**SUPPLEMENTARY REPORT**

**HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL**

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| **PANEL REFERENCE** | PPS2019HCC012 – [DA2019/00061] |
| **LGA** | Newcastle |
| **PROPOSED DEVELOPMENT** | Residential accommodation, strata subdivision, earthworks, and demolition – Residential accommodation comprising three residential flat buildings (161 units) and multi-dwelling housing (11 two-storey dwellings), strata subdivision (172 lots), car parking, tree removal, landscaping, access and pathways, associated site works and services, earthworks, mine grouting works (including associated temporary plant and equipment), and staged demolition of existing structures. |
| **ADDRESS** | 11-17 Mosbri Crescent, The Hill NSW |
| **APPLICANT** | Crescent Newcastle Pty. Ltd. |
| **OWNER** | Crescent Newcastle Pty. Ltd. |
| **DATE OF LODGEMENT** | 18 January 2019 |
| **DOCUMENTS SUBMITTED FOR CONSIDERATION** | * Attachment A: Amended Draft Schedule of Conditions – changes shown in red
* Attachment B: Amended Draft Schedule of Conditions – clean set
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| **RECOMMENDATION** | Approval |

# Background

The subject application (DA2019/00061) was reported to the Hunter Central Coast Regional Planning Panel (HCCRPP) for determination on 22 June 2022.

This supplementary report provides further information in response to matters raised during the determination meeting and associated amendments to the recommended draft schedule of conditions.

1. **Plan amendments – Building A**

The Panel recommended approval of the propsoed development subject to the deletion of Level 7 (comprising 2 x 3 bedroom units, 2 x 2 bedroom units and 2 x 1 Bedroom units) of Building A. It is noted that the Panel intended to draft the condition requiring the plan amendments to give effect to the Panel's recommendation.

However, in response to this amendment, the following conditions of consent will also require amendment:

1. *In accordance with the City of Newcastle Section 7.11 Development Contributions Plan 2021-2036 (the Plan), the following monetary contributions shall be paid to the City of Newcastle to cater for the increased demand for transport and social infrastructure resulting from the development:*

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| --- | --- |
| ***Description*** | ***Contribution ($)*** |
| *Transport* | *$308,771.92* |
| *Open Space and Recreation*  | *$1,326,856.09* |
| *Community Facilities* | *$245,459.22* |
| *Plan Preparation and Administration*  | *$46,959.87* |
| ***TOTAL*** | ***$1,928,047.09*** |

 *If the contributions are not paid within the financial quarter that this consent is granted, the contributions payable will be adjusted in accordance with the provisions of the Plan and the amount payable will be calculated on the basis of the contribution rates applicable at the time of payment*

 *The contributions shall be paid to the City of Newcastle:*

1. *prior to the issue of the Subdivision Certificate where the development is for subdivision; or*
2. *prior to the issue of the first Construction Certificate where the development is for building work; or*
3. *prior to issue of the Subdivision Certificate or first Construction Certificate, whichever occurs first, where the development involves both subdivision and building work; or*
4. *prior to the works commencing where the development does not require a Construction Certificate or Subdivision Certificate.*
5. **Provision of accessible parking**

Questions were asked by the Panel regarding the adequacy of disabled parking provisions on site for the residential occupants of the proposed buildings.

CN's DCP2012 defers to the Building Code of Australia (BCA) for the determination of minimum numbers of disabled carparking space. The BCA requires one disabled parking space for every 100 carparking spaces, or part thereof within the development.

Based on the 242 spaces proposed, a minimum of 3 parking spaces are required to be dedicated disabled parking spaces. As currently proposed, the development includes a minimum of 3 disable parking spaces and therefore complies.

However, the DCP2012 and the BCA, do not provide guidance on apportionment of these spaces between residential and visitors and currently, the proposal has identified all 3 spaces as Accessible Visitor Parking with no allocation to residential occupants. Similarly, the Apartment Design Guide and the Livability Housing Design Guide (Silver) do not specify requirements for disabled carparking provisions.

Noting that the proposal currently includes a surplus of 35 residential carparking spaces above the minimum required under DCP2012, it is considered acceptable that some of this surplus is redirected for use as disabled parking spaces, compliant with AS2890.6:1993 - *'Off-street parking for people with a disability'*, if required by future residential occupants.

This can be achieved by converting some of the surplus carparking spaces to be Shared Areas to the specifications of AS2890.6. This would have the effect of enabling the adjacent car parks to function as disabled carparking spaces, even if they are not fitted with disabled parking signage and pavement markings (given that they are likely to be purchased by occupants with such needs).

Converting two of the current 35 surplus spaces to Shared Zones, will result in 4 spaces that can be used or adapted as disabled carparking spaces for future residential occupants. Please note that these two spaces are chosen given the proximity to two of the lift wells, but alternate spaces could be adapted.

It is not necessary to require these 4 additional disabled parking spaces to be fitted with signposting and pavement markings as we currently have no way of determining the specific needs of the future occupants. If no future occupants require designated disabled parking spaces, these spaces would be left unused.

It is recommended to amend Draft condition No. 9 to read as follows:

1. *On-site parking accommodation is to be provided for a minimum* *of two hundred and forty (240) cars (comprising 205 for residential and 35 for visitors (inclusive of 3 identified for disabled parking)), twelve (12) motorcycles, one hundred and ninety (190) bicycles located at grade and in storage cages, and such be set out generally in accordance with the approved plans and in accordance with the following additional requirements. Full details are to be included in documentation for a Construction Certificate application.*
2. *Proposed Residential Parking spaces numbered 78 and 81 are to be marked as a Shared Area and provided with a bollard to the specifications within AS2890.6:2009 – 'Off-street parking for people with a disability' to enable adaption of the adjacent carparking spaces as dedicated disabled parking spaces, if required, to meet the needs of future residents.*
3. *All visitor carparking spaces and all Shared Areas (as defined by AS2890.6) are to be nominated as Common Property and must not be used for parking vehicles or storage.*
4. **Provision of electric vehicle charging infrastructure**

CN has recently exhibited draft amendments to DCP2012 some of which relate to the provisioning of charging facilities for electric vehicles (EV) in new or significantly altered developments. It is noted that the Panel members raised the inclusion of EV charging facilities with the applicant's representative, who was not opposed to such a condition.

CN is supportive additional condition being imposed on any consent issued for the subject DA that would provide for EV charging, therefore the following additional condition No. 11 is recommended:

1. *Prior to the issue of the relevant Construction Certificate, the following must be demonstrated to the satisfaction of the certifying authority:*

1. *The car park must provide an Electric Vehicle (EV) Ready Connections to at least eleven (11) allocated residential parking spaces, including two (2) of the adaptable disabled carparking spaces required under Condition 11;*
2. *EV Distribution Board(s) shall be of sufficient size and capacity to allow for any future EV connections to all residential car parks;*
3. *Locate EV Distribution board(s) so that no future EV Ready Connection will require a cable of more than 50m from the parking bay to connect;*
4. *Each EV Ready Connection is served from a cable tray and a dedicated spare electrical circuit provided in an EV Distribution Board to enable easy future installation of cabling from an EV charger to the EV Distribution Board and a circuit breaker to feed the circuit;*
5. *EV Load Management System is to be capable of:*
* *Reading real time current and energy from the electric vehicle chargers under management;*
* *Determining, based on known installation parameters and real time data, the appropriate behaviour of each EV charger to minimise building peak power demand whilst ensuring electric vehicles connected are full recharged;*
* *Scale to include additional chargers as they are added to the site over time; and*
1. *The above EV electrical design is to be done by an appropriately qualified and licenced electrician and is to be done to the relevant Australian Standards and BCA requirements.*
2. **Sustainability – achievement of 6-star BASIX rating**

During the determination Panel's, a question was asked regarding the potential for the development to be required to achieve a 6-star BASIX rating. The Applicant advised that the Development did not achieve a 6-star BASIX rating.

However, a further review of the BASIX certificates for the proposed development reveals that the Residential Flat Building component achieves a 6.2-star BASIX rating. Accordingly, an additional condition of consent requiring that the development achieve a 6-star BASIX rating has not been provided.

1. **Early planting of replacement trees / inclusion of works related to the retaining wall adjacent to 11-15 Hillview Crescent in early works**

Questions were asked by the Panel regarding the scheduling of proposed building works and whether there was an opportunity for the developer to prioritise building works and associated tree planting adjacent to the Hillview Crescent properties.

It is noted that the Panel members raised this with the applicant's representative, Mr. Stephen O'Connor who was not opposed to this suggestion.

CN staff have investigated the conditioning the timing for this section of site works and have concerns regarding the practicality of a valid condition and potential enforcement issues. Given these concerns, CN recommend that a condition giving effect to early tree planting and retaining walls not be included.

However, should the Panel decide a condition of consent is required given the circumstances of this case, then CN would look to rely upon the Panel to draft such a condition.

1. **Lighting**

During the Panel's briefing with CN staff, it was identified that a condition of consent referred to in the report was omitted from the Draft Schedule of Conditions (Attachment A).

The recommended condition 4 d) should read:

*4 d)* *Prior to issue of Construction Certificate, a lighting strategy, design and management plan ('lighting plan') is to be prepared by a qualified lighting designer. The lighting plan must be designed in conjunction with the landscape plan (required by conditions of this consent) to ensure that spaces of shadow and concealment are not created by the building and the landscaping – particularly in the carpark, loading areas and points of ingress and egress. Lighting is to ensure that the external elevations have appropriate lighting.*

*The lighting plan must be reviewed and informed by the applicants CPTED and landscape consultants. The lighting plan, and confirmation of input from the applicants CPTED and landscape consultants into the lighting plan, is to be submitted with the Construction Certificate documentation.*

1. **Remove the note associated with condition 45**

Questions were asked by the Panel regarding the compensatory planting in the Kitchener Parade public road reserve.

The panel requested that the following note be removed from condition 45:

*NOTE: 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.*

The following sentence is also recommended to be included as part of the condition:

*City Greening Services will select 10 future planting locations along Kitchener Parade adjoining the site, which will include the existing tree locations. All replacement trees are to be planted prior to the issue of an Occupation Certificate.*

Please note that the numbering of the consent has changed, and this condition is now referenced as no. 46.

1. **Amendment to Condition 59 to include a tree protection strategy**

Following the recommendations of the Panel, the Construction Management Plan (CMP) condition has been amended to include the following requirement:

*60(l)* *A Tree Protection Strategy is required to be prepared by a suitably qualified Arborist (minimum AQF5) for all vegetation within public and private lands in accordance with AS AS4970-2009 'Protection of Trees on Development Sites' and AS4373-2007 'Pruning of Amenity Trees'*

Please note that the numbering of the consent has changed, and this condition is now referenced as no. 60.

1. **Acid sulphate soils condition (as per late memo)**

Council's Assessment Report makes reference that *"a condition of consent is recommended that requires further assessment of ASS potential to be undertaken during excavation. If ASS is found to be present, soils will be treated in accordance with the NSW Acid Sulfate Soils Advisory Committee's Manual".*

It has been identified that this condition was omitted from the Draft Schedule of Conditions (Attachment A). The recommended condition has been included at condition no. 80:

*80. 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’*

1. **Amendment to condition 4(b)**

During the public briefing session, a speaker raised concerns regarding Condition 4b) and the need for further solid/screening elements to mitigate potential overlooking from the north facing balconies of Building A to properties on the opposite side of Kitchener Parade (the school) and the south facing residential development on Tyrell Street (which is over 140m away from the north boundary of the subject site).

It is confirmed that Condition 4b) was a design-based recommendation from CN's UDRP, specifically "*to achieve a more varied façade and give a greater practicality for future residence"* as per the written advice from the UDRP meeting held 23 February 2022. As such, it was discussed with the Panel that there was no need to amend condition 4(b).

1. **Waste collection**

During the Panel's discussion with the Applicant's representative, Mr. Stephen O'Connor, a comment was made by regarding the private waste collection service, and this confirmed that this is the intended waste collection measure. An additional condition, to clarify the procedures relating to on-site waste collection by private contractors, has been recommended.

Elements of the Waste Management Plan referenced in Condition 1 have been superseded by the Applicant's written submission dated 22 April 2022 where it is stated *"…it is reiterated, that it is intended to collect waste from within the basement areas, via a private contractor.  It should be noted that there are now a range of collection vehicles that can be used within enclosed carpark which can ensure that the site is readily serviced without relying on the street for collection*."

Accordingly, it is recommended an additional condition no. 106 be included as follows:

*106.* *Residential garbage bins are to be collected by a private waste collection contractor and from within the basement areas in accordance with the Applicant's written submission dated 22 April 2022 and under no circumstances are garbage bins to be stored or presented for collection on the driveway areas.*

# Conditions

The above Supplementary Report, in combination with revisions to the draft conditions by the Regional Planning Panel and the City of Newcastle, comprehensively addresses the concerns and issues arising from the determination meeting.

The recommendation to approve DA2019/00061 should be supported on the combined basis of the 'Council Assessment Report' and this Supplementary Report subject to the Amended Draft Schedule of Conditions (refer to **Attachment A**).