is suitable for the site and enables the achievement of a high-quality development at such a unique location. The intention of the proposed built form is to provide a type of landmark development which will make a positive contribution the prominent corner location and to the evolving nature of the Newcastle City and the Darby Street precinct. The proposed façade treatment and articulation is to a high standard, and the proposal is well within the floor space ratio applicable to the site. Details of the façade treatment and articulation are provided in the Architectural plans provided at Appendix A of the Statement of Environmental Effects (SEE).

The proposed built form will reflect the emerging contemporary character of the Darby Street precinct. The projection of the building above the height limit will not result in a bulky or overbearing visual impact. Further, the exceedance in height will not result in any significant overshadowing impacts on adjoining properties. This is further discussed in the below sections.

In this instance, strict application of the development standard for maximum height is unreasonable, unnecessary, and would not achieve a greater planning or urban design outcome.

For further context please see below Figures 9 and 10 which illustrates the proposed development in the current context of the site versus the proposed development in the future context of the locality.

Figure 9 – Photomontage of the Proposal in its Current Context
Photomontages demonstrating the views from Swan Street and the visual transition to the lower density for the eastern building, as well as the southern view on Darby street, are provided in Figure 11 and 12.

Figure 11 – Swan Street Perspective

Figure 12 – Queen Street Perspective
(b) to allow reasonable daylight access to all developments and the public domain.

Reasonable daylight access is provided to all surrounding developments. The proposed height variation will not result in any detrimental impact to any sensitive land uses, as illustrated in the shadow diagram analysis provided within Appendix A (extracts provided in Figure 13 below). The development will not unreasonably overshadow either of the private property to the north or east nor cause unreasonable shadowing of the public domain.

Figure 13 – Proposed Shadow Diagram

Additional shadow diagrams have been prepared, detailing an hourly shadow comparison of the existing built form and proposed built form. A review of the shadow diagrams reveals that the proposed development results in a reasonable overshadowing impact when considering the existing built form/line of trees along the shared boundary (refer to Figure 14). Between 2pm and 3pm the proposed development will result in overshadowing to Unit 16 at the ‘Regency Park’, Cooks Hill (refer to Figure 15).

Figure 14 – 2pm Shadow
Unit 16 at the 'Regency Park' estate will maintain solar access between 9am and 2pm, it is considered that the proposed overshadowing will not adversely reduce solar access below 3 hours and therefore is considered acceptable. The solar access provision is consistent with the Council's Development Control Plan 2012 and SEPP 65 requirements.

The proposed development is acceptable having regard to the objective of Clause 4.3 and therefore strict compliance with the 14 metre height standard of the site would be unreasonable, unnecessary, and would not achieve a greater planning or urban design outcome.

Accordingly, the proposal is considered to be consistent with Clause 4.3.

5.2 Sufficient environmental planning grounds to justify contravention

This request for variation demonstrates that the proposed height variation sought does not result in adverse environmental impacts, and that there are sufficient environmental planning grounds to justify a contravention to the height control.

In this regard, the objectives of the B4 Mixed Use zone are responded to below:

- **To provide a mixture of compatible land uses.**

As demonstrated in the SEE, the proposal contains a range of compatible uses, including retail, an art gallery, short stay apartments and residential components. Appropriate design measures, including acoustic attenuation, building setbacks and high quality public domain spaces ensure that the proposal will be a cohesive and attractive development for the local area.

- **To integrate suitable business, office, residential, retail and other development in accessible locations to maximise public transport patronage and encourage walking and cycling.**

The range of uses are appropriate for the site, which is a highly accessible location. As demonstrated in the SEE and Traffic Impact Assessment, there are a range of transport options, services and facilities in close proximity to the site.

- **To support nearby or adjacent commercial centres without adversely impacting on the viability of those centres.**

The proposal provides a level of non-residential uses that are appropriately scaled to respond to the key location at the junction of three inner city precincts, being the Civic Precinct, the East End Precinct and the Darby Street/Cooks Hill Precinct. The provision of smaller scale retail, bar/restaurant and gallery tenancies would not have any significant impacts on the viability of areas of the City Centre, seeking to provide larger format non-residential uses. The serviced apartments will provide an alternative to larger tourist and visitor
accommodation options in the City Centre and are an appropriate scale to support the nature of the Darby Street area.

Further to the consideration of the zone objectives, it is noted that while exceeding the building height standard for the site, the proposal contributes positively to the locality incorporating pedestrian connectivity along the Darby Street front with seating areas, an art gallery open to the public and built form relief through high quality façade treatment and articulation. The rooftop communal room, lift overruns and fire stair exceedances will be visibly difficult to detect given the setback as demonstrated in Figures 9 and 10 above. Further, shadow diagrams as shown in Figure 11 illustrate that the proposed development does not cause an unreasonable amount of shadowing.

The podium levels and precast concrete screen consist of three storeys, and is generally consistent with the adjacent office building to the north. The top of the screen aligns with the parapet level of that building unifying the two buildings in the Darby Street streetscape and in views from the direction of Civic Park. At the rear of the site on Queen Street, similar to the existing building, the proposal steps down to a single storey adjacent to the residential area. If made to strictly comply with Clause 4.3, there would be no additional benefit to the streetscape or public domain in the local area.

The proposed development draws not only on the forms of the buildings within the civic precinct of the Heritage Conservation Area such as the Cultural Centre, Art Gallery, Council and University buildings, it also takes inspiration from the trees of Civic Park, and the topography of 'The Hill' which is the proposal’s backdrop. The proposal respects the other buildings within the Newcastle City Centre Heritage Conservation Area by providing the appropriate prominence required of the corner site without overpowering the buildings of the Civic precinct of the city.

A significant proportion of additional height is generated from the increased floor to ceiling height at the podium and lower levels to maximise solar access, outlook, ventilation, activation, all of which contribute to the overall public benefit. The roof top terrace results in a high quality facility for the future use of occupants, which will have associated amenity and social benefits. It should be acknowledged the height variation is not seeking additional development yield given the proposal is well below the permitted FSR for the site, but rather aiming to maximise amenity.

The granting of development consent will enable a high quality, architecturally designed mixed use commercial and residential building to be constructed with an active ground floor presence for the benefit of the community and high amenity apartment living/short stay opportunity. The objectives of Clause 4.3 and the B4 Mixed Use zone have been met by the proposed development. In light of this, there is considered to be sufficient environmental planning grounds to justify varying the height development standard in this instance.

5.3 Public Interest

As demonstrated in this assessment, the proposed development will be in the public interest as it is consistent with the objectives of the height standard and the objectives of the B4 Mixed Use Zone.

The intent of the Mixed-Use Zone is to provide a wide range of retail, business, office, entertainment, community, and other suitable and compatible land uses within a mixed-use development. The proposal is a mixed-use development which incorporates retail, an art gallery, short stay apartments and residential components. These uses are compatible with the objectives of the zone, will complement surrounding uses and strengthen the Newcastle City Centre, particularly in the vicinity of the active Darby Street Precinct.

The character of the Newcastle City Centre Heritage Conservation area is quite diverse which is also reflective of the long history of growth, change and development within the area. The character of the proposed building demonstrates the continuing diversity in character of the area. The nature of the subject site with its high visibility means that any building in this location will be dominant in the streetscape. The success of the existing building is its landmark qualities which accentuate the gateway between the Civic precinct and the Darby Street precinct. These successes need to be continued within the new design in order to respect the character of the area. The design of the proposal will be prominent and modern, and these characteristics are both viewed as highly appropriate for the subject site and in the public interest.
Contributory buildings have not been mapped for the Newcastle City Centre Heritage Conservation Area. The buildings to which the proposal will relate include the Art Gallery, and the Town. The Newcastle Cultural Centre is also in the immediate vicinity and is five stories at the top of Laman Street. The proposed building will not be out of scale with these nearby buildings.

The proposed height exceedance is in the public interest, as detailed below:

- The site, being located on the corner of three precincts creates a focal point for the locality. The proposal is a statement design, utilising high quality materials and finishes. The overall project vision was to provide the Newcastle community with a building that is both unique and complementary to the locality. EJE Architecture have achieved the project vision, tying in the history of the surrounding road network via a contemporary design outcome for the precinct;
- Should strict compliance be required, it is likely that the features of the building that contribute to the public realm would not be achieved, thereby reducing the notable contributions to the community. The elements, not likely to be achievable, should serviced apartments need to be relocated throughout the building including at ground floor, include the generous public plaza, gallery, food store, public art features and internal courtyard;
- The height encroachment largely relates to the inclusion of a communal space, which provides for a higher level of amenity for future occupants;
- The proposal is compliant with the floor space ratio control, and the proposed design has sought to maximize building articulation and amenity. Should the proposal be amended to strictly comply with the height requirement, the bulk and scale of the buildings would become 'flatter' and this would likely result in additional visual impacts to the adjoining properties and the streetscape. This 'flattened' outcome would also necessitate reduced public domain outcomes at the ground floor, as well as compromised outcomes for solar access and ventilation to the future occupants;
- The proposed height variation is in part generated from the generous floor to ceiling height of the ground floor, which provides a superior commercial public space in conjunction with the public courtyard. Reduction to floor to ceiling heights are likely to result in a poorer design outcome to the public spaces at ground floor, and necessitate bulkheads within the apartments, as well as external air conditioning plant on balcony areas.
- The design of the ground floor will contribute to the vibrant streetscape of Darby Street, and will strengthen the pedestrian experiences at the corner of three inner city precincts;
- The development provides for additional dwellings/serviced apartments in a central location that will both increase population to the precinct. The proposal will deliver a range of dwelling sizes, thereby providing a variety of housing choices for future long-term residents and short stay residents. The additional residential population, as well as tourist, will result in positive economic and social impacts; and
- The proposal contributes a mix of land uses to the locality, creating employment opportunities during construction and operational stages, whilst also providing opportunities for sustainable living. Further, the Section 94A development contributions are likely to exceed $1,000,000, which will have a significant benefit to the community.

The proposed development represents a high-quality urban design, which seeks to continue to redevelop and enhance the East End/Civic Precinct of Newcastle City Centre and the Darby Street/Cooks Hill Precinct. The height exceedance does not outweigh the merits of the proposal and its contribution to the social fabric and built form of Newcastle/Cooks Hill.

It should be acknowledged the height variation is not seeking additional development yield, given the proposal is well below the permitted FSR for the site, but rather aiming to maximise design outcomes and amenity.

5.4 Secretary’s Concurrence

It is understood that the Secretary’s concurrence under clause 4.6(4) of NLEP 2012 has been delegated by the Department of Planning and Environment.
6 Conclusion

This Clause 4.6 Variation to Development Standard request has been prepared in response to numerical non-compliance with the development standard for the site specified in Clause 4.3 – Height of Buildings in NLEP 2012. As demonstrated within this submission and the Architectural Plans, the extent of non-compliance is considered acceptable as the overall massing, scale, bulk and height of the proposed development is suitable for this unique gateway location.

The proposed development meets the underlying intent of the control and is a compatible form of development for the area. The variation sought to height will not result in any undue impacts on adjoining properties particularly with response to overshadowing, loss of privacy and loss of views.

It is considered that the variation allows for the orderly and economic use of the land in an appropriate manner, whilst allowing for a better outcome based on planning merits and public benefit. It is reiterated that the proposal will not result in any unreasonable impact on amenity or any significant adverse environmental impacts as a result of the variation. The design has undertaken three urban design meetings, that involved amending the design to achieve a successful massing of development for the site.

Council can be satisfied that compliance with the development standard is unreasonable or unnecessary in the circumstances of the proposed development and that there are sufficient environmental planning grounds to justify contravening the development standards.

It is therefore requested that Council grant development consent for the proposed development.

Yours sincerely

Nicole Sellen
Town Planner
KDC Pty Ltd
DAC 3/12/19

DA2018/01301 - 59 DARBY STREET COOKS HILL

Attachment B: Draft Schedule of Conditions

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DRAFT CONDITIONS OF REFUSAL

Application No: DA2018/01301

Land: Lot 63 DP 1109172
      Lot 64 DP 1109172
      Lot 44 DP 150066
      Lot 53 DP 151167
      Lot 27 DP 150134

Property Address: 59 Darby Street Cooks Hill NSW 2300

Proposed Development: Demolition of structure, erection of six storey mixed use development, including commercial, serviced apartments and residential apartments.

1. The proposed development is not consistent with the standards and objectives of the State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development with respect to Design Quality Principles. [Section 4.15(1)(a) Environmental Planning and Assessment Act 1979].

2. The proposed development is not consistent with the standards and objectives of the Newcastle Local Environmental Plan 2012 with respect to building height. [Section 4.15(1)(a) Environmental Planning and Assessment Act 1979].

3. The proposed development is not consistent with the provisions of Newcastle Development Control Plan 2012 with respect to parking [Section 4.15(1)(a) & (b) Environmental Planning and Assessment Act 1979].

4. The proposed development is not consistent with the provisions of Newcastle Development Control Plan 2012 with respect to street wall height and setbacks. [Section 4.15(1)(a) & (b) Environmental Planning and Assessment Act 1979].

5. The proposed development is not consistent with the provisions of Newcastle Development Control Plan 2012 with respect to servicing and loading provisions and impacts. [Section 4.15(1)(a) & (b) Environmental Planning and Assessment Act 1979].

6. Submissions received in response to public notification of the development application have raised issues of a nature and extent that establish that the proposed development will have unreasonable impacts in terms of character, height, bulk and scale. [Section 4.15(1)(d) Environmental Planning and Assessment Act 1979].

7. The development, as proposed, is considered to not be in the public interest. [Section 4.15(1)(e) Environmental Planning and Assessment Act 1979].
DAC 3/12/19

DA2018/01301 - 59 DARBY STREET COOKS HILL

Attachment C: Processing Chronology

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THE CITY OF NEWCASTLE
Report to Development Applications Committee Meeting on
3 December 2019

PROCESSING CHRONOLOGY

DA2018/01301 – 59 Darby Street Cooks Hill

20/08/2019 - Application lodged

02/09/2019 - Public Notification

21/03/2019 - UDCG meeting

12/06/2019 - Request for Additional Information

05/08/2019 - Additional information submitted

05/08/2019 - Amended Plans Submitted

08/10/2019 - Amended Clause 4.6 Application to Vary Development Standard submitted

08/10/2019 - Amended Plans Submitted

19/11/2019 – Public Voice meeting
DAC 3/12/19

DA2018/01301 - 59 DARBY STREET COOKS HILL

Attachment D: Clause 4.6 Variation Statement

DISTRIBUTED UNDER SEPARATE COVER
Clause 4.6 Variation

RE: Development Application for Proposed Construction of Five-Storey Mixed Use Development with Roof Top Terrace at 59 Darby Street, Cooks Hill

1 Introduction

The development to which this submission relates is for the construction of a five-storey mixed-use development with roof top terrace located at 59 Darby Street, Cooks Hill NSW 2300.

Specifically, the Development Application proposal seeks approval for:

- Basement with 67 car spaces and services;
- Retail podium with ground floor commercial/retail spaces fronting Darby Street, 13 parking spaces, plant/services, vehicle and pedestrian access, public forecourt comprising outdoor dining, art and landscaping;
- Building A: Serviced apartment tower comprising 30 apartments with rooftop terrace;
- Building B: Residential apartment tower comprising 24 units; and
- Associated landscaping, services and necessary site infrastructure.

The development standard sought to be varied is contained in Clause 4.3 of the Newcastle Local Environmental Plan 2012 (NLEP 2012), which relates to building height.

In summary, the proposal largely complies with the provisions of the NLEP 2012, except for the proposed exceedance to building height. An assessment of this variation is provided in the following pages in accordance with the requirements of Clause 4.6 of NLEP 2012.

The proposed variation is considered reasonable on the basis that:

- The proposed development satisfies the objectives of the B4 Mixed Use Zone and the objectives of Clause 4.3 Height of Buildings;
- The proposed height exceedances are situated locations which will not result in any detrimental impact to any sensitive land uses and therefore the impact will be negligible;
- The proposed built form will reflect the emerging contemporary character of the locality and positively upgrade the existing streetscape;
- The proposed built form implements design features which reduces impacts from the proposed height variation. Design considerations include light coloured finishes for the structural ‘web’, which acts as a visual contrast to the darkened materials and finishes of the behind built form, ensuring that the projection of the building above the height limit will not result in an overbearing visual impact;
- Strict compliance with the exact standards would not achieve a greater planning or urban design outcome on the basis that the proposed development is well within the FSR provision, indicating that the proposal is not an overdevelopment of the site. The proposed development is consistent with the
building transition along Queen Street and the proposed areas of height exceedance do not result in any adverse amenity impacts on neighbouring properties; and

- The proposed height variation is considered in the public interest given the site’s prominent location and the unique design that complements the locality, through incorporating a mix of architectural features, materials and finishes that minimise the impacts of the height exceedance.

2 Site Details

2.1 Site Location and Context

The site is located on the corner of Darby Street and Queen Street, situated within the Local Government Area (LGA) of Newcastle. The site is generally known as 59 Darby Street, Cooks Hill, and contains five (5) parcels of land legally identified as:

- Lots 63 and 64 in DP1109172;
- Lot 44 in DP150066;
- Lot 27 in DP150134; and
- Lot 53 in DP151167.

The site contains an approximate area of 2,681m² and currently supports a two-storey office building (previous RMS offices) with onsite car parking and access via Queen Street and Darby Street.

The location of the site is presented in Figure 1.

Figure 1 – Locality Plan
3 Exception to development standards

The Department of Planning and Environment's publication "Varying Development Standards: A Guide" (August 2011), states that:

The NSW planning system currently has two mechanisms that provide the ability to vary development standards contained within environmental planning instruments:

- Clause 4.6 of the Standard Instrument Local Environment Plan (SI LEP); and
- State Environment Planning Policy No 1 – Development Standards (SEPP1).

In this instance, SEPP 1 does not apply as the NLEP 2012 is a Standard Instrument LEP. It is noted that the Guidelines do not identify any other mechanisms (such as a Planning Proposal) to vary a development standard.

3.1 Clause 4.6

Clause 4.6 of the NLEP 2012 aims to provide an appropriate degree of flexibility in applying certain development standards to achieve better planning outcomes.

(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.

The proposal seeks to vary the building height standard applicable to the site. Clause 4.6 outlines when this clause is not to be used, namely:

- a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:

  (a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or

  (b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

- a development standard for complying development

- a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated

- clause 5.4

- clause 8.1 or 8.2
Neither the site nor the proposal is included within these criteria and therefore the use of Clause 4.6 is available to vary the height standard in this instance.

### 3.2 Legal context to varying development standards

This submission has been prepared having regard to the latest authority on Clause 4.6, contained in the following NSW Land and Environment Court (Court) judgements:

- Winten Property Group Limited v North Sydney Council [2001] NSWLEC 46
- Wehbe v Pittwater Council [2007] NSWLEC 827
- Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 1009 (Four2Five No 1)
- Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 (Four2Five No 2)
- Four2Five Pty Ltd v Ashfield Council [2015] NSWCA 248 (Four2Five No 3)

The Court has established questions to be addressed in variations to development standards. The objection principles identified in the decision of Justice Lloyd in *Winten Property Group Limited v North Sydney Council* are outlined below:

1. Is the planning control in question a development standard;
2. What is the underlying object or purpose of the standard;
3. Is compliance with the development standard consistent with the aims of the Policy, and in particular does compliance with the development standard tend to hinder the attainment of the objects specified in section 5(a)(i) and (ii) of the EP&A Act 1979;
4. Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case;
5. Is a development which complies with the development standard unreasonable or unnecessary; and
6. Is the objection well founded.

In the decision of *Wehbe v Pittwater Council* [2007] NSW LEC 827 Chief Justice Preston outlined the rationale for development standards, and the ways by which a standard might be considered unnecessary and/or unreasonable. At paragraph 43 of his decision in that case Preston CJ noted:

"The rationale is that development standards are not ends in themselves but means of achieving ends. The ends are environmental or planning objectives. Compliance with a development standard is fixed as the usual means by which the relevant environmental or planning objective is able to be achieved. However, if the proposed development offers an alternative means of achieving the objective, strict compliance with the standard would be unnecessary (it is achieved anyway) and unreasonable (no purpose would be served)."

*Wehbe V Pittwater* [2007] NSW LEC 827 also established the 'five part test' to determine whether compliance with a development standard is unreasonable or unnecessary based on the following:

1. Would the proposal, despite numerical non-compliance, be consistent with the relevant environmental or planning objectives;
2. Is the underlying objective or purpose of the standard not relevant to the development thereby making compliance with any such development standard is unnecessary;
3. Would the underlying objective or purpose be defeated or thwarted were compliance required, making compliance with any such development standard unreasonable;
4. Has Council by its own actions, abandoned or destroyed the development standard, by granting consent that depart from the standard, making compliance with the development standard by others both unnecessary and unreasonable; or
5. Is the “zoning of particular land” unreasonable or inappropriate so that a development standard appropriate for that zoning was also unreasonable and unnecessary as it applied to that land. Consequently, compliance with that development standard is unnecessary and unreasonable.
Of particular relevance in this instance is Part 1, that “the proposal, despite numerical non-compliance, [would] be consistent with the relevant environment or planning objectives”.

Further discussion in response to *Winten Property Group Limited v North Sydney Council* objection principles and *Wehbe V Pittwater* five-part test is provided in Section 5 of this variation letter.

4 Development standard to be varied

What is the name of the environmental planning instrument that applies to the land?

Newcastle Local Environmental Plan 2012.

What is the zoning of the land?

NLEP 2012 indicates that the site is within the B4 Mixed Use Zone, as illustrated in Figure 2.

*Figure 2 – Land Zoning Map Extract (Map LZN_004G)*

![Map of land zoning](image)

What are the objectives of the zone?

- To provide a mixture of compatible land uses.
- To integrate suitable business, office, residential, retail and other development in accessible locations to maximise public transport patronage and encourage walking and cycling.
- To support nearby or adjacent commercial centres without adversely impacting on the viability of those centres.

What are the development standards being varied?

The building height development standard contained in Clause 4.3 of the NLEP 2012.
Are the standards to be varied a development standard?

Yes, the standard is considered to be a development standard in accordance with the definition contained in Section 1.4 of the Environmental Planning and Assessment Act 1979; and not a prohibition.

What are the objectives of the development standard?

The objectives of Clause 4.3 – Height of Buildings are as follows:

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

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

What is the numeric value of the development standard in the environmental planning instrument?

The maximum height under the NLEP 2012 is 14 metres, as shown in Figure 3.

![Figure 3 - Height of Building Map Extract (Map 004G)](image)

What is the proposed numeric value of the development standard in your development application?

The extent of the proposed height variation is outlined in detail in the table below:

The numerical value of the proposed height and percentage variation are detailed in the following table.
Table 1 – Numerical details relating to compliance

<table>
<thead>
<tr>
<th>Built Form</th>
<th>Reduced Level (AHD)</th>
<th>Maximum Proposed Height (m)</th>
<th>Variation (m)</th>
<th>Variation (%)</th>
<th>Area of site affected (%)</th>
<th>Comment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Building A Lift overrun</td>
<td>29.4</td>
<td>19.4</td>
<td>5.4</td>
<td>38.5</td>
<td>0.5</td>
<td>The extent of this maximum variation relates to a very small area of the site, well set back from the site boundaries. The need for the higher lift overrun directly relates to the provision of the roof top terrace, which is discussed below.</td>
</tr>
<tr>
<td>Building A common room and fire stairs</td>
<td>28.65</td>
<td>18.65</td>
<td>4.65</td>
<td>33.2</td>
<td>7.5</td>
<td>The extent of this variation relates only to the provision of a communal roof top terrace, which provides a higher level of amenity to the future occupants of the building. It is noted that generally the UDCG actively encourage the provision of these roof top spaces, and that it does not provide any additional yield to the development, rather just a higher quality outcome.</td>
</tr>
<tr>
<td>Building A balustrade of terrace</td>
<td>26.5</td>
<td>Ranging from approximately 16.2-18.2</td>
<td>2.2-4.2</td>
<td>15.7-30</td>
<td>29.2</td>
<td>As above, the extent of this variation relates only to the provision of the roof top terrace.</td>
</tr>
<tr>
<td>Building</td>
<td>Height</td>
<td>Range</td>
<td>Min</td>
<td>Max</td>
<td>Overall</td>
<td></td>
</tr>
<tr>
<td>-------------------</td>
<td>--------</td>
<td>----------------------</td>
<td>-----</td>
<td>------</td>
<td>---------</td>
<td></td>
</tr>
<tr>
<td>Building A</td>
<td>25.5</td>
<td>Ranging from</td>
<td>1-3.2</td>
<td>7-22.8</td>
<td>17.2</td>
<td></td>
</tr>
<tr>
<td>- Ceiling height</td>
<td></td>
<td>approximately 15-17.2</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>of Level 4</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Building B</td>
<td>26.4</td>
<td></td>
<td>2.2</td>
<td>15.7</td>
<td>0.5</td>
<td></td>
</tr>
<tr>
<td>Lift overrun</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Building B</td>
<td>25.9</td>
<td></td>
<td>1.8</td>
<td>12.85</td>
<td>0.5</td>
<td></td>
</tr>
<tr>
<td>fire stair</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Building B</td>
<td>25.9</td>
<td>Ranging from</td>
<td>0-3</td>
<td>0-21.4</td>
<td>26.2</td>
<td></td>
</tr>
<tr>
<td>main roof line</td>
<td></td>
<td>approximately 13.2 – 17</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

The extent of this variation is exacerbated by the variation to the site levels across the site. The overall height to the ceiling of Level 4 is the result of providing a high quality design outcome in relation to floor to ceiling heights. Reduction to the floor to ceiling heights would result in internal bulkheads or external air conditioning plant on the building or balconies, resulting in a less attractive building.

The extent of this maximum variation relates to a very small area of the site, well set back from the site boundaries.

As above.

The extent of this variation is exacerbated by the variation to the site levels across the site. The overall height to the main roof line is the result of providing a high quality design outcome in relation to floor to ceiling heights. Reduction to the floor to ceiling heights would result in internal bulkheads or external air conditioning plant on the building or balconies, resulting in a less attractive building.

**Note:**

Newcastle LEP 2012 defines building height as the following:
**building height** (or height of building) means:
(a) in relation to the height of a building in metres—the vertical distance from ground level (existing) to the highest point of the building, or
(b) in relation to the RL of a building—the vertical distance from the Australian Height Datum to the highest point of the building, including plant and lift overruns, but excluding communication devices, antennae, satellite dishes, masts, flagpoles, chimneys, flues and the like.

The numerical values in the table above in relation to building height are the vertical distance from ground level (existing) to the highest point of the building, as opposed to the reduced level (RL) of the building.

### 5 Justification for the Contravention

This section addresses Section (3), (4) and (5) of Clause 4.6 and seeks to justify the contravention from the development standard contained in Clause 4.3.

(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.

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:
   (i) the applicant’s written request has adequately addressed the matters required to be demonstrated by subclause (3), and

   (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(b) the concurrence of the Secretary has been obtained.

(5) In deciding whether to grant concurrence, the Secretary must consider:

(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and

(b) the public benefit of maintaining the development standard, and

(c) any other matters required to be taken into consideration by the Secretary before granting concurrence.

### 5.1 Compliance is unreasonable or unnecessary

As mentioned above, compliance with a development standard might be shown as unreasonable or unnecessary if the objectives of the standard are achieved notwithstanding noncompliance with the standard.

Having regard to numerical compliance, as demonstrated in Table 1, the greatest extent of the non-compliance relates to the Building A lift overruns, which comprise a very small proportion of the site (approximately 0.5%), as demonstrated by Figure 4. The location of the lift overrun ensures that this aspect of the building will not have any unreasonable impacts in relation to visual bulk and scale, overshadowing or view loss.
Further the height exceedance, resulting from the provision of a roof top terrace, has been designed to enhance the appearance of the development, as well as to provide a high level of amenity for the future occupants. The proposed rooftop level has also incorporated cascading landscaping to create visual interest. The provision of this terrace and associated communal room results in positive social and amenity outcomes for future users, without resulting in any unreasonable impacts.

Figure 4 – Roof Plan

The extent of the height variation from the areas of the building associated with the provision of the residential and serviced apartments are in part reflective of the change in levels across the site and street frontage, and in part generated from the increased floor to ceiling height at the podium and lower levels to maximise solar access, outlook, ventilation, activation, all of which contribute to the overall public amenity when utilising ground level tenancies. It should be acknowledged the height variation is not seeking additional development yield, given the proposal is well below the permitted FSR for the site, but rather aims to maximise amenity.

The following design measures have been implemented to ensure a contributory street presence:

- Zero setback to the street edge is relevant to the street character of the immediate vicinity and the prominent corner site. The proposal introduces a frieze which will define the street edge as appropriate.
- Proposed Building A (fronting Darby Street) contains base, middle and top articulation in the form of providing an open plan ground floor, standard rectangular shaped balconies with glazed balustrades from the First Floor to the Third Floor and a curved balcony design for the Fourth Floor and rooftop level.
• The podium levels and precast concrete screen consist of three storeys, are generally consistent with the adjacent office building to the north. The top of the screen aligns with the parapet level of that building unifying the two buildings in the Darby Street streetscape and in views from the direction of Civic Park. At the rear of the site on Queen Street, similar to the existing building, the proposal steps down to a single storey adjacent to the residential area.

• The proposed development draws not only on the forms of the buildings within the civic precinct of the Heritage Conservation Area such as the Cultural Centre, Art Gallery, Council and University buildings, it also takes inspiration from the trees of Civic Park, and the topography of 'The Hill' which is the proposal’s backdrop. The proposal respects the other buildings within the Newcastle City Centre Heritage Conservation Area by providing the appropriate prominence required of the corner site without overpowering the buildings of the Civic precinct of the city.

• Inclusion of high-quality design measures were the predominant driver of this development, with the aim of providing the public with a unique and complementary development aesthetic, positively contributing to the streetscape.

As discussed in the SEPP65 Design Statement in Appendix B of the Statement of Environmental Effects, the proposed development has undergone and significant review process to guide the design it to the current form. This entailed going through the Newcastle City Council’s Urban Design Consultative Group (UDCG) panel review on three occasions.

In relation to the proposed height variation, the UDCG panel however suggested that a height exceedance could potentially be supported on the basis of reducing Building A’s height exceedance by removing one level (Building A has been amended to reflect this recommendation) and ensuring the proposed rooftop communal spaces did not result in any adverse impacts to overshadowing or view loss.

The extent of the building height exceedance is shown in Figures 5, 6 and 7.

Figure 5 – Extent of Building Height exceedance
Acknowledging the UDCG’s recommendation and overall planning merit of the proposal, compliance with Clause 4.3 of the NLEP2012 is considered unreasonable for the following reasons:

1. The proposed built form has been purposely designed to ensure design excellence and to contribute to the artistic atmosphere of the Darby Street precinct and nearby Art Gallery, which is considered to be of public interest;
2. The height breach does not result in an overdevelopment of the site given the proposed FSR (2.10:1) is well under the applicable 2.5:1;
3. The proposed height of the development integrates with building height transition that occurs from The Hill towards the adjacent Newcastle Art Gallery (refer to Figure 8);
4. The proposed height exceedance does not result in any unreasonable amenity impacts in relation to overshadowing, privacy or view loss, to neighbouring properties;
5. The proposed overall development offers a variety of uses including the provision for residential apartments and high-quality serviced apartments with communal open space and amenities, and a mix of ground floor uses including a food shop for surrounding locals/tourists and an integrated public art gallery and a bar/restaurant with an abundance of open space to support pedestrian flows, landscaping and seating arrangements;
6. The proposed satisfies the objectives of the B4 Mixed Use Zone; and
7. The proposal satisfies the objectives of Clause 4.3 (further detailed below).

As outlined in point 3, the height was guided by the slope of the land and the heights of the surrounding buildings. Figures 8, 9 and 10 below demonstrates the that having regard to height, that the proposed design successfully responds to the surrounding streetscape.

Figure 8 – Building height in context to streetscape and neighbouring buildings

The SEPP65 guidelines have been considered as part of the design, and the building achieves adequate building separation, ensuring that no unreasonable impacts result from the proposal. It is noted that the SEPP65 guidelines require that at the boundary between a change in zone from apartment buildings to a lower density area, the building setback is to be increased by 3m. In this regard, the site is at the transition between a B4 Mixed Use zone, and an R3 Medium Density Zone, wherein residential flat buildings are permissible in both zones. Accordingly, it is not considered that there is a ‘blunt’ transition between zones. Notwithstanding, the eastern façade of Building B has been amended to provide high level windows where the building interfaces Unit 16 of the ‘Regency Park’ estate. Incorporation of high level windows enables the subject unit to maintain natural light whilst also addressing any privacy impacts on the adjoining resident. Based on these amendments, alongside the provided setback and separation distance to the medium density area, the proposed development is considered to result in an adequate separation to the residential development east of the site.

In relation to the northern boundary, the ADG bases appropriate building separation on building height, meaning that a separation distance between 6m and 12m is required. Noting that the site to the north is currently utilised as a commercial land use it is considered the proposed development achieves appropriate separation distances. It is acknowledged that the site may redevelop, however the area of potential non-compliances relates specifically to the fire stairs and a service apartments within Building A, adjacent to the northern boundary. The setback of the fire stairs and serviced apartments would not result in any privacy impacts, as the area of encroachment does not include windows. Being to the south of the neighbouring land, the encroachment also does not result in solar access impacts to potential future development. Any future development within the site to the north would be able to readily comply with the ADG controls as part of a future development application.

**Clause 4.3 – Height of Buildings**

The proposed development achieves the objectives of Clause 4.3:

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

The proposed development has been designed by EJE Architecture and consists of a high quality, architecturally designed building that makes a positive contribution to the street frontage of Darby Street and
importantly to the prominent corner of the three adjoining precincts, being the Civic Precinct, the East End Precinct and the Darby Street/Cooks Hill Precinct.

The proposal reflects the transition of building heights from The Hill and the associated downslope towards the Darby Street Precinct, as presented in Figure 8 above. Whilst not strictly adhering to the building height standards for the site, the design response is suitable for the site and enables the achievement of a high-quality development at such a unique location. The intention of the proposed built form is to provide a type of landmark development which will make a positive contribution the prominent corner location and to the evolving nature of the Newcastle City and the Darby Street precinct. The proposed façade treatment and articulation is to a high standard, and the proposal is well within the floor space ratio applicable to the site. Details of the façade treatment and articulation are provided in the Architectural plans provided at Appendix A of the Statement of Environmental Effects (SEE).

The proposed built form will reflect the emerging contemporary character of the Darby Street precinct. The projection of the building above the height limit will not result in a bulky or overbearing visual impact. Further, the exceedance in height will not result in any significant overshadowing impacts on adjoining properties. This is further discussed in the below sections.

In this instance, strict application of the development standard for maximum height is unreasonable, unnecessary, and would not achieve a greater planning or urban design outcome.

For further context please see below Figures 9 and 10 which illustrates the proposed development in the current context of the site versus the proposed development in the future context of the locality.

Figure 9 – Photomontage of the Proposal in its Current Context
Photomontages demonstrating the views from Swan Street and the visual transition to the lower density for the eastern building, as well as the southern view on Darby street, are provided in Figure 11 and 12.

Figure 11 – Swan Street Perspective

Figure 12 – Queen Street Perspective
(b) to allow reasonable daylight access to all developments and the public domain.

Reasonable daylight access is provided to all surrounding developments. The proposed height variation will not result in any detrimental impact to any sensitive land uses, as illustrated in the shadow diagram analysis provided within Appendix A (extracts provided in Figure 13 below). The development will not unreasonably overshadow either of the private property to the north or east nor cause unreasonable shadowing of the public domain.

Figure 13 – Proposed Shadow Diagram

Additional shadow diagrams have been prepared, detailing an hourly shadow comparison of the existing built form and proposed built form. A review of the shadow diagrams reveals that the proposed development results in a reasonable overshadowing impact when considering the existing built form/line of trees along the shared boundary (refer to Figure 14). Between 2pm and 3pm the proposed development will result in overshadowing to Unit 16 at the ‘Regency Park’, Cooks Hill (refer to Figure 15).

Figure 14 – 2pm Shadow
Figure 15 – 3pm Shadow

Unit 16 at the ‘Regency Park’ estate will maintain solar access between 9am and 2pm, it is considered that the proposed overshadowing will not adversely reduce solar access below 3 hours and therefore is considered acceptable. The solar access provision is consistent with the Council’s Development Control Plan 2012 and SEPP 65 requirements.

The proposed development is acceptable having regard to the objective of Clause 4.3 and therefore strict compliance with the 14 metre height standard of the site would be unreasonable, unnecessary, and would not achieve a greater planning or urban design outcome.

Accordingly, the proposal is considered to be consistent with Clause 4.3.

5.2 Sufficient environmental planning grounds to justify contravention

This request for variation demonstrates that the proposed height variation sought does not result in adverse environmental impacts, and that there are sufficient environmental planning grounds to justify a contravention to the height control.

In this regard, the objectives of the B4 Mixed Use zone are responded to below:

- **To provide a mixture of compatible land uses.**

As demonstrated in the SEE, the proposal contains a range of compatible uses, including retail, an art gallery, short stay apartments and residential components. Appropriate design measures, including acoustic attenuation, building setbacks and high quality public domain spaces ensure that the proposal will be a cohesive and attractive development for the local area.

- **To integrate suitable business, office, residential, retail and other development in accessible locations to maximise public transport patronage and encourage walking and cycling.**

The range of uses are appropriate for the site, which is a highly accessible location. As demonstrated in the SEE and Traffic Impact Assessment, there are a range of transport options, services and facilities in close proximity to the site.

- **To support nearby or adjacent commercial centres without adversely impacting on the viability of those centres.**

The proposal provides a level of non-residential uses that are appropriately scaled to respond to the key location at the junction of three inner city precincts, being the Civic Precinct, the East End Precinct and the Darby Street/Cooks Hill Precinct. The provision of smaller scale retail, bar/restaurant and gallery tenancies would not have any significant impacts on the viability of areas of the City Centre, seeking to provide larger format non-residential uses. The serviced apartments will provide an alternative to larger tourist and visitor
accommodation options in the City Centre and are an appropriate scale to support the nature of the Darby Street area.

Further to the consideration of the zone objectives, it is noted that while exceeding the building height standard for the site, the proposal contributes positively to the locality incorporating pedestrian connectivity along the Darby Street front with seating areas, an art gallery open to the public and built form relief through high quality façade treatment and articulation. The rooftop communal room, lift overruns and fire stair exceedances will be visibly difficult to detect given the setback as demonstrated in Figures 9 and 10 above. Further, shadow diagrams as shown in Figure 11 illustrate that the proposed development does not cause an unreasonable amount of shadowing.

The podium levels and precast concrete screen consist of three storeys, and is generally consistent with the adjacent office building to the north. The top of the screen aligns with the parapet level of that building unifying the two buildings in the Darby Street streetscape and in views from the direction of Civic Park. At the rear of the site on Queen Street, similar to the existing building, the proposal steps down to a single storey adjacent to the residential area. If made to strictly comply with Clause 4.3, there would be no additional benefit to the streetscape or public domain in the local area.

The proposed development draws not only on the forms of the buildings within the civic precinct of the Heritage Conservation Area such as the Cultural Centre, Art Gallery, Council and University buildings, it also takes inspiration from the trees of Civic Park, and the topography of 'The Hill' which is the proposal’s backdrop. The proposal respects the other buildings within the Newcastle City Centre Heritage Conservation Area by providing the appropriate prominence required of the corner site without overpowering the buildings of the Civic precinct of the city.

A significant proportion of additional height is generated from the increased floor to ceiling height at the podium and lower levels to maximise solar access, outlook, ventilation, activation, all of which contribute to the overall public benefit. The roof top terrace results in a high quality facility for the future use of occupants, which will have associated amenity and social benefits. It should be acknowledged the height variation is not seeking additional development yield given the proposal is well below the permitted FSR for the site, but rather aiming to maximise amenity.

The granting of development consent will enable a high quality, architecturally designed mixed use commercial and residential building to be constructed with an active ground floor presence for the benefit of the community and high amenity apartment living/short stay opportunity. The objectives of Clause 4.3 and the B4 Mixed Use zone have been met by the proposed development. In light of this, there is considered to be sufficient environmental planning grounds to justify varying the height development standard in this instance.

5.3 Public Interest

As demonstrated in this assessment, the proposed development will be in the public interest as it is consistent with the objectives of the height standard and the objectives of the B4 Mixed Use Zone.

The intent of the Mixed-Use Zone is to provide a wide range of retail, business, office, entertainment, community, and other suitable and compatible land uses within a mixed-use development. The proposal is a mixed-use development which incorporates retail, an art gallery, short stay apartments and residential components. These uses are compatible with the objectives of the zone, will complement surrounding uses and strengthen the Newcastle City Centre, particularly in the vicinity of the active Darby Street Precinct.

The character of the Newcastle City Centre Heritage Conservation area is quite diverse which is also reflective of the long history of growth, change and development within the area. The character of the proposed building demonstrates the continuing diversity in character of the area. The nature of the subject site with its high visibility means that any building in this location will be dominant in the streetscape. The success of the existing building is its landmark qualities which accentuate the gateway between the Civic precinct and the Darby Street precinct. These successes need to be continued within the new design in order to respect the character of the area. The design of the proposal will be prominent and modern, and these characteristics are both viewed as highly appropriate for the subject site and in the public interest.
Contributory buildings have not been mapped for the Newcastle City Centre Heritage Conservation Area. The buildings to which the proposal will relate include the Art Gallery, and the Town. The Newcastle Cultural Centre is also in the immediate vicinity and is five stories at the top of Laman Street. The proposed building will not be out of scale with these nearby buildings.

The proposed height exceedance is in the public interest, as detailed below:

- The site, being located on the corner of three precincts creates a focal point for the locality. The proposal is a statement design, utilising high quality materials and finishes. The overall project vision was to provide the Newcastle community with a building that is both unique and complementary to the locality. EJE Architecture have achieved the project vision, tying in the history of the surrounding road network via a contemporary design outcome for the precinct;
- Should strict compliance be required, it is likely that the features of the building that contribute to the public realm would not be achieved, thereby reducing the notable contributions to the community. The elements, not likely to be achievable, should serviced apartments need to be relocated throughout the building including at ground floor, include the generous public plaza, gallery, food store, public art features and internal courtyard;
- The height encroachment largely relates to the inclusion of a communal space, which provides for a higher level of amenity for future occupants;
- The proposal is compliant with the floor space ratio control, and the proposed design has sought to maximize building articulation and amenity. Should the proposal be amended to strictly comply with the height requirement, the bulk and scale of the buildings would become 'flatter' and this would likely result in additional visual impacts to the adjoining properties and the streetscape. This 'flattened' outcome would also necessitate reduced public domain outcomes at the ground floor, as well as compromised outcomes for solar access and ventilation to the future occupants;
- The proposed height variation is in part generated from the generous floor to ceiling height of the ground floor, which provides a superior commercial public space in conjunction with the public courtyard. Reduction to floor to ceiling heights are likely to result in a poorer design outcome to the public spaces at ground floor, and necessitate bulkheads within the apartments, as well as external air conditioning plant on balcony areas.
- The design of the ground floor will contribute to the vibrant streetscape of Darby Street, and will strengthen the pedestrian experiences at the corner of three inner city precincts;
- The development provides for additional dwellings/serviced apartments in a central location that will both increase population to the precinct. The proposal will deliver a range of dwelling sizes, thereby providing a variety of housing choices for future long-term residents and short stay residents. The additional residential population, as well as tourist, will result in positive economic and social impacts; and
- The proposal contributes a mix of land uses to the locality, creating employment opportunities during construction and operational stages, whilst also providing opportunities for sustainable living. Further, the Section 94A development contributions are likely to exceed $1,000,000, which will have a significant benefit to the community.

The proposed development represents a high-quality urban design, which seeks to continue to redevelop and enhance the East End/Civic Precinct of Newcastle City Centre and the Darby Street/Cooks Hill Precinct. The height exceedance does not outweigh the merits of the proposal and its contribution to the social fabric and built form of Newcastle/Cooks Hill.

It should be acknowledged the height variation is not seeking additional development yield, given the proposal is well below the permitted FSR for the site, but rather aiming to maximise design outcomes and amenity.

5.4 Secretary's Concurrence

It is understood that the Secretary's concurrence under clause 4.6(4) of NLEP 2012 has been delegated by the Department of Planning and Environment.
6 Conclusion

This Clause 4.6 Variation to Development Standard request has been prepared in response to numerical non-compliance with the development standard for the site specified in Clause 4.3 – Height of Buildings in NLEP 2012. As demonstrated within this submission and the Architectural Plans, the extent of non-compliance is considered acceptable as the overall massing, scale, bulk and height of the proposed development is suitable for this unique gateway location.

The proposed development meets the underlying intent of the control and is a compatible form of development for the area. The variation sought to height will not result in any undue impacts on adjoining properties particularly with response to overshadowing, loss of privacy and loss of views.

It is considered that the variation allows for the orderly and economic use of the land in an appropriate manner, whilst allowing for a better outcome based on planning merits and public benefit. It is reiterated that the proposal will not result in any unreasonable impact on amenity or any significant adverse environmental impacts as a result of the variation. The design has undertaken three urban design meetings, that involved amending the design to achieve a successful massing of development for the site.

Council can be satisfied that compliance with the development standard is unreasonable or unnecessary in the circumstances of the proposed development and that there are sufficient environmental planning grounds to justify contravening the development standards.

It is therefore requested that Council grant development consent for the proposed development.

Yours sincerely

Nicole Sellen
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KDC Pty Ltd