

DATE OF DETERMINATION	Thursday 29 November 2018
PANEL MEMBERS	Jason Perica (Chair), Michael Leavey, Lindsay Fletcher, Cr John MacKenzie
APOLOGIES	Kara Krason, Cr Jason Dunn & Cr Matthew Byrne
DECLARATIONS OF INTEREST	None

Public meeting held at Travelodge Newcastle 12 Steel Street, Newcastle West on 29 November 2018, opened at 4:00pm and closed at 6.20pm

MATTER DETERMINED

2018HCC034 – Newcastle City Council – DA2018/01047 at 39 Royal Street New Lambton (as described in Schedule 1)

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1. The Panel also had regard to additional information from Council regarding flooding, including PMF and 1% AEP maps and advice from Council's engineer.

The Panel adjourned during the meeting to deliberate on the matter and formulate a resolution.

The Panel determined to approve the development application pursuant to section 4.16 and 4.17 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

- The Panel generally agreed with the assessment of environmental impact, conclusions and recommendations within the Council staff report.
- The proposal appropriately balanced the needs of modern education, with accessibility, functionality, heritage impact and neighbour amenity.
- The issue of flooding was considered, and it was considered prudent and appropriate to include a condition to address emergency management in case of flooding.
- Potential contamination issues warranted an additional condition regarding soil testing after demolition.
- The proposal landscape solution of retaining trees was sound, although should be reinforced by a condition, while additional planting to reasonably protect privacy and visual impacts to the adjoining dwelling to the south was warranted due to additional impacts from the proposal.

CONDITIONS





The development application was approved subject to the conditions in the Council Assessment Report with the following amendments.

- Condition No. 9 be amended so the first sentence of the paragraph after (j) states:
No existing trees within the site are to be removed or replaced. The siting of existing trees is to be indicated on the comprehensive landscape design plan which is to be prepared by a qualified landscape designer and be included in documentation for a Construction Certificate application.
- A new Condition 9A to state:
Condition 9A

A landscaping screen is to be provided along the southern site boundary to the south of Block N. The landscaping screen is to comprise a non-deciduous tree or plant species that provides full vegetative cover along the boundary with no gaps in cover. The chosen species is to be of a maximum height that does not overbear the neighbouring dwelling to the south by way of overshadowing and is to be indicated on the comprehensive landscape design plan which is to be prepared by a qualified landscape designer and be included in documentation for a Construction Certificate application and shall be implemented prior to the issue of the first Occupation Certificate for the new buildings.

- Condition 14 be amended to include a new Part (f) to state:

f) Soil samples are to be taken beneath all demolished buildings under the supervision of a suitably qualified and accredited contamination expert for assessment. Should the soil be found to include contaminants, an appropriate remediation document complying with SEPP 55 (Remediation of Land) and associated guidelines shall be prepared to guide remediation, if needed. This is to occur prior to the erection of buildings on site and provided to Council for review.
- Additional new condition to be added based on Council standard condition for preparation of a flood emergency management plan.

PANEL MEMBERS	
 Jason Perica (Chair)	 Michael Leavey
 Lindsay Fletcher	 Cr John MacKenzie
Approved via email 05/12/2018 Cr Matthew Byrne	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2018HCC034 – Newcastle City Council – DA2018/01047
2	PROPOSED DEVELOPMENT	Demolition of classrooms and amenities, erection of classrooms amenities and learning centre and alterations to school hall
3	STREET ADDRESS	39-43 Royal Street New Lambton & 18-20 Burke Street New Lambton
4	APPLICANT/OWNER	Applicant: Diocese of Maitland – Newcastle C/- Shaddock Architects Owner: Diocese of Maitland
5	TYPE OF REGIONAL DEVELOPMENT	Private infrastructure and community facilities over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ State Environmental Planning Policy (State and Regional Development) 2011 ○ State Environmental Planning Policy (Infrastructure) 2007 ○ State Environmental Planning Policy (Educational Establishments and Child Care Facilities) 2017 ○ State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 ○ Newcastle Local Environmental Plan 2012 • Draft environmental planning instrument • Development control plans: <ul style="list-style-type: none"> ○ Newcastle Development Control Plan 2012 ○ Newcastle Section 94A Development Contributions Plan 2009 • Planning agreements • Provisions of the Environmental Planning and Assessment Regulation 200 • Coastal zone management plan • The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality • The suitability of the site for the development • Submissions made in accordance with the Environmental Planning and Assessment Act 1979 or regulations • The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Council assessment report: 15 November 2018 • Written submissions during public exhibition: 1 • Verbal submissions at the public meeting: <ul style="list-style-type: none"> ○ On behalf of the applicant – Jonathon Longille
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Site inspection and briefing Thursday 29 November 2018 • Final briefing to discuss council's recommendation, Thursday 29 November 2018, 3:00pm. Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Jason Perica (Chair), Michael Leavey, Lindsay Fletcher & Cr John MacKenzie & Cr Matthew Byrne ○ <u>Council assessment staff</u>: Gareth Simpson
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report