

DETERMINATION AND STATEMENT OF REASONS

HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

DATE OF DETERMINATION	6 July 2022
DATE OF PANEL DECISION	6 July 2022
DATE OF PANEL MEETING	22 June 2022
PANEL MEMBERS	Juliet Grant (acting Chair), Sandra Hutton, Chris Wilson, Elizabeth Adamczyk and Callum Pull
APOLOGIES	None
DECLARATIONS OF INTEREST	<p>Alison McCabe declared a conflict of interest as she gave directions in respect to the LEC appeal for this development application (DA) as Chair of the Hunter & Central Coast Regional Planning Panel and wished to avoid any appearance that she had already formed a view on the DA. The appeal has been discontinued.</p> <p>John Mackenzie and Peta Winney-Baartz declared conflicts of duty regarding the development application at 11-17 Mosbri Crescent, The Hill, as they had considered a related planning proposal as elected representatives of Newcastle City Council.</p> <p>Callum Pull declared a non-significant non-pecuniary conflict as he is a member of the same political party as the son of the developer. They are not members of the same branch and are not on any executive committees together.</p> <p>Elizabeth Adamczyk declared a non-significant non-pecuniary conflict as she is distantly acquainted with several submitters.</p>

Public meeting held by videoconference on 22 June 2022, opened at 4pm and closed at 8:30pm.

MATTER DETERMINED

PPS-2019HCC012 – Newcastle – DA2019/00061 at 11-17 Mosbri Crescent, The Hill – residential accommodation (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.

Application to vary a development standard

Following consideration of a written request from the applicant, made under cl 4.6 (3) of the Newcastle Local Environmental Plan 2012 (LEP), that has demonstrated that:

- compliance with cl. 4.3 (Height of Buildings) is unreasonable or unnecessary in the circumstances; and
- there are sufficient environmental planning grounds to justify contravening the development standard

The Panel is satisfied that:

- the applicant's written request adequately addresses the matters required to be addressed under cl 4.6 (3) of the LEP; and
- the development is in the public interest because it is consistent with the objectives of cl. 4.3 (Height of Buildings) of the LEP and the objectives for development in the R3 Medium Density Residential zone; and
- the concurrence of the Secretary has been assumed.

Development application

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

The decision was unanimous. It is noted Callum Pull did not agree with the conditioned changes to Building A as identified below.

REASONS FOR THE DECISION

The Panel was satisfied that all statutory pre-conditions to the granting of consent have been satisfied, including the necessary approvals required from state agencies. The Panel is further satisfied with how Planning for Bushfire Protection has been addressed, which includes the issue of general terms of approval (GTAs) from the relevant state agency. The Panel noted the grouting works extend beyond the subject site, and that owners' consent has been provided for these works.

The Panel recognised the strategic planning framework establishes the site as suitable and capable of containing a substantial redevelopment for residential accommodation including residential flat building typology.

The Panel considered the proposed building massing, and other than Building A, was satisfied that the project displays a built form outcome that responds to the opportunities and constraints of the site and the surrounding context. The Panel acknowledged the proposal's deviation from the site-specific development control plan (DCP) which results in an altered built form. The Panel was guided by the advice of the independent design review panel and accepted the justification for the DCP variations as provided in the assessment report.

The majority of the Panel however was not satisfied that Building A appropriately fits within and respects the surrounding topography, streetscape, built form and heritage context, and does not provide a human-scale streetscape edge or street wall height to Kitchener Parade. This view was formed in the context of the setbacks to Kitchener Parade, which are substantially reduced compared to those anticipated by the site-specific controls and the loss of existing street and site tree canopy.

The majority of the Panel was of the opinion the revised building massing across the site was only supportable with the removal of level 7 from Building A. With the reduction of one level in the eastern section of Building A, the majority of the Panel was satisfied the setbacks and building separation would be acceptable in the broader context. Accordingly, a condition of consent has been imposed to achieve this outcome.

The Panel was satisfied that appropriate separation has been provided between Building A and land uses to the north of Kitchener Parade, including the school and residences, and no changes to façade and privacy treatments to Building A were considered necessary, other than those recommended by the independent design review panel to achieve aesthetic design outcomes.

The Panel recognised the proposal retains no existing on-site tree canopy and is heavily reliant on topography and vegetation within Arcadia Park itself. The Panel identified an opportunity for additional tree canopy along the interface of Building A (including through the reduction in balcony extents of two units on Level 2 of Building A facing that boundary) to Arcadia Park where it is not constrained by public stormwater infrastructure or basement parking, and has imposed a condition accordingly.

The Panel considered the siting, mass and scale of Building B and the implications arising from Council's stormwater requirements, and is satisfied with Building B, inclusive of the roof top communal space. Whilst the Building B northern roof top plant and screening is well contained within the overall height standard, it is clear to the Panel that it is an element that has greater visual exposure in the broader context, in a location that precluded built form under the DCP framework), with a higher sensitivity notwithstanding numerical compliance. In this regard, the Panel was satisfied with the consolidation and placement of roof top plant as proposed but imposed additional conditions requiring additional roof top planting to the eastern and western

roof areas adjoining the plant. The aim of this is to further soften and blend this element of the proposal into the landscape and cityscape.

The Panel noted the construction period for the development is projected to occur over an extended period of time and therefore felt it was appropriate to include additional conditions relating to construction management and community consultation during this time.

The Panel expressed concern that the development did not extend itself to address and take a leading role on emerging issues of accessibility and sustainability which are important to Council and were also identified in various public submissions. Whilst the Panel acknowledged Council has not progressed their development controls to encapsulate higher levels of accessibility and sustainability, the Panel identified opportunities to improve the performance of the development and its contribution to improved outcomes in accordance with Council policy positions on accessibility and building sustainability, and has therefore imposed several additional conditions.

The Panel concurred with submissions from adjoining home owners that the retention of existing trees on the boundary, supplemented by additional canopy planting, is essential, and were assured this would occur by the expert arborist, Council and the applicant. This is reinforced by recommended conditions. The Panel is of the view that appropriate tree protection measures as well as early construction and establishment of this immediate interface, in direct consultation with the immediate neighbours, will assist to screen immediate views into the site during its progressive construction and occupation.

The Panel sought clarification from Council following the public determination meeting in relation to the proposed waste management arrangements and has included an additional condition to require on-site waste collection via private contract.

The Panel acknowledged the significant impact on the community arising from the lengthy and complex planning process for this site which has included the choice of the Applicant to proceed with a proposal markedly varied from that established by the site-specific DCP, the various procedural pathways the Applicant has pursued and the suite of amendments to the Proposal. The Panel equally acknowledged that the pathways chosen by the Applicant are provided for by the planning system, and do not in themselves, influence the assessment of the application nor the Panel's decision.

CONDITIONS

The Development Application was approved subject to the conditions in the Council Assessment Report with the following amendments and associated renumbering:

- Amendments to draft Condition 4(b) to include additional design amendments requiring:
 - Deletion of level 7 in Building A to reduce the bulk and scale;
 - Adjustment to balcony extents of two units facing Arcadia Park on Level 2 of Building A (labelled Unit B210 and Unit B211) to match the balcony extents of Level 3 above and to increase the setback of Level 2 with Arcadia Park;
 - The setback of Building A to Arcadia Park to include a minimum five (5) canopy trees and landscaping of similar species and composition to that provided for in the area between Buildings A and B, and to provide canopy buffer planting to that section of the setback to public land that is not impacted by public stormwater infrastructure; and
 - Detailed design to consider and include the opportunity for additional shrub and tree canopy to be integrated into the terraced eastern landscape wall between Arcadia Park and the stormwater infrastructure, where possible.
- Inclusion of a new Condition 4A in relation to lighting that was identified in Council's assessment report but not included in draft conditions.
- Amendment to draft Condition 5 to reflect reduction in contributions arising from deletion of Level 7 of Building A.
- Amendment to draft Condition 9 to require the provision of accessible parking and a consequential amendment within draft Condition 9 and renumbered Condition 56 to reflect the revised parking numbers (to accommodate accessible parking).

- Inclusion of a new condition (Condition 11) requiring the provision of electric vehicle charging infrastructure and renumbering of subsequent conditions.
- Amendment to renumbered Condition 22 requiring additional detail for the extension of landscape screening to the eastern and western ends of Building B's northern roof top plant area. This is to help minimise visual impact by softening views to the roof top area, similar to the landscape planting provided for by the communal rooftop planting area.
- Inclusion of a new condition (Condition 32) in relation to achieving Ecologically Sustainable Design.
- Inclusion of a new condition (Condition 36) requiring documentation of compliance with adaptable housing.
- Amendment to renumbered Condition 44 requested by the applicant and agreed to by Council to reflect recommendations of the expert report relating to an Aboriginal Heritage Impact Permit.
- Amendment to renumbered Condition 46 (including the removal of the discretionary note) to ensure compensatory planting is located in the vicinity of the site and specifically within Kitchener Parade;
- Amendment to renumbered Condition 62 relating to Construction Management Plan to include:
 - Preparation and implementation of a tree protection strategy
 - Inclusion of dilapidation survey of immediately adjoining residential properties to reinforce requirements of draft Condition 7.
 - Preparation and implementation of a community consultation strategy, including establishment of a consultative committee that must be established prior to, and operate throughout the construction phase of the development.
 - Preparation of an early works strategy to bring forward the construction of retaining and associated works, tree protection and establishment of site boundary landscaping along the southern boundary adjacent to 11-15 Hillview Crescent.
- Amendment to renumbered Condition 70 to capture the delivery of materials to and from the site within the hours, and additional restrictions on hours of particular noise generating activities.
- Inclusion of a new condition (Condition 82) in relation to acid sulphate soils that was identified in Council's assessment report but not included in draft conditions.
- Inclusion of a new condition (Condition 101) in relation to post construction dilapidation reporting
- Inclusion of a new condition (Condition 109) to reflect the waste management arrangements proposed by the applicant and relied upon in receiving consent.

The approved conditions of consent are attached at Schedule 2.

CONSIDERATION OF COMMUNITY VIEWS






In coming to its decision, the Panel considered all written and verbal submissions. Due to the length of time, complexity of this matter and the level of public interest, the Panel heard from interested members of the public over two sessions prior to receiving Council's assessment report, and held a further public meeting, over two sessions, to hear from interested members of the public following publication of Council's assessment report and draft recommended conditions.

The Panel acknowledged the community's participation and contribution to the decision-making process, and noted the issues of concern included:

- Overdevelopment of the site, including bulk and scale of the proposed development
- Inconsistency with the site-specific development control plan (DCP) and desired future character of the locality
- Loss of visual and acoustic privacy for park users and the Newcastle East Public School
- Visual impact, particularly in relation to height exceedances
- Impacts on the State listed heritage items in the vicinity
- Overshadowing of Arcadia Park and adjoining residential properties
- Social impact of increased population
- Setbacks of the proposed built form
- Lack of housing diversity
- Concern about location and design of public pedestrian link
- Location of substation

- Impact on local traffic, parking and infrastructure
- Internal amenity of proposed development
- Tree removal and inadequate landscaping
- Impact on biodiversity
- Sustainable building development and environmental impacts
- Subsidence and geotechnical impacts
- Bushfire risk
- Impact on groundwater
- Requirement for dilapidation reports
- Procedural concerns
- Public interest

The Panel considers that concerns raised by the community have been adequately addressed in Council's Assessment Report and the conditions of consent as amended and imposed by the Panel in its determination.

PANEL MEMBERS	
 Juliet Grant (Chair)	 Sandra Hutton
 Chris Wilson	 Elizabeth Adamczyk
 Callum Pull	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPS-2019HCC012 – Newcastle – DA2019/00061
2	PROPOSED DEVELOPMENT	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.
3	STREET ADDRESS	11-17 Mosbri Crescent, The Hill
4	APPLICANT/OWNER	Crescent Newcastle Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • <i>Rural Fires Act 1997</i> • <i>Coal Mine Subsidence Compensation Act 2017</i> • <i>Roads Act 1993</i> • <i>Heritage Act 1997</i> • <i>National Parks and Wildlife Act 1974</i> • <i>Biodiversity Conservation Act 2016</i> • Environmental planning instruments: <ul style="list-style-type: none"> ○ State Environmental Planning Policy – Building Sustainability Index: BASIX 2004 ○ State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development ○ State Environmental Planning Policy (Planning Systems) 2021 ○ State Environmental Planning Policy (Biodiversity and Conservation) 2021 ○ State Environmental Planning Policy (Resilience and Hazards) 2021 ○ State Environmental Planning Policy (Transport and Infrastructure) 2021 ○ Newcastle Local Environmental Plan 2012 • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Newcastle Development Control Plan 2012 • Planning agreements: Nil • Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i> • Coastal zone management plan: Nil • 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 • Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> 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: 14 June 2022 • Clause 4.6 variation request: 27 January 2022 • Council addendum assessment memorandum: 20 June 2022 • Council addendum assessment memorandum: 21 June 2022 • Council addendum assessment memorandum: 22 June 2022 • Written submissions during public exhibition: 555 • Verbal submissions at the public briefing on 13 April 2022:

		<ul style="list-style-type: none"> ○ Frank Renton, Ruth Anagnostis, Peter Sullivan, William Cameron, Margaret Ostinga, William Mitchell on behalf of Centre of Full Employment and Equity, John Lewer on behalf of Friends of King Edward Park, Ghillian Sullivan, Therese Doyle on behalf of the Hunter Community Forum, Louisa Connors on behalf of Open Newcastle Inc, Ben Weald, Ann Burstal, Jennifer Murray and Karen Read on behalf of Newcastle East Residents Group • Verbal submissions at the public meeting on 22 June 2022: <ul style="list-style-type: none"> ○ Therese Doyle, Jillian Kilby, Prof William Mitchell, Dr William Cameron, Ian Andrews, John Lewer on behalf of Friends of King Edward Park, Peter Sullivan, Ian Cook, Margaret Ostinga, Chris White, Maureen Connors, Elizabeth Logan, John Munson, Glenn Burgess on behalf of the Cooks Hill Community Group, Catherine Whelan, Jennifer Hamilton Langbien, Frank Renton, Ann Burstal, Kate Rabbitt, Ghillian Sullivan, Karen Read, Louisa Connors, Pamela Clark, Ben Ewald, Emily Connors, James Wilkinson and Elaine Ramsey ○ On behalf of the applicant – Stephen O'Connor and Steve Zappia
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing: 20 May 2021 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Juliet Grant (acting Chair), Sandra Hutton, Chris Wilson, John Mackenzie and Peta Winney-Baartz ○ <u>Council assessment staff</u>: William Toose, Gareth Simpson, Priscilla Emmett and Tracey Webb ○ <u>Department staff</u>: Leanne Harris and Holly McCann • Applicant Briefing: 11 October 2021 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Juliet Grant (acting Chair), Sandra Hutton, Chris Wilson, John Mackenzie and Peta Winney-Baartz ○ <u>Council assessment staff</u>: Gareth Simpson, Amy Ryan, Brian Cameron, Isabelle Rowlatt, Priscilla Emmett, Robert Manev and Rochelle Whiteman ○ <u>Department staff</u>: Leanne Harris, Jane Gibbs and Lisa Foley ○ <u>Applicant representatives</u>: Richard Anderson, Mark Purdy, Steve Zappia and Melissa Thomas <p><u>Note</u>: Applicant briefing was requested to provide the Panel with clarification and to respond to issues</p> • Public briefing: 13 April 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Juliet Grant (acting Chair), Sandra Hutton, Chris Wilson, John Mackenzie and Peta Winney-Baartz ○ <u>Council assessment staff</u>: William Toose, Amy Ryan and Olivia Magrath ○ <u>Department staff</u>: Leanne Harris, Carolyn Hunt and Lisa Foley • Site inspection and briefing: 6 May 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: : Juliet Grant (acting Chair), Sandra Hutton, Chris Wilson, John Mackenzie and Peta Winney-Baartz ○ <u>Council assessment staff</u>: William Toose, Elle Durrant, Brian Cameron, Amy Ryan and Olivia Magrath ○ <u>Department staff</u>: Leanne Harris, Carolyn Hunt and Lisa Foley • Briefing: 8 June 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Juliet Grant (acting Chair), Sandra Hutton, Chris Wilson, Elizabeth Adamczyk and Callum Pull

		<ul style="list-style-type: none"> ○ <u>Council staff</u>: William Toose, Amy Ryan, Priscilla Emmett, Michelle Bisson and Olivia Magrath ○ <u>Department staff</u>: Leanne Harris and Lisa Foley <ul style="list-style-type: none"> ● Site inspection: <ul style="list-style-type: none"> ○ Elizabeth Adamczyk – 26 May 2022; 12 June 2022 ○ Callum Pull – 4 June 2022 ● Final briefing to discuss Council's recommendation: 22 June 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Juliet Grant (acting Chair), Sandra Hutton, Chris Wilson, Elizabeth Adamczyk and Callum Pull ○ <u>Council assessment staff</u>: William Toose, Brian Cameron, Robert Manev, Holly Hutchens, Elle Durrant, Amy Ryan, Priscilla Emmett, Michelle Bisson and Olivia Magrath ○ <u>Department staff</u>: Leanne Harris and Lisa Foley
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report and amended by Addendum

SCHEDULE 2

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.

Plan No / Supporting Document	Reference / Version	Prepared by	Dated
SEPP 65 Design Verification Statement	-	Marchese Partners	13/05/2022
Site Plan / DA1.03	Job 17114 Revision D	Marchese Partners	16/05/2022
Demolition Plan / DA1.05	Job 17114 Revision B	Marchese Partners	16/05/2022
Demolition Staging Plan / DA1.06	Job 17114 Revision A	Marchese Partners	16/12/2021
Lower Ground Floor Plan / DA2.01	Job 17114 Revision H	Marchese Partners	16/05/2022
Ground Floor Plan / DA2.02	Job 17114 Revision I	Marchese Partners	16/05/2022
Level 1 Floor Plan / DA2.03	Job 17114	Marchese Partners	16/05/2022

		Revision H			
	Level 2 Floor Plan / DA2.04	Job 17114 Revision I	Marchese Partners	16/05/2022	
	Level 3 Floor Plan / DA2.05	Job 17114 Revision H	Marchese Partners	16/05/2022	
	Level 4 Floor Plan / DA2.06	Job 17114 Revision H	Marchese Partners	16/05/2022	
	Level 5 Floor Plan / DA2.07	Job 17114 Revision H	Marchese Partners	16/05/2022	
	Level 6 Floor Plan / DA2.08	Job 17114 Revision H	Marchese Partners	16/05/2022	
	Level 7 Floor Plan / DA2.09	Job 17114 Revision H	Marchese Partners	16/05/2022	
	Level 8 Floor Plan / DA2.10	Job 17114 Revision H	Marchese Partners	16/05/2022	
	Roof Floor Plan / DA2.11	Job 17114 Revision I	Marchese Partners	16/05/2022	
	Site Sections & Elevations 01 – Mosbri Cres Town Houses / DA3.01	Job 17114 Revision F	Marchese Partners	16/05/2022	
	Site Sections & Elevations 02 / DA3.02	Job 17114 Revision I	Marchese Partners	16/05/2022	
	Site Elevation & Elevation 03 / DA3.03	Job 17114 Revision H	Marchese Partners	16/05/2022	
	Site Sections & Elevations 04 / DA3.04	Job 17114 Revision H	Marchese Partners	16/05/2022	
	Site Sections & Elevations 05 / DA3.05	Job 17114 Revision G	Marchese Partners	16/12/2021	
	Site Sections & Elevations 06 / DA3.06	Job 17114 Revision G	Marchese Partners	16/12/2021	
	Section AA / DA3.07	Job 17114 Revision F	Marchese Partners	16/12/2021	

Site Elevations (West & North) / DA3.11	Job 17114 Revision A	Marchese Partners	16/12/2021
Site Elevations (East & South) / DA3.12	Job 17114 Revision A	Marchese Partners	16/12/2021
Exterior Finishes – Building A / DA7.20	Job 17114 Revision E	Marchese Partners	16/05/2022
Exterior Finishes - Mosbri Cres Town Houses / DA7.21	Job 17114 Revision E	Marchese Partners	16/12/2021
Exterior Finishes - Building B & C / DA7.23	Job 17114 Revision F	Marchese Partners	16/12/2021
Community Pavilion / DA4.01	Job 17114 Revision C	Marchese Partners	16/12/2021
Townhouse Type A (MC) 3 Bedroom / DA4.11	Job 17114 Revision A	Marchese Partners	10/12/2021
Townhouse Type B (MC) 3 Bedroom / DA4.12	Job 17114 Revision A	Marchese Partners	10/12/2021
Townhouse Type C (MC) 3 Bedroom / DA4.13	Job 17114 Revision A	Marchese Partners	10/12/2021
Townhouse Type D (MC) 3 Bedroom / DA4/14	Job 17114 Revision A	Marchese Partners	10/12/2021
Townhouse Type C1 3 Bedroom / DA4.15	Job 17114 Revision B	Marchese Partners	21/04/2022
Townhouse Type C2 3 Bedroom / DA4.16	Job 17114 Revision C	Marchese Partners	16/05/2022
Townhouse Type C3 3 Bedroom / DA4.17	Job 17114 Revision C	Marchese Partners	16/05/2022
Townhouse Type D1 1 Bedroom / DA4.18	Job 17114 Revision C	Marchese Partners	16/05/2022
Townhouse Type D2 1 Bedroom / DA4.19	Job 17114 Revision C	Marchese Partners	16/05/2022
Townhouse Type D3 1 Bedroom / DA4.20	Job 17114 Revision C	Marchese Partners	16/05/2022

Townhouse Type E 2 Bedroom / DA4.21A	Job 17114 Revision C	Marchese Partners	13/05/2022
Townhouse Type E 2 Bedroom / DA4.21B	Job 17114 Revision C	Marchese Partners	16/05/2022
Townhouse Type F 1 Bedroom / DA4.22	Job 17114 Revision C	Marchese Partners	16/05/2022
Townhouse Type G 2 Bedroom / DA4.23	Job 17114 Revision C	Marchese Partners	16/05/2022
Townhouse Type H 3 Bedroom / DA4.24	Job 17114 Revision C	Marchese Partners	16/05/2022
Townhouse Type I 3 Bedroom / DA4.25	Job 17114 Revision C	Marchese Partners	16/05/2022
Townhouse Type I 3 Bedroom / DA4.25	Job 17114 Revision C	Marchese Partners	16/05/2022
Townhouse Type J 2 Bedroom / DA4.26	Job 17114 Revision C	Marchese Partners	16/05/2022
Unit Type A1 1 Bedroom / DA4.27	Job 17114 Revision C	Marchese Partners	16/05/2022
Unit Type A2 2 Bedroom / DA4.28	Job 17114 Revision C	Marchese Partners	16/05/2022
Unit Type B1 2 Bedroom / DA4.29	Job 17114 Revision B	Marchese Partners	16/05/2022
Unit Type B2 2 Bedroom / DA4.30	Job 17114 Revision B	Marchese Partners	22/04/2021
Unit Type C 2 Bedroom / DA4.31	Job 17114 Revision B	Marchese Partners	22/04/2021
Unit Type D1 2 Bedroom / DA4.32	Job 17114 Revision B	Marchese Partners	22/04/2021
Unit Type D2 2 Bedroom / DA4.33	Job 17114 Revision B	Marchese Partners	22/04/2021
Unit Type E 2 Bedroom / DA4.34A	Job 17114 Revision C	Marchese Partners	16/05/2022

	Unit Type E2 2 Bedroom / DA4.34B	Job 17114 Revision A	Marchese Partners	16/05/2022
	Unit Type F 2 Bedroom / DA4.35	Job 17114 Revision C	Marchese Partners	16/05/2022
	Unit Type G 3 Bedroom / DA4.36	Job 17114 Revision C	Marchese Partners	16/05/2022
	Unit Type H 2 Bedroom / DA4.37	Job 17114 Revision C	Marchese Partners	16/05/2022
	Unit Type I 1 Bedroom / DA4.38	Job 17114 Revision A	Marchese Partners	10/12/2021
	Unit Type J 2 Bedroom / DA4.39	Job 17114 Revision C	Marchese Partners	16/05/2022
	Unit Type K 1 Bedroom / DA4.40	Job 17114 Revision B	Marchese Partners	21/04/2022
	Unit Type L 3 Bedroom / DA4.41	Job 17114 Revision C	Marchese Partners	16/05/2022
	Unit Type M 2 Bedroom / DA4.42	Job 17114 Revision C	Marchese Partners	16/05/2022
	Unit Type P 1 Bedroom / DA4.43	Job 17114 Revision B	Marchese Partners	21/04/2022
	Unit Type Q 1 Bedroom / DA4.44	Job 17114 Revision B	Marchese Partners	21/04/2022
	Unit Type R 3 Bedroom / DA4.45	Job 17114 Revision B	Marchese Partners	21/04/2022
	Unit Type S 3 Bedroom / DA4.46	Job 17114 Revision B	Marchese Partners	21/04/2022
	Unit Type T 2 Bedroom / DA4.47	Job 17114 Revision C	Marchese Partners	16/05/2022
	Unit Type U 2 Bedroom / DA4.48	Job 17114 Revision B	Marchese Partners	21/04/2022
	Unit Type V 3 Bedroom / DA4.49	Job 17114 Revision B	Marchese Partners	21/04/2022

Unit Type W 3 Bedroom / DA4.50	Job 17114 Revision C	Marchese Partners	16/05/2022
Unit Type X 3 Bedroom / DA4.51	Job 17114 Revision C	Marchese Partners	16/05/2022
Unit Type Y 3 Bedroom / DA4.52	Job 17114 Revision C	Marchese Partners	16/05/2022
Unit Type Z 1 Bedroom / DA4.53	Job 17114 Revision C	Marchese Partners	16/05/2022
Landscape Masterplan / 11-17 Mosbri Crescent, The Hill	Issue G	Arcadia Landscape Architecture	January 2022
Plan of Subdivision Location Plan	50543 001SP	LTS Lockley	19/12/2018
Plan of Subdivision – Ground Floor Parking	50543 001SP	LTS Lockley	19/12/2018
Plan of Subdivision – Level 1 Parking	50543 001SP	LTS Lockley	19/12/2018
Plan of Subdivision – Lower Ground Floor	50543 001SP	LTS Lockley	19/12/2018
Plan of Subdivision – Ground Floor	50543 001SP	LTS Lockley	19/12/2018
Plan of Subdivision – Level 1	50543 001SP	LTS Lockley	19/12/2018
Plan of Subdivision – Ground Floor Building A	50543 001SP	LTS Lockley	19/12/2018
Plan of Subdivision – Level 1 Building A	50543 001SP	LTS Lockley	19/12/2018
Plan of Subdivision – Level 2 Building A	50543 001SP	LTS Lockley	19/12/2018
Plan of Subdivision – Level 3 Building A	50543 001SP	LTS Lockley	19/12/2018
Plan of Subdivision – Level 4 Building A	50543 001SP	LTS Lockley	19/12/2018
Plan of Subdivision – Level 5 Building A	50543 001SP	LTS Lockley	19/12/2018
Plan of Subdivision – Level 6 Building A	50543 001SP	LTS Lockley	19/12/2018

Plan of Subdivision – Level 7 Building A	50543 001SP	LTS Lockley	19/12/2018
Plan of Subdivision – Level 8 Building A	50543 001SP	LTS Lockley	19/12/2018
Plan of Subdivision – Ground Floor Building B	50543 001SP	LTS Lockley	19/12/2018
Plan of Subdivision – Level 1 Building B	50543 001SP	LTS Lockley	19/12/2018
Plan of Subdivision – Level 2 Building B	50543 001SP	LTS Lockley	19/12/2018
Plan of Subdivision – Level 3 Building B	50543 001SP	LTS Lockley	19/12/2018
Plan of Subdivision – Level 4 Building B	50543 001SP	LTS Lockley	19/12/2018
Plan of Subdivision – Level 5 Building B	50543 001SP	LTS Lockley	19/12/2018
Plan of Subdivision – Level 6 Building B	50543 001SP	LTS Lockley	19/12/2018
Plan of Subdivision – Ground Floor Building C	50543 001SP	LTS Lockley	19/12/2018
Plan of Subdivision – Level 1 Building C	50543 001SP	LTS Lockley	19/12/2018
Plan of Subdivision – Level 2 Building C	50543 001SP	LTS Lockley	19/12/2018
Plan of Subdivision – level 3 Building C	50543 001SP	LTS Lockley	19/12/2018
Plan of Subdivision – level 4 Building C	50543 001SP	LTS Lockley	19/12/2018
Updated Drains Modelling Results		Northrop	22/04/2022
Concept Stormwater Management Plan	NL181220 Rev E01_K	Northrop	25/01/2022
Traffic & Parking Assessment	18/125	Intersect Traffic	14/01/2019
Traffic and Parking Assessment Addendum 1	18/25	Intersect Traffic	20/12/2022
HRV Turning Paths	NL180367 SK-01.01(1)	Northrop	20/04/2022

Cover Sheet, Drawing List and Locality Plan	DA-C00.01 Rev C	Northrop	16/12/2021
Erosion and Sediment Control Plan	DA-C10.01 Rev E	Northrop	16/12/2021
Erosion and Sediment Control Details	DA-C10.11Rev A	Northrop	21/12/2018
Civil Works Lower Ground Floor	DA-C20.01 Rev E	Northrop	16/12/2021
Civil Works Ground Floor Level	DA-C20.11 Rev K	Northrop	21/04/2022
Civil Works Level 2	DA-C20.21 Rev O	Northrop	21/04/2022
Civil Details – Sheet 1	DA-C30.01 Rev D	Northrop	21/04/2022
Civil Details – Sheet 2	DA-C30.02 Rev F	Northrop	16/12/2022
Civil Details – Sheet 3	DA-C30.03 Rev C	Northrop	16/12/2022
Civil Details – Sheet 4	DA-C30.04 Rev E	Northrop	16/12/2022
Cut / Fill Plan	DA-C40.01 Rev A	Northrop	16/12/2021
Bulk Earthworks Plan	DA-C40.11 Rev A	Northrop	16/12/2021
Bulk Earthworks Sections	DA-C40.21 Rev A	Northrop	16/12/2022
Arborist Impact Assessment	11-17 Mosbri Crescent The Hill	Vivienne Bleaker	21/04/2021
Arborist Advice	11-17 Mosbri Crescent The Hill	Vivienne Bleaker	24/11/2021
Arborist Response	11-17 Mosbri Crescent The Hill	Vivienne Bleaker	21/04/2021
Ausgrid Summary Environmental Report	AN-14197	Ausgrid	26/11/2020
Waste Management Plan	11-17 Mosbri Crescent The Hill	SLR Consulting	January 2022

Disability Access Report	11-17 Mosbri Crescent The Hill	Lindsay Perry Access	18/01/2022
Construction Noise and Vibration Assessment	11-17 Mosbri Crescent, The Hill	RAPT Consulting	April 2021
Noise Assessment	11-17 Mosbri Crescent, The Hill	RAPT Consulting	February 2019
Air Quality Assessment	21.1099.FR1V2	Northstar Air Quality	4 August 2021
Discussion on risk of Gaseous Emission from Drilling	754-NTLGE220504-AQ.Rev1	Coffey Services Australia Pty Ltd	23 April 2021
Construction Management Plan	Sovereign Park 11-17 Mosbri Crescent, The Hill	AVID Project Management Pty Ltd	20 January 2022
Groundwater Assessment Report	11-17 Mosbri Crescent, Newcastle	Coffey Services Australia Pty Ltd	28 April 2021
BCA Assessment Report	11- 17 Mosbri Crescent, The Hill	Steven Watson & Partners	January 2019
Bushfire Assessment Report	11-17 Mosbri Crescent, The Hill Ref: 1855 Version: Amended	Bushfire Planning Australia	April 2021
Statement of Heritage Impact	11-17 Mosbri Crescent, The Hill Rev F	John Carr Heritage Design	14/01/2019
Addendum to Statement of Heritage Impact	11-17 Mosbri Crescent, The Hill	John Carr Heritage Design	25 January 2022
Mine Subsidence Report	11-17 Mosbri Crescent, The Hill	Mine Subsidence and Mining Engineering Pty Ltd	6 May 2021
Aboriginal Due Diligence Assessment Report	11-17 Mosbri Crescent, The Hill	Umwelt Environmental & Social Consultants	27 April 2021
Aboriginal Cultural Heritage Assessment	11-17 Mosbri Crescent, The Hill	Umwelt Environmental & Social Consultant	December 2021
Traffic & Parking Assessment	11-17 Mosbri Crescent, The Hill	Intersect Traffic Pty Ltd	14 January 2019
Traffic & Parking Assessment Addendum	11-17 Mosbri Crescent, The Hill	Intersect Traffic Pty Ltd	20 December 2021

Preliminary Geotechnical Report	754-NTLGE220504-AG. Rev3	Coffey	14/01/2019
Mines Grouting Remediation Strategy	754-NTLGE220504-AO.Rev5	Coffey	9/11/2021
Slope Stability Assessment	754-NTLGE220504-1-AC.Rev2	Tetra Tech Coffey	21/12/2021
Flora and Fauna Assessment	11-17 Mosbri Crescent The Hill Version 2	Cumberland Ecology	22/04/2021
Assessment of Triggers for Entry into the Biodiversity Offset Scheme	11-17 Mosbri Crescent The Hill	Cumberland Ecology	29/11/2021
Preliminary Contamination Assessment	754-NTLGE220504-AB Revision AB	Coffey	14/12/2018
Phase 2 Detailed Site Investigation	754-NTLGE220504-AJ Revision Final	Coffey	23/06/2019

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.

WORKS NOT APPROVED

2. Development consent has not been granted to the following element of the proposal (marked in red on the approved plans):

- a) South facing window to apartment number E118

Works not approved are to be excluded from documentation submitted for a Construction Certificate application

ADMINISTRATIVE CONDITIONS

3. The General Terms of Approval from state authorities must be complied with prior to, during, and at the completion of the development.

The General Terms of Approval are:

- a) Subsidence Advisory NSW, ref: TBA22-00673, dated 9 March 2022
- b) NSW Rural Fire Service, ref: DA-2019-00368-CL-55-2, dated 2 December 2021
- c) Heritage NSW, ref HMS ID:851, dated 11 May 2022

A copy of the General Terms of Approval is attached to this determination notice.

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

4. Prior to issue of Construction Certificate, the development must be amended to include the follow design amendments:

- a) 'Double-sided' lifts at 'Ground Level' and 'Level 1' for Building A, Building B, and Building C to provide direct access from the lift to both the car parking area and the apartment lobbies.
- b) Screened or solid (opaque, non-glass) balustrading to no less than 40% of the total area of balustrading (measured in elevation) within the north façade of 'Building A'.
- c) 1.8m high (measured from finish floor level), fixed privacy screen, along the south edge of apartment D221 balcony.
- d) Deletion of Level 7 of Building A (comprising 2 x 3 bedroom units, 2 x 2 bedroom units and 2 x 1 Bedroom units)
- e) Reduction of the eastern balcony extents for apartment B210 and B211 at Level 2 of Building A facing Arcadia Park, to match Level 3 balcony extents above, and include landscaping to the setback of Building A to Arcadia Park with a minimum of five (5) canopy trees plus landscaping of similar species and composition to that provided in the landscaped area between Buildings A and B;
- f) Identification of any opportunities for additional shrub and tree canopy integrated into the terraced eastern landscape wall between Arcadia Park and the stormwater infrastructure

- 4A. 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.

The above details are submitted to and approved by Council's Manager Regulatory, Planning and Assessment (in consultation with CN's Urban Design Consultative Group) prior to issue of a Construction Certificate. Full details are to be included in the documentation submitted for a Construction Certificate application.

5. 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:

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:

- (i) prior to the issue of the Subdivision Certificate where the development is for subdivision; or
- (ii) prior to the issue of the first Construction Certificate where the development is for building work; or
- (iii) prior to issue of the Subdivision Certificate or first Construction Certificate, whichever occurs first, where the development involves both subdivision and building work; or
- (iv) prior to the works commencing where the development does not require a Construction Certificate or Subdivision Certificate.

6. Required mine grouting works are to be approved, completed and accepted by Subsidence Advisory NSW prior to the issue of any other Construction Certificate for the proposed development.

7. Before the issue of a construction certificate, a suitably qualified engineer must prepare a dilapidation report detailing the structural condition of adjoining buildings, structures or works and public land, to the satisfaction of

the certifier. If the engineer is denied access to any adjoining properties to prepare the dilapidation report, the report must be based on a survey of what can be observed externally and demonstrate, in writing, to the certifier's satisfaction that all reasonable steps were taken to obtain access to the adjoining properties.

8. Slopes and retaining structures are to be designed and constructed in consideration of project specific geotechnical analysis and design inputs. Full details are to be included in documentation for a Construction Certificate application.
9. 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 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. Full details are to be included in documentation for a Construction Certificate application.
 - a) 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.
 - b) 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.
10. The car parking and vehicular access is 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. Details are to be included in documentation for a Construction Certificate application.
11. Prior to the issue of the relevant Construction Certificate, the following must be demonstrated to the satisfaction of the certifying authority:
 - a) The car park must provide Electric Vehicle (EV) Ready Connections to at least 25% of allocated residential parking spaces, including two (2) of the adaptable disabled carparking spaces required under Condition 9;
 - b) EV Distribution Board(s) shall be of sufficient size and capacity to allow for future EV connections to all residential car parks.
 - c) C1 Electric circuitry to accommodate 'Level 2' electric vehicle charging points must be provided to ensure that car spaces can install electric vehicle charging points in the future. This must include:
 - a. Ensuring adequate distribution board size for the electric vehicle charging point system and identifying load management requirements; and
 - b. Providing either buried cables underground or cable trays sufficient to accommodate electric circuitry to each car space.
 - d) EV Distribution board(s) must be located so that no future EV Ready Connection will require a cable of more than 50m from the parking bay to connect;
 - e) Each EV Ready Connection is to be 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;
 - f) 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
 - g) 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.
12. All parking spaces shall include wheel stops. Full details are to be included in documentation for a Construction Certificate application.

13. Detailed engineering design plans and specifications for the works being undertaken within the public road reserves of Mosbri Crescent and Kitchener Parade are required to be prepared by a suitably qualified practising civil engineer with experience and competence in the related field.
14. The detailed engineering design plans and specification are to include a detailed hydrological and hydraulic design of all pipe and overland flows demonstrating stormwater discharge rates and flowpaths through the development site and into Mosbri Crescent and the receiving drainage system is maintained or improved upon and are to demonstrate that all pipes within the Easement to Drain Water and the road reserve have a minimum of 1% fall and that all overland flows are wholly contained within the bounds of the proposed easement.
15. All proposed private 'dish' or surface drains located atop the proposed retaining walls are to have appropriate stormwater collection discharge measures. Full details are to be included in documentation for a Construction Certificate application.
16. All proposed retaining walls are to be located wholly outside of the proposed Easement to Drain Water. Full details are to be included in documentation for a Construction Certificate application.
17. The proposed Community Pavilion is to be sited so that the roof structure does not encroach over the proposed Easement to Drain Water. Full details are to be included in documentation for a Construction Certificate application.
18. Prominent and permanent floodway signage is to be erected and maintained at all times at locations where people might access the Easement to Drain Water. The signage is to be erected so that it does not obstruct vehicular access or overland flows. Full details are to be included in documentation for a Construction Certificate application.
19. Dense vegetative territorial reinforcement measures and/or appropriate fencing is to be installed outside of the Easement to Drain Water at any location where pedestrian access to the easement is possible and where the level difference between the surface level of the easement and the adjacent open space is equal to or greater than 0.6 metres. Full details are to be included in documentation for a Construction Certificate application.
20. All abandoned or redundant stormwater pipelines within the development site are to be removed or core filled. Full details are to be included in documentation for a Construction Certificate application.
21. Appropriate subsurface drainage is to be installed immediately adjacent any building structure which forms a common boundary with the Easement to Drain Water. A By-Law requiring maintenance of this subsurface drainage to be the responsibility of the Strata Body is to be included in the relevant Strata By-Laws and/or Building Management Statement. Full details are to be included in documentation for a Construction Certificate application.
22. Details of the screening for all rooftop mechanical plant to minimise visual impact is to be assessed and approved by Newcastle City Council and provided in documentation for a Construction Certificate application. Details of additional landscape screening to the eastern and western extents of Building B northern roof top plant area to further soften views into the roof top plant area is to be assessed and approved by Newcastle City Council and provided in documentation for a Construction Certificate application.
23. The Developer shall design the following works, to the satisfaction of the Road Authority, in connection with the development within the Mosbri Crescent road reserve, adjacent to the site, at no cost to the Road Authority and in accordance with the Road Authority's guidelines and design specifications and as otherwise required by the conditions of this consent:
 - a) Construct new footpath and landscaping across site's Mosbri Crescent frontage;
 - b) Construction of new driveway crossings;
 - c) Remove all redundant driveway crossings on Mosbri Crescent frontage and reinstatement with kerb and gutter, footpath to match existing;
 - d) Removal of all redundant pipes located within public footway areas and/or all voids grout filled if located under the road carriageway;
 - e) Provision of parking regulatory signage (and/or modification of existing) to facilitate location of new driveway and removal of redundant driveway crossings; and

f) Provision of street trees.

24. The Developer shall design the following works, to the satisfaction of the Road Authority, in connection with the proposed development within the Kitchener Parade public road reserve, adjacent to the site, at no cost to the Road Authority and in accordance with Road Authority's guidelines and design specifications and as otherwise required by the conditions of this consent:
- a) Extend the existing kerb and gutter along the frontage of the site generally following the existing alignment of the road pavement edge but sufficient to provide one parking lane (north side) and two travel lanes;
 - b) Install an asphaltic concrete berm in association with the existing guard fence to direct runoff to the new kerb and gutter;
 - c) Install a pedestrian crossing of Kitchener Parade generally where the new footpath through the development site meets Kitchener Parade, using kerb extensions on both sides of the road.
 - d) Connect the crossing to the existing footpath on the northern side of Kitchener Parade using stairs and handrail;
 - e) Upgrade street lighting associated with the provision of a pedestrian crossing;
 - f) Provision of street trees; and
 - g) Provide 'No Stopping' signs along the site frontage and other appropriate changes to regulatory signage and markings associated with establishment of the pedestrian crossing.
25. A commercial vehicular crossing is to be constructed across the road reserve at the main vehicular entrance to the development, in accordance with the following criteria:
- a) Constructed in accordance with Council's A1300 – Driveway Crossings Standard Design Details.
 - b) The driveway crossing, within the road reserve, shall be a maximum of 8.0 metres wide.
 - c) Letterboxes, fences, landscaping and any other obstructions to visibility should be kept clear of or limited in height to 1.2 metre, in the 2 metre by 2.5 metre splay within the property boundary each side of the driveway entrance.
 - d) The proposed driveway shall be a minimum of 3 metres clear of the trunk of any tree within the public reserve.
 - e) The proposed driveway shall be a minimum of 750mm clear of the centre of any pole or obstruction within the public reserve and 1 metre clear of any drainage pit.
26. A commercial vehicular crossing is to be constructed across the road reserve at the entrance to the proposed Easement to Drain Water and Heavy Rigid Vehicle hardstand area, in accordance with the following criteria:
- a) Constructed in accordance with Council's A1300 – Driveway Crossings Standard Design Details.
 - b) The driveway crossing, within the road reserve, shall be a maximum of 5.2 metres wide.
 - c) Letterboxes, fences, landscaping and any other obstructions to visibility should be kept clear of or limited in height to 1.2 metre, in the 2 metre by 2.5 metre splay within the property boundary each side of the driveway entrance.
 - d) The proposed driveway shall be a minimum of 3 metres clear of the trunk of any tree within the public reserve.
 - e) The proposed driveway shall be a minimum of 750mm clear of the centre of any pole or obstruction within the public reserve and 1 metre clear of any drainage pit.
27. 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.
28. The visitor parking bays are to be appropriately line-marked so as to be designated as visitor spaces. Full details are to be included in documentation for a Construction Certificate application.
29. 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. All parking spaces shall include wheel stops. Full details are to be included in documentation for a Construction Certificate application.

30. An application must be lodged and consent obtained from the Road Authority (Council) for all works within the road reserve pursuant to Section 138 of the Roads Act 1993 (NSW). The consent must be obtained, or other satisfactory arrangements confirmed in writing by the Road Authority, before the issue of a Construction Certificate (other than a Construction Certificate for early on-site works).
31. 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 Concept Stormwater Management Plan and Updated Civil Engineering Plans or as otherwise required by the conditions of this consent. Full details are to be included in documentation for a Construction Certificate application.
32. Prior to the commencement of construction the Applicant must engage a suitably qualified Green Star accredited professional to ensure Ecologically Sustainable Development measures are incorporated into the detailed design of the development, and demonstrate ESD measures are being achieved by either:
 - a) Registering for a minimum 5 Green Star rating with the Green Building Council of Australia and submitting evidence of registration to the Certifier; or
 - b) Seeking approval from the Council for an alternative certification process.
33. The building materials used on the facades of the buildings shall have a maximum normal specular reflectivity of visible light of 20 per cent and shall be designed so as not to result in glare that causes any discomfort or threatens the safety of pedestrians or drivers. A report/statement demonstrating compliance with these requirements is to be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for above ground façade works.
34. Screened facilities are to be provided within the proposed basement, for the storage of garbage. Full details are to be included in documentation for a Construction Certificate application.
35. All Internal and boundary fencing is to be of a high-quality presentation style and of attractive visual appearance. Fences are not to be of colourbond material. Full details are to be included in the documentation for a Construction Certificate application.
36. The Applicant must demonstrate compliance with the adaptable housing provisions of AS/NZS 4299 – Adaptable Housing, and to demonstrate how the detailed design of the development has incorporated measures for adaptable housing to be modified to become accessible housing in compliance with AS/NZS 1428.1 – Design for Access and Mobility and AS/NZS 2890.6 – Off street parking for people with disabilities. A written report from an appropriately qualified professional addressing how the controls within the relevant Australian Standard and National Construction Code are being incorporated into the detailed design of the development should be included in the documentation for a Construction Certificate.
37. All proposed lighting of the development is to be designed, positioned, installed and operated to minimise light spill into the environmentally sensitive public owned land at Lot 7004 DP 1077043 (3 Ordnance Street, The Hill). Light design will include appropriate shielding and orientation of fixtures so that maximum light values do not exceed curfew values for Zone A3 after 9pm, in accordance with Table 3.2 of the Australian/New Zealand Standard AS/NZS 4282: 2019 Control of the obtrusive effects of outdoor lighting. The Calculation Plane is to be the property boundary with Arcadia Park. Full details to be included in the documentation for a Construction Certificate.
38. 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 Certifier 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.
39. A group type mailbox is to be provided in the main lobbies for Buildings A and B/C, and the townhouses at the Mosbri Crescent frontage in accordance with the requirements of Australia Post, clearly displaying individual unit numbers and the required townhouse numbers. Full details are to be included in the documentation for a

Construction Certificate application.

40. 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 monetary 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.
41. A design verification statement from a qualified designer shall be submitted to the Certifying Authority. The statement shall confirm the Construction Certificate plans and specifications achieve or improve the design quality of the development for which consent is granted, having regard to the design quality principles set out in Part 2 of *State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development*.

Full details are to be included in the documentation for the first Construction Certificate for the residential flat development (other than a Construction Certificate for early works). Note: 'Qualified Designer' means a person registered as an architect in accordance with the *Architects Act 2003*. This condition is imposed in accordance with Clause 143A of the *Environmental Planning and Assessment Regulation 2000*.

42. The recommendations and tree protection measures provided in the Arborist Report Impact Assessment prepared by Vivienne Bleaker, dated 21 April 2021; Arborist Advice prepared by Vivienne Bleaker, dated 24 November 2021 and Arborist Response prepared by Vivienne Bleaker dated 21 April 2022 are to be complied with and included in documentation for a Construction Certificate.
43. Prior to any ground disturbance works occurring on the site, the Applicant is to engage a suitably qualified historical archaeologist to undertake a detailed Historical Archaeological Assessment of the site. The Assessment shall comply with Heritage Council of NSW guidelines including but not limited to *Assessing Significance for Historical Archaeological Sites and Relics 2009* and *Archaeological Assessments 1996*. This assessment should identify what relics, if any, are likely to be present, assess their significance and consider the impacts from the proposal on this potential resource.
44. An Aboriginal Heritage Impact Permit (AHIP) is required to be obtained from Heritage NSW under Part 6 of the National Parks and Wildlife Act 1974 prior to the commencement of any ground disturbance works within the AHIP Curtilage identified with the Draft Aboriginal Cultural Heritage Assessment prepared by Umwelt (Australia) Pty Ltd dated December 2021. The AHIP is to include provision for the completion of Aboriginal archaeological investigations in the form of test excavations and further salvage activities.

During any excavation work, in the event that any Aboriginal objects are identified within the area of works, works within the immediate vicinity of the Aboriginal object must cease and Heritage NSW is to be contacted so that appropriate management strategies can be identified. In the unlikely event that a potential burial site or potential human skeletal material is exposed, work in the vicinity of the remains is to halt immediately to allow assessment and management. If the remains are suspected to be human, it will be necessary to contact local police and Heritage NSW to determine an appropriate course of action.

45. In the event the Historical Archaeological Assessment identifies the proposal will impact historical archaeological relics, the Applicant is to obtain an approved Section 140 application under the *Heritage Act 1977* prior to any ground disturbing activities commencing. This application will need to clearly outline what mitigation measures are proposed to avoid harm to any significant deposits. In the event State significant archaeological remains may be harmed, these remains are to be avoided and protected during these works.
46. A Heritage Interpretation Plan is to be prepared by an experienced heritage interpretation practitioner and submitted with the documentation for a Construction Certificate. The Interpretation Plan shall be in accordance with the Heritage Council's document *Interpreting Heritage Places and Items Guidelines 2005*. The plan must interpret the multiple uses and history of the site, including promotion of the Aboriginal cultural heritage values of the site, in a way that is engaging, informative and readily accessible to the majority of visitors. Written approval from Council's Heritage Officer is to be obtained prior to the issue of a Construction Certificate.
47. The four (4) existing street trees on Kitchener Parade identified as Council ID 5380622; 5380623; 2181379 and 20385580 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. Full details are to be included in documentation for a Construction Certificate application.

48. Ten (10) x 200L street trees on Kitchener Parade are required to be planted as compensation for the removal of the existing street trees as identified in the above condition with all works including tree removal to be at the developer's expense through Tree Work on Public Land application process.

All tree species and locations will be determined by City Greening Services and payment will be required prior to the issuing of the Construction Certificate. 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.

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.

49. The existing *Callistemon citrinus* park tree identified as Council ID 15200 is 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. One (1) park tree is required to be planted as compensation for the removal of the existing tree. 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

NOTE: The tree selection and location of the required compensatory tree will be determined by Council's City Greening Coordinator in accordance with Newcastle City Council Street Tree selection manual. The location of the compensatory tree planting may not be in the immediate proximity of the site.

50. All proposed planting and landscape elements indicated on the Landscape Plans prepared by Arcadia Landscape (Revision G), dated January 2022 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 and outline planting to occur

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

51. Before any works commence on the site, all contractors and subcontractors are to undergo an induction session, delivered by a suitably qualified heritage consultant, highlighting the historical significance of the site and surroundings, and in particular those landscape elements, building elements and archaeology requiring conservation. All contractors and subcontractors are to be made aware of their obligations under the Heritage Act

1977 and the National Parks and Wildlife Act 1974 in regard to unexpected archaeological finds.

52. The Applicant must ensure that if any unexpected archaeological deposits or relics not identified and considered in the supporting documents for this approval are discovered, work must cease in the affected area(s) and the Heritage Council of NSW must be notified as required by Section 146 of the *Heritage Act 1977*. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery. Note: Heritage NSW can be contacted on 02 9873 8500 or heritagemailbox@environment.nsw.gov.au. A 'relic' is any deposit, object or material evidence that relates to the settlement of New South Wales, not being Aboriginal settlement, and is of State or local significance. It is an offence under the provisions of the *Heritage Act 1977* for a person to disturb or excavate any land upon which the person has discovered a relic except in accordance with a gazetted exemption or an excavation permit issued by the Heritage Council of NSW.
53. Should any Aboriginal objects be uncovered by the work which is not covered by a valid Aboriginal Heritage Impact Permit, excavation or disturbance of the area is to stop immediately and Heritage NSW is to be informed in accordance with the National Parks and Wildlife Act 1974. Works affecting Aboriginal objects on the site must not continue until Heritage NSW has been informed and the appropriate approvals are in place. Aboriginal objects must be managed in accordance with the National Parks and Wildlife Act 1974.
54. The development is to be undertaken in accordance with the recommendations set out in the Aboriginal Cultural Heritage Assessment Report, prepared by Umwelt (Rev 3, 17 December 2021).
55. 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)*.
56. All building work must be carried out in accordance with the provisions of the National Construction Code.
57. **The proposed visitor parking bays are to be clearly indicated by means of signs and/or pavement markings and at all times be available for visitors only.**
58. On-site car parking accommodation is to be provided for a minimum of **two hundred and forty (240) cars (comprising 205 for residential and 35 for visitors)**, twelve (12) motorcycles, one hundred and ninety (190) 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. All vehicle spaces shall be provided with wheel stops.
59. 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 Certifier 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.

60. A survey certificate prepared by a Registered Surveyor is to be submitted to the Principal Certifier upon completion of the floor slab formwork, before concrete is poured, to ensure that the siting of the building in relation to adjacent boundaries is in accordance with the development consent.

61. Certification is to be prepared by a Registered Surveyor and submitted to the Principal Certifier 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.

62. Prior to any works commencing on site or within Mosbri Crescent or Kitchener Parade, the Developer is to prepare a Construction Management Plan (CMP) such to be designed and implemented to manage all environmental aspects associated with the construction works, including off site impacts such as transport to and from the site. Two copies of the CMP are to be provided to the Principal Certifier and the CMP is to be maintained on site during all site works and be made available to Authorised Officers upon request. The CMP is to include, but not be limited to:

- a) Induction requirements for all site personnel, contractors and visitors;
- b) A site management strategy, identifying and addressing issues such as environmental health and safety, site security, and traffic management;
- c) A dilapidation survey of all road pavement and kerb and gutter within Mosbri Crescent, Kitchener Parade between Swan Street and Brown Street, Swan Street and Queen Street between Mosbri Crescent and Darby St, and Darby Street between Queen Street and King Street. The developer is encouraged to include Closed Circuit Television (CCTV) digital recordings of all piped road crossings within the above road assets;
- d) A dilapidation survey of immediately adjoining residential dwellings and any additional dwellings recommended by the expert as having potential for construction related impacts, prepared by a suitably qualified and experienced expert that also holds adequate insurances.
- e) Proposed mine grouting works;
- f) A soil and water management strategy, detailing erosion and sediment control, management of soil stockpiles, control and management of surface water and groundwater. Procedures should be included to ensure that all roads adjacent to the site are kept free and clear from mud and sediment;
- g) A dust management strategy, detailing procedures to minimise dust generation, with particular reference to control techniques and operational limits under adverse meteorological conditions;
- h) A waste minimisation strategy ~~that aims~~ to avoid production of waste and maximise reuse, recycling or reprocessing of potential waste material;
- i) A community consultation strategy **to facilitate communication between the applicant, the Council and the community (including adjoining affected landowners and others directly impacted by the development), immediately prior to, during the construction of the development and for a minimum period of 6 months following the completion of construction.**

The strategy, to be prepared and implemented at the applicants costs must:

1. Provide for the formation of Community Consultative Committee with an independent chair, to advise on key environmental management issues for the development including specific requirements around traffic, noise and vibration, and general amenity. The committee is to be established prior to the construction phase of the development and operate throughout the construction phase of the project.
 2. Identify people to be consulted during the construction phase of the project
 3. Set out procedures and mechanisms for the regular distribution of accessible information about or relevant to the development
 4. Set out procedures and mechanisms:
 - i. Through which the community can discuss or provide feedback to the applicant
 - ii. Through which the applicant will respond to enquiries or feedback from the community; and
 - iii. To resolve any issues and mediate any disputes that may arise in relation to construction of the development including disputes regarding rectification or compensation
- j) A noise management strategy detailing measures to minimise the impact of the construction phase on the amenity of the locality, in accordance with Australian Standard AS 2436, 1981 'Guide to Noise control on Construction, Maintenance and Demolition Sites'. Noise monitoring during the construction phase should be incorporated into the program;
 - k) A Construction Traffic Management Plan 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;
 - l) A remote car parking and shuttle bus strategy to minimise the impact construction personnel car parking would have on the road network in the vicinity of the development site. The strategy must take into account the lawful access to and the use of any off-site location proposed and detail the provision of sufficient parking facilities or other travel arrangements for construction workers.
 - m) 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'.
 - n) An Early Works Strategy to bring forward as early as possible the construction of retaining and associated works to the southern boundary adjoining existing residential properties 11-15 Hillview Crescent, and to facilitate the early protection of

existing trees near that boundary and establishment of site boundary landscaping.

63. Prior to the commencement of any work, the Developer must lodge with Council a financial security in the form of an unconditional Bank Guarantee, showing no expiry date, or a cash bond (by electronic funds transfer) in the amount of \$230,000 (incl. GST) to provide security for the rectification of any dilapidation of existing Council assets as a result of the works associated with completing the development. Additional bond establishment fees may apply in accordance with Council's Adopted Fees and Charges. Evidence of the receipt of the financial security is to be included in documentation for a Construction Certificate application.

64. Any excavated material to be removed from the site is to be assessed and classified in accordance with the NSW Environment Protection Authority's '*Waste Classification Guidelines Part 1: Classifying Waste*' and be transported and disposed of in accordance with the provisions of the *Protection Of The Environment Operations Act 1997* and the *Protection Of The Environment (Waste) Regulation 2014*.

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*.

65. 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 Certifier on request.

66. 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 and the demolisher prior to commencement of work.

67. 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.

68. If the soil conditions require it, retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil must be provided and adequate provision must be made for drainage.

69. 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 at all times and to prevent damage to the road reserve. The storage of building materials on Council reserves including the road reserve is not permitted

70. Construction/demolition work including the delivery of materials to and from the site, 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 work may be carried out on Sundays or public holidays.

Construction activities may only be undertaken outside of these hours if required:

- (a) By the Police or a public authority for the delivery of vehicles, plant or materials; or
- (b) In an emergency to avoid the loss of life, damage to property or to prevent environmental harm; or
- (c) Where a variation is approved in advance in writing by the Council or their nominee if appropriate justification is provided for the works.

Notification of such construction activities must be given to affected residents before undertaking the activities or as soon as is practical afterwards.

Rock breaking, rock hammering, sheet piling, pile driving and similar activities may only be carried out between the following hours:

- (a) 9am to 12pm, Monday to Friday;
- (b) 2pm to 5pm, Monday to Friday; and
- (c) 9am to 12pm, Saturday.

- 71. 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.
- 72. All public trees, not specifically identified for removal, are required to be retained and must be physically protected in accordance with the City of Newcastle Urban Forest Technical Manual and *AS4970 Protection of trees on development sites*. Design and methods must be modified to ensure the ongoing viability of public trees. 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.
- 73. All work within tree protection zones of public and private trees must be under the direct supervision of a Project Arborist (an AQF level 5 with relevant experience), to ensure the ongoing viability of trees following construction activities.
- 74. Where the 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).
- 75. 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.
- 76. The demolisher is to ensure that all demolition material is kept clear of the public footway and carriageway as well as adjoining premises.
- 77. 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.
- 78. 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.

- 79. 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.

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

- a) Restricting topsoil removal
- b) Regularly and lightly watering dust prone areas (note: prevent excess watering as it can cause damage and erosion)
- c) Alter or cease construction work during periods of high wind and
- d) Erect green or black shade cloth mesh or similar products 1.8m high around the perimeter of the site and around every level of the building under construction.

81. 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:

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.

82. 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'

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

83. 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 any Occupation Certificate.

84. An Easement in Gross, nominating Newcastle City Council as the benefitting authority, is to be created in accordance with Sections 88A and 88B of the Conveyancing Act, 1919 over the subject development site for the following purposes;

- a) 'Easement to Drain Water' containing the underground pipe and overland flow paths from Arcadia Park to Mosbri Crescent generally as depicted on the approved Architectural Plans and is also to include a splay across the inside corner of the easement to align with the splayed southeastern corner of Building C; and
- b) 'Right of Footway' over all paths, landings, ramps and stairs associated with the pedestrian link between Mosbri Crescent and Kitchener Parade located adjacent the sites northwestern boundary.

85. Written certification from an appropriately qualified acoustic consultant being submitted to the Principal Certifier prior to issue of any 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.

86. Appropriate notation is to be placed on the documentation for a Strata Certificate and an instrument under Section 88B of the *Conveyancing Act 1919* (NSW) setting out the terms of any other 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.

87. A design verification statement from a qualified designer shall be submitted to the Principal Certifier prior to the issue of any Occupation Certificate. The statement shall confirm the development has been constructed in accordance with the quality principles set out in Part 2 of *State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development*. Note: ‘Qualified Designer’ means a person registered as an architect in accordance with the *Architects Act 2003*. This condition is imposed in accordance with Clauses 154A of the *Environmental Planning and Assessment Regulation 2000*.
88. 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. Details are to be provided prior to issue of any Occupation Certificate.
89. All commitments listed in the relevant BASIX certificate for the development are to be satisfactorily completed prior to the issue of any Occupation Certificate. Should there be any changes to the specifications of the units/townhouses 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.
90. All public footways, footpaving, kerbs, gutters, road pavement or other public infrastructure 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 issue of any Occupation Certificate in respect of the development.
91. All works within the road reserve and public areas required by this consent are to be completed prior to the issue of any Occupation Certificate.
92. 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 any Occupation Certificate for the development.
93. All works associated with the underground pipe and overland flow path from Arcadia Park to Mosbri Crescent are to be completed prior to the issue of any Occupation Certificate.
94. 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 Certifier and to Newcastle City Council prior to the issue of any Occupation Certificate. The plans shall be prepared by a Practising Professional Engineer or Registered Surveyor experienced in the design of stormwater drainage systems.
95. Prior to the issue of any Occupation Certificate and not more than two (2) weeks before Practical Completion is achieved Closed Circuit Television (CCTV) digital recordings is to be undertaken of all pipes within the Easement to Drain Water and all new pipes laid within any public road or Mosbri Park and copies are to be provided to the Principal Certifier and Council for review and acceptance.

To facilitate the issuing of Council Asset numbers the Developer is to provide the Council with a Works as Executed plans (Electronic and Hardcopy format) of the completed stormwater drainage network a minimum of 5 business days prior to the commencement of the CCTV investigation. A Council Asset inspection officer will be available on site at the commencement of the CCTV investigation (minimum 2 days notification required Ph. 4974 2613). The CCTV recordings and reporting of defects shall and in accordance with the Specifications at Appendix 10 and Appendix 11 of Council’s ‘Stormwater and Water Efficiency for Development Technical Manual July 2017’ (or equivalent as amended by Council) and be provided to the Principal Certifier and Council within one week of the completion of inspection work.

Council’s Asset section will review the CCTV footage and report and advise acceptance or otherwise of the stormwater conduits. Any defects identified by Council are to be repaired prior to the issue of any Occupation Certificate.

96. Prior to the issue of any Occupation Certificate and prior to any dilapidation rectification works being undertaken, the Developer is to complete a post construction dilapidation survey covering the same extent of road asset as per

the pre-construction dilapidation survey contained within the Construction Management Plan and provide the dilapidation survey for review by Council.

Council's Asset Services will undertake an inspection of the road assets and identify in writing all dilapidation requiring rectification by the Developer. If considered necessary, Council may request CCTV inspection of any piped drainage that might appear to have been damaged as a result of the construction of the development. Any identified rectification works are to be completed, to the satisfaction of Council as the Road Authority, prior to the release of the financial security held by Council and prior to the issue of the Occupation Certificate, unless otherwise agreed by Council in writing.

97. A Landscape Practical Completion Report is to be submitted to the Principal Certifier prior to the issue of any Occupation Certificate. The report is to verify that all landscape works have been carried out consistent with approved Landscape Plan under this consent and 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.
98. Prior to the issue of the occupation certificate for the relevant stage, the project Arborist must submit to the Certifier a certificate that details:
 - a) all tree protection requirements and measures were complied with for the duration of the construction works in accordance with the Arborist Report Impact Assessment prepared by Vivienne Bleaker, dated 21 April 2021; Arborist Advice prepared by Vivienne Bleaker, dated 24 November 2021 and Arborist Response prepared by Vivienne Bleaker dated 21 April 2022
 - b) all completed works relating to tree protection and maintenance have been carried out in compliance with the conditions of consent and approved plans (as amended by conditions of this consent);
 - c) dates, times and reasons for all site attendance by the project Arborist/s; and
 - d) all works undertaken to maintain the health of retained trees.
99. The development is to have allocated street address/es in accordance with *Council's House Numbering Policy* and the *Surveying and Spatial Regulation*.
100. An application is to be made for a Strata Certificate in accordance with the requirements of Division 4 of the *Strata Scheme (Freehold Development) Act 1973 (NSW)*.
101. Prior to the issue of any Occupation Certificate, the Applicant must engage a suitably qualified and experienced expert to prepare a Post-Construction Dilapidation Report/s that were subject to Dilapidation reporting under the provisions of Conditions 7 and 60. This Report/s must:
 - a) document the results of the post-construction survey and compare it with the pre-construction survey to ascertain whether the construction works caused any damage to buildings or infrastructure surveyed;
 - b) be provided to the owner of the relevant buildings or infrastructure surveyed;
 - c) be submitted to the Certifier; and
 - d) be forwarded to Council for information.

CONDITIONS TO BE SATISFIED DURING THE OPERATION AND USE THE DEVELOPMENT

102. 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.
103. 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.

104. A minimum of thirty-five (35) of the proposed on-site parking spaces are to be made available at all times for the use of visitors to the premises and such spaces under no circumstances being subdivided, leased or controlled by or on behalf of particular unit owners or residents. Visitor parking is to be available to be used for visitors at all times and remain as part of common property. Under no circumstances are such areas to be used for the storage of goods or waste materials or used by residents of the development.
105. A minimum of three (3) of these visitor spaces are to be configured and made available for parking for persons with a disability.
106. The stormwater management system, driveway crossing and parking areas are to be properly maintained for the life of the development.
107. 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.
108. Under no circumstances are garbage bins to be presented to the street for kerbside collection for kerbside collection or remain at kerbside after collection.
109. 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. Under no circumstances are garbage bins to be stored or presented for collection on the driveway areas.

ADVISORY MATTERS

- Any tree removal not identified on the approved landscape plans must be approved by Council prior to removal. A detailed assessment of the viability of the tree retention is to be prepared by a suitably qualified Arborist and submitted to Council as part of the approval process.
- Retaining walls not clearly noted on the approved plans or outside of the parameters of 'exempt development' as specified in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (NSW) are to be subject to a separate development application. An application in this regard is to be approved prior to any works relating to the retaining wall taking place.
- 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.
- 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).
- 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 Certifier 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 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.
- 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.

SCHEDULE 2 RURAL FIRE SERVICE GENERAL TERMS OF APPROVAL



NSW RURAL FIRE SERVICE

Newcastle City Council
PO Box 489
NEWCASTLE NSW 2300

Your reference: DA2019/00061 (CNR-11808)
Our reference: DA-2019-00368-CL55-2

ATTENTION: William Toose

Date: Thursday 2 December 2021

Dear Sir/Madam,

Integrated Development Application
s100B – Subdivision – Strata Title Subdivision
11-17 Mosbri Crescent The Hill NSW 2300, 1//DP204077

I refer to your correspondence dated 22/10/2021 seeking general terms of approval for the above Integrated Development Application.

The New South Wales Rural Fire Service (NSW RFS) has reviewed the submitted amended information. General Terms of Approval are now re-issued, under Division 4.8 of the *Environmental Planning and Assessment Act 1979*, and a Bush Fire Safety Authority, under section 100B of the *Rural Fires Act 1997*, are now issued subject to the following conditions.

General Conditions

The proposed Asset Protection Zones (APZs), Access and Bushfire Construction Levels (excepting the proposed townhouses construction downgrade) have been nominated by Bushfire Planning Australia and demonstrated in accordance with the modelling under Method 2 as stipulated in the Australian Standard AS3959-2018 *Construction of buildings in bushfire prone areas*. The following conditions are based on the acceptance of the methodology of the performance based solutions and management of the proposed APZs, Access and Bushfire Construction Levels found in the supporting document:

- *BUSHFIRE ASSESSMENT REPORT Proposed Multi-level Residential Development 11 – 17 Mosbri Crescent, The Hill Lot 1 DP 204077*, prepared by Bushfire Planning Australia, Ref: 1855, Version: AMENDED – April 2021.

Asset Protection Zones

Intent of measures: to provide sufficient space and maintain reduced fuel loads to ensure radiant heat levels at the buildings are below critical limits and prevent direct flame contact.

1. At the issue of a subdivision certificate, and in perpetuity to ensure ongoing protection from the impact of bush fires, the entire site must be managed as an inner protection area (IPA) in accordance with the requirements of Appendix 4 of *Planning for Bush Fire Protection 2019*. When establishing and maintaining an IPA the following requirements apply:

1

Postal address

NSW Rural Fire Service
Locked Bag 17
GRANVILLE NSW 2142

Street address

NSW Rural Fire Service
4 Murray Rose Ave
SYDNEY OLYMPIC PARK NSW 2127

T (02) 8741 5555
F (02) 8741 5550
www.rfs.nsw.gov.au

- tree canopy cover should be less than 15% at maturity;
- trees at maturity should not touch or overhang the building;
- lower limbs should be removed up to a height of 2m above the ground;
- tree canopies should be separated by 2 to 5m;
- preference should be given to smooth barked and evergreen trees;
- large discontinuities or gaps in vegetation should be provided to slow down or break the progress of fire towards buildings;
- shrubs should not be located under trees;
- shrubs should not form more than 10% ground cover; and
- clumps of shrubs should be separated from exposed windows and doors by a distance of at least twice the height of the vegetation.
- grass should be kept mown (as a guide grass should be kept to no more than 100mm in height); and
- leaves and vegetation debris should be removed.

2. At the issue of a subdivision certificate, suitably worded instruments prohibiting the construction of buildings other than class 10b structures shall be created for a minimum 9 metres from the eastern boundary pursuant to section 88 of the *Conveyancing Act 1919*. The name of authority empowered to release, vary or modify the instrument shall be Newcastle City Council.

Construction Standards

The intent of measure is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.

3. New construction to the roofs and eastern elevations of the proposed Buildings A, B and C must comply with section 3 and section 7 (BAL 29) Australian Standard AS3959-2018 *Construction of buildings in bushfire-prone areas* or the relevant requirements of the *NASH Standard - Steel Framed Construction in Bushfire Areas* (incorporating amendment A - 2015). New construction must also comply with the construction requirements in Section 7.5 of *Planning for Bush Fire Protection 2019*.

4. New construction to the northern and southern elevations of the proposed Buildings A, B and C must comply with section 3 and section 6 (BAL 19) Australian Standard AS3959-2018 *Construction of buildings in bushfire-prone areas* or the relevant requirements of the *NASH Standard - Steel Framed Construction in Bushfire Areas* (incorporating amendment A - 2015). New construction must also comply with the construction requirements in Section 7.5 of *Planning for Bush Fire Protection 2019*.

5. New construction to the proposed townhouses and the western elevations of the proposed Buildings A, B and C must comply with section 3 and section 5 (BAL 12.5) Australian Standard AS3959-2018 *Construction of buildings in bushfire-prone areas* or the relevant requirements of the *NASH Standard - Steel Framed Construction in Bushfire Areas* (incorporating amendment A - 2015). New construction must also comply with the construction requirements in Section 7.5 of *Planning for Bush Fire Protection 2019*.

Access – Public Roads

The intent of measure is to provide safe operational access to structures and water supply for emergency services, while residents are seeking to evacuate from an area.

6. To aid in fire fighting activities a minimum 3 metre wide unobstructed pedestrian access shall be provided in the nominated 9 metre wide Asset Protection Zone on the eastern boundary which is to be maintained at all times.

Water and Utility Services

The intent of measure is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building.



7. The provision of water, electricity and gas must comply with the following in accordance with Table 5.3c of *Planning for Bush Fire Protection 2019*:

- reticulated water is to be provided to the development where available;
- fire hydrant, spacing, design and sizing complies with the relevant clauses of Australian Standard AS 2419.1:2005;
- hydrants are not located within any road carriageway;
- reticulated water supply to urban subdivisions uses a ring main system for areas with perimeter roads;
- fire hydrant flows and pressures comply with the relevant clauses of AS 2419.1:2005;
- all above-ground water service pipes are metal, including and up to any taps;
- where practicable, electrical transmission lines are underground;
- where overhead, electrical transmission lines are proposed as follows:
 - lines are installed with short pole spacing (30m), unless crossing gullies, gorges or riparian areas; and
 - no part of a tree is closer to a power line than the distance set out in accordance with the specifications in *ISSC3 Guideline for Managing Vegetation Near Power Lines*.
- reticulated or bottled gas is installed and maintained in accordance with AS/NZS 1596:2014 and the requirements of relevant authorities, and metal piping is used;
- reticulated or bottled gas is installed and maintained in accordance with AS/NZS 1596:2014 - *The storage and handling of LP Gas*, the requirements of relevant authorities, and metal piping is used;
- all fixed gas cylinders are kept clear of all flammable materials to a distance of 10m and shielded on the hazard side;
- connections to and from gas cylinders are metal; polymer-sheathed flexible gas supply lines are not used; and
- above-ground gas service pipes are metal, including and up to any outlets.

8. Hydrant points must be located between the proposed Buildings A and B and B and C (resulting in the creation of 2 hydrant points) along the pedestrian access for fire fighting activities along the eastern boundary.

Landscaping Assessment

The intent of measure is to minimise the risk of bush fire attack and provide protection for emergency services personnel, residents and others assisting firefighting activities.

9. Landscaping within the required asset protection zone must comply with Appendix 4 of *Planning for Bush Fire Protection 2019*. In this regard, the following principles are to be incorporated:

- A minimum 1 metre wide area (or to the property boundary where the setbacks are less than 1 metre), suitable for pedestrian traffic, must be provided around the immediate curtilage of the building;
- Planting is limited in the immediate vicinity of the building;
- Planting does not provide a continuous canopy to the building (i.e. trees or shrubs are isolated or located in small clusters);
- Landscape species are chosen to ensure tree canopy cover is less than 15% (IPA), and less than 30% (OPA) at maturity and trees do not touch or overhang buildings;
- Avoid species with rough fibrous bark, or which retain/shed bark in long strips or retain dead material in their canopies;
- Use smooth bark species of trees species which generally do not carry a fire up the bark into the crown;
- Avoid planting of deciduous species that may increase fuel at surface/ ground level (i.e. leaf litter);
- Avoid climbing species to walls and pergolas;
- Locate combustible materials such as woodchips/mulch, flammable fuel stores away from the building;
- Locate combustible structures such as garden sheds, pergolas and materials such as timber garden furniture away from the building; and
- Low flammability vegetation species are used.

This letter is in response to an assessment of the application based on the submitted further information and supersedes our previous general terms of approval dated 14/10/2020.

For any queries regarding this correspondence, please contact Joshua Calandra on 1300 NSW RFS.

Yours sincerely,

Kalpana Varghese

Supervisor Development Assessment & Plan
Built & Natural Environment



NSW RURAL FIRE SERVICE

BUSH FIRE SAFETY AUTHORITY

Subdivision – Strata Title Subdivision
11-17 Mosbri Crescent The Hill NSW 2300, 1//DP204077
RFS Reference: DA-2019-00368-CL55-2
Your Reference: DA2019/00061 (CNR-11808)

This Bush Fire Safety Authority is issued on behalf of the Commissioner of the NSW Rural Fire Service under s100b of the Rural Fires Act (1997) subject to the attached General Terms of Approval.

This authority supersedes the previous Bush Fire Safety Authority DA-2019-00368-CL55-1 issued on 14/10/2020 and confirms that, subject to the attached reissued General Terms of Approval being met, the proposed development will meet the NSW Rural Fire Service requirements for Bush Fire Safety under *s100b of the Rural Fires Act 1997*.

Kalpana Varghese

Supervisor Development Assessment & Plan
Built & Natural Environment

Thursday 2 December 2021

SCHEDULE 3 SUBSIDENCE ADVISORY NSW GENERAL TERMS OF APPROVAL

GENERAL TERMS OF APPROVAL

GENERAL	
Plans, Standards and Guidelines	
1.	<p>These General Terms of Approval (GTAs) only apply to the development described in the plans and associated documentation relating to DA2019/00061 and provided to Subsidence Advisory NSW.</p> <p>Any amendments or subsequent modifications to the development may render these GTAs invalid.</p> <p>If the proposed development is amended or the development consent modified, Subsidence Advisory NSW must be notified to determine if any variations to these GTAs are required.</p>
2.	<p>This approval expires 5 years after the date the approval was granted if construction work has not physically commenced.</p>
PRIOR TO COMMENCEMENT OF CONSTRUCTION	
3a.	<p>SA NSW requires any subsidence risk due to a potential collapse in the Yard seam workings to be effectively eliminated.</p> <p>Submit a proposal acceptable to SA NSW to remove the risk of subsidence that could cause damage that would exceed the threshold of safety, serviceability and very slight damage (in accordance with AS2870 -Damage Classification). The proposal shall include grouting and may include other mitigation methods if required through design or by SA NSW.</p>
3b.	<p>SA NSW requires that the risk of subsidence in the Borehole seam be managed to the extent that the threshold of safety, serviceability and very slight damage (in accordance with AS2870 -Damage Classification) will not be exceeded.</p> <p>Submit a proposal acceptable to SA NSW that satisfies this requirement. The proposal shall include grouting and may include other mitigation methods if required through design or by SA NSW.</p>
4.	<p>Prescribed Design Parameters</p> <p>By geotechnical investigation and analysis, recommend mine subsidence parameters where it can be demonstrated to the satisfaction of SA NSW that the proposed structure(s) can be designed to be <i>"safe, serviceable and any damage from mine subsidence shall be limited to 'very slight' damage in accordance with AS2870 (Damage Classification), and readily repairable"</i>.</p>

5.	<p>Submit an Engineering Impact Statement prior to commencement of detailed design for acceptance by SA NSW, which shall identify the:</p> <ol style="list-style-type: none"> Mine subsidence parameters used for the design. Main building elements and materials. Risk of damage due to mine subsidence Design measures proposed to control the risks. Comment on the: <ul style="list-style-type: none"> likely building damage in the event of mine subsidence. sensitivity of the design to greater levels of mine subsidence.
6.	<p>Submit a final design incorporating the design methodology contained in the Engineering Impact Statement, for acceptance by Subsidence Advisory NSW prior to commencement of construction. It shall include certification by a qualified structural engineer including a statement to the effect that the improvements will remain "<i>safe, serviceable and any damage from mine subsidence shall be limited to 'very slight' damage in accordance with AS2870 (Damage Classification), and readily repairable</i>" taking into consideration the mine subsidence parameters accepted by SA NSW.</p>
7.	<p>The design submitted for approval under Condition 6 shall consider (but is not limited to) the following points:</p> <ol style="list-style-type: none"> Be developed from the design accompanying the development application to SA NSW with drawings dated 16 December 2021 (Rev F & G). Include sufficient drawing plans, long-sections, elevations and details, to fully describe the work and proposed mine subsidence mitigation measures. Include design mitigation measures to reduce the transfer of horizontal strain into building structures. Include design mitigation measures to relieve excessive strains into building structures. Include an additional grade for tilt due to mine subsidence, in excess of the minimum Code requirements for structures including pipes, gutters and wet areas. For underground pipes or conduits allow for flexible joints, flexible bedding surround and flexible building connections and penetrations. Ensure there is sufficient capacity in any storage structure for tilt due to mine subsidence. Locate underground structures to facilitate ease of repair and replacement. Ensure internal finishes are installed in accordance with relevant codes and standards and industry best practice guidelines with additional provision for mine subsidence. Ensure there is suitable provision for articulation jointing in building elements. All control joints including articulation for mine subsidence are to be shown on the design plans and elevations, Ensure there is provision for isolation joints between adjoining structures. For example, between a building and adjacent paving. All roads, driveways and pavement areas are to be designed as flexible structures with an asphalt surface. Where a concrete surface course is required it shall be designed to include expansion and crack control joints or sacrificial sections, to minimise the risk of damage from mine subsidence. Mitigation measures to reduce the risk of damage to any other design feature of the surface development that the consultant considers may be susceptible to mine subsidence movements.

POST CONSTRUCTION

8.	<p>Survey monitoring points are to be permanently fixed to at least 4 structures so that building movement can be monitored should mine subsidence occur. Details are to be forwarded to Subsidence Advisory NSW.</p> <p>The AHD of the points is to be referenced to the State Survey Mark SS51658 and two of the Permanent Survey marks on the following list:</p> <ul style="list-style-type: none">• PM38140• PM19796• PM19797• PM19798
9.	<p>Upon completion of construction, work-as-executed certification by a qualified engineer will be required by Subsidence Advisory NSW confirming that construction was in accordance with the plans accepted by Subsidence Advisory NSW.</p>

Dispute Resolution

If you are dissatisfied with the determination of this application, an appeal may be formally submitted with the Chief Executive Officer for an independent internal review. The application must be made in writing and must provide reasons why the determination should be changed.



William Toose
Planner
City of Newcastle Council
PO BOX 489
NEWCASTLE NSW 2300

By email: wtoose@ncc.nsw.gov.au

Dear Mr Toose

**HERITAGE COUNCIL OF NSW — AMENDED GENERAL TERMS OF APPROVAL
CLAUSE 55 AMENDMENT TO INTEGRATED DEVELOPMENT APPLICATION**

Address: 3, 5A Ordnance Street THE HILL NSW 2300
SHR item: Newcastle Recreation Reserve, SHR no. 02000
Proposal: cl.55 - 11-17 Mosbri Crescent The Hill - new documents provided 27 Jan 22 - Residential accommodation comprising three residential flat buildings (161 dwellings) multi dwelling housing (11 dwellings), strata subdivision, demolition and associated site works.
IDA modified: HMS Application ID: 626
Clause 55 amendment number: HMS ID 851, received 27/02/2022

These General Terms of Approval are only for works that will be undertaken within the State Heritage Register (SHR) curtilage of *Newcastle Recreation Reserve (SHR no. 02000)*. The development proposal outside the SHR curtilage does not require an approval under the *Heritage Act 1977*.

As delegate of the Heritage Council of NSW (the Heritage Council), I have considered the above modification to the integrated development application. In accordance with Section 4.47 of the *Environmental Planning and Assessment Act 1979*, the following amended terms of approval are granted:

APPROVED DEVELOPMENT

1. All work within the State Heritage Register curtilage shall comply with the engineering drawings as listed below and contained within 'Proposed Multi - Building Residential Development, 11-17 Mosbri Crescent, The Hill, Newcastle, Mine Subsidence Grouting Remediation Strategy, Summary Report, Rev 5 dated 9 November 2021' prepared by Coffey:

Dwg No	Dwg Title	Date	Rev
Project Name: 11-17 Mosbri Crescent, The Hill NSW 2300 (754-NTLGE220504)			
Drawing 1	Proposed Borehole Seam Grout Layout	9/11/2021	C
Drawing 2	Proposed Borehole Seam Grout Layout with Mine Workings	9/11/2021	C
Drawing 3	Proposed Yard Seam Grout Locations at Mine Level	9/11/2021	A

Drawing 5	Section AA Perpendicular to Site	9/11/2021	A
Drawing 6	Section BB along a Mine Working Bord	9/11/2021	A

EXCEPT AS AMENDED by the following general terms of approval:

UNEXPECTED FINDS

- The Applicant must ensure that if substantial intact archaeological deposits and/or State significant relics or any other buried fabric such as works not identified in application documentation, are discovered, work must cease in the affected area(s) and the Heritage Council of NSW must be notified. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

Reason: All significant fabric within a State Heritage Register curtilage should be managed according to its significance. This is a standard condition to identify to the applicant how to proceed if historical archaeological relics, or other unexpected buried discoveries such as works are identified during the approved project.

ABORIGINAL OBJECTS

- Should any Aboriginal objects be uncovered by the work which is not covered by a valid Aboriginal Heritage Impact Permit, excavation or disturbance of the area is to stop immediately and Heritage NSW is to be informed in accordance with the *National Parks and Wildlife Act 1974*. Works affecting Aboriginal objects on the site must not continue until Heritage NSW has been informed and the appropriate approvals are in place. Aboriginal objects must be managed in accordance with the *National Parks and Wildlife Act 1974*.

Reason: This is a standard condition to identify to the applicant how to proceed if Aboriginal objects are unexpectedly identified during works.

COMPLIANCE

- If requested, the applicant and any nominated heritage consultant may be required to participate in audits of Heritage Council of NSW approvals to confirm compliance with conditions of consent.

Reason: To ensure that the proposed works are completed as approved.

SECTION 60 APPLICATION

- An application under section 60 of the *Heritage Act 1977* must be submitted to, and approved by, the Heritage Council of NSW (or delegate), prior to work commencing.

Reason: To meet legislative requirements.

Advice

Section 148 of the *Heritage Act 1977* (the Act), allows people authorised by the Minister to enter and inspect, for the purposes of the Act, with respect to buildings, works, relics, moveable objects, places or items that is or contains an item of environmental heritage. Reasonable notice must be given for the inspection.

Right of Appeal

If you are dissatisfied with this determination, section 70A of the Act gives you the right of appeal to the Land and Environment Court.

If you have any questions about this correspondence, please contact Vibha Upadhyay,
Senior Assessments Officer, at Heritage NSW on 9873 8587 or
Vibha.Upadhyay@environment.nsw.gov.au.

Yours sincerely

Michael Ellis.

Michael Ellis
Manager, Assessments
Heritage NSW
Department of Planning & Environment
As Delegate of the Heritage Council of NSW
11 May 2022

