



<b>DATE OF DETERMINATION</b>	24 March 2025
<b>DATE OF PANEL DECISION</b>	24 March 2025
<b>DATE OF PANEL BRIEFING</b>	11 March 2025
<b>PANEL MEMBERS</b>	Alison McCabe (Chair), Roberta Ryan, John Mackenzie, Stephen Leathley
<b>APOLOGIES</b>	Tony McNamara
<b>DECLARATIONS OF INTEREST</b>	None

Papers circulated electronically on 5 March 2025.

**MATTER DETERMINED**

PPSHCC-283 – Newcastle – DA2024/00151 at 190 Bruncker Road, Adamstown 2289 – Affordable housing residential flat building (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 briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel has had the benefit of a number of briefings from Council and the applicant. The application has been amended from that originally lodged to address:

- Potential overshadowing impacts
- Waste management arrangements
- Contamination
- Privacy impacts – both internal and external
- Urban Design Review Panel comments

The proposed development involves the redevelopment of an existing NSW Land and Housing Corporation holding for affordable housing. The development is “Crown Development.”

The site is located within the Adamstown Renewal Corridor and is close to both an existing local centre and Adamstown Station.

The built form, scale, and use of the development are consistent with the controls and Strategic Planning Framework.

The development will deliver increased affordable housing in the area.

The applicant has agreed to the conditions attached to the assessment report, subject to a correction of a typographical error in Condition 32 to delete the reference to Friday.

The Panel, in their deliberation, is generally satisfied with the overall merit of the proposal but raised concerns regarding the scale of a portion of a wall that includes acoustic treatment along the north - eastern boundary, which exceeds four (4) metres. There is also a similar wall along part of the south - western boundary. This results in a poor interface with the adjoining development.

The Panel considered a number of options to reduce a portion of the wall and change some of the communal space to a garden or an area inaccessible to residents on the north - eastern boundary.

For the south - western boundary, it is considered that the fence should generally be consistent with the balance of the fencing along this boundary, as it was not a fence recommended by the acoustic report.

The potential impact of the walls has been addressed through an additional condition that reduces the height of the wall and changes the material along part of these common boundaries. The applicant has agreed to the imposition of the condition outlined below.

With this condition, the Panel is satisfied that the development is suitable for the site and that it will result in a built form compatible with the evolving character of the area.

### **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 the conditions at Schedule 2 and the following additional condition:

#### ***“23A Acoustic Wall***

*Prior to the issue of the relevant Crown Certificate, detailed plans and construction drawings must incorporate the following amendments to the proposed acoustic wall on the north-east and south-west lot boundaries and associated communal open space landscaping:*

- 1. The acoustic fence at the north-east lot boundary must be constructed of timber in accordance with the Acoustic report recommendations, and not exceed a top of wall height of RL 17.7m.*
- 2. The acoustic fence at the north-east lot boundary must be set back 25.89m from the Teralba Road site boundary and have a total length of 10.65m.*
- 3. The remaining 5.9m of podium landscaping along the north-east boundary must be enclosed with open style fencing above the section of wall required to retain landscaping, limited to balustrade height, and finished in a recessive colour palette.*
- 4. The landscaped communal open space area between the private open space of Unit 5 and the north-east property lot boundary must be densely planted with garden beds to restrict foot traffic.*
- 5. The acoustic wall on the south-western boundary is to be replaced with fencing consistent with fencing layout plan (Plan# LD-1500, Revision 4). Being a 1.8m high slatted fence.*

*Full details are to be submitted to CN for information. These plans must be included in documentation for the relevant Crown certificate.*

**Condition Reason:** *to enable acoustic protection with limited visual bulk.”*

The decision was unanimous.

### **REASONS FOR THE DECISION**

The Panel determined to approve the application for the following reasons:

- (i) The site is suitable for the development and the resultant built form is compatible with the future character of the area.
- (ii) The impacts to adjoining properties have been addressed and are considered acceptable.
- (iii) The provision of affordable housing provides broader public benefits.

### **CONDITIONS**

The development application was approved subject to the conditions in Schedule 2 with the following amendments:

- Additional condition 23A requiring reduction in acoustic wall along the north eastern and south western boundaries.
- The typographical error in condition 32 was corrected.

**CONSIDERATION OF COMMUNITY VIEWS**

In coming to its decision, the Panel considered the 8 written submissions made during public exhibition. The Panel notes that issues of concern included:

- Concentration of Social Housing
- Parking
- Height of the building
- Solar access
- Streetscape impacts
- Illegal dumping
- Privacy

PANEL MEMBERS	
 Alison McCabe (Chair)	 Roberta Ryan
 Stephen Leathley	 John Mackenzie

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSHCC-283 – Newcastle – DA2024/00151
2	PROPOSED DEVELOPMENT	Affordable housing residential flat building
3	STREET ADDRESS	190 Bruncker Road, 139 Teralba Road, Adamstown 2289
4	APPLICANT/OWNER	New South Wales Land and Housing Corporation
5	TYPE OF REGIONAL DEVELOPMENT	Crown development over \$5 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>• Environmental planning instruments: <ul style="list-style-type: none"> <li>○ State Environmental Planning Policy (Biodiversity and Conservation) 2021</li> <li>○ State Environmental Planning Policy (Sustainable Buildings) 2022</li> <li>○ State Environmental Planning Policy (Housing) 2021</li> <li>○ State Environmental Planning Policy (Planning Systems) 2021</li> <li>○ State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>○ State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>○ Newcastle Local Environmental Plan 2012</li> </ul> </li> <li>• Draft environmental planning instruments: Nil</li> <li>• Development control plans: <ul style="list-style-type: none"> <li>○ Newcastle Development Control Plan 2023</li> </ul> </li> <li>• Planning agreements: Nil</li> <li>• Provisions of the <i>Environmental Planning and Assessment Regulation 2021</i>: Section 61 - demolition of buildings</li> <li>• Coastal zone management plan: Nil</li> <li>• The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>• The suitability of the site for the development</li> <li>• Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>• The public interest, including the principles of ecologically sustainable development</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>• Council assessment report: 4 March 2025</li> <li>• Written submissions during public exhibition: 8</li> <li>• Total number of unique submissions received by way of objection: 8</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>• Initial Briefing: 29 May 2024 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Alison McCabe (Chair), Roberta Ryan, Tony McNamara, John Mackenzie, Peta Winney-Bartz</li> <li>○ <u>Applicant representative</u>: Howard Taylor, Royce Lucero, Carolyn Howell, Deborah Gilbert</li> <li>○ <u>Council assessment staff</u>: Iain Watt, Damian Jaeger</li> <li>○ <u>Department</u>: Leanne Harris, Holly McCann</li> </ul> </li> <li>• Site inspection: <ul style="list-style-type: none"> <li>○ Alison McCabe: 5 July 2024</li> <li>○ Roberta Ryan: 8 December 2024</li> <li>○ John Mackenzie: 6 March 2025</li> <li>○ Stephen Leathley: 10 March 2025</li> </ul> </li> </ul>

		<ul style="list-style-type: none"> <li>• Applicant Briefing: 19 November 2024 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Alison McCabe (Chair), Roberta Ryan, Tony McNamara</li> <li>○ <u>Applicant representatives</u>: Howard Taylor, Royce Lucero, Carolyn Howell, Deborah Gilbert</li> <li>○ <u>Council assessment staff</u>: Iain Watt, Brian Gibson</li> <li>○ <u>Department</u>: Leanne Harris, Holly McCann</li> </ul> </li> <li>• Final briefing to discuss Council’s recommendation: 11 March 2025 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Alison McCabe (Chair), Roberta Ryan, Stephen Leathley, John Mackenzie</li> <li>○ <u>Applicant representatives</u>: Carolyn Howell, Deborah Gilbert, Royce Lucero, Howard Taylor, Thomas Drozdowski, Peter Dudzicki</li> <li>○ <u>Council assessment staff</u>: Iain Watt, Brian Gibson</li> <li>○ <u>Department</u>: Leanne Harris, Holly McCann</li> </ul> </li> </ul>
9	<b>COUNCIL RECOMMENDATION</b>	<b>Approval</b>
10	<b>DRAFT CONDITIONS</b>	Attached to the Council assessment report

**SCHEDULE 2**

**GENERAL CONDITIONS**

Condition

**1. Approved plans and documentation**

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.

<b>Approved plans</b>				
<b>Plan number</b>	<b>Revision number</b>	<b>Plan title</b>	<b>Drawn by</b>	<b>Date of plan</b>
AR-0500	A	Demolition Plan	mode	23/01/2024
AR-0103	E	Site Plan	mode	19/12/2024
AR-1001.1	E	General Arrangement Plan - Ground Floor (Building 1)	mode	19/12/2024
AR-1001.2	E	General Arrangement Plan - Ground Floor (Building 2)	mode	19/12/2024
AR-1002	E	General Arrangement Plan - Level 01	mode	19/12/2024
AR-1003	E	General Arrangement Plan - Level 02	mode	19/12/2024
AR-1004	E	General Arrangement Plan - Level 03	mode	19/12/2024
AR-1005	E	General Arrangement Plan - Level 04	mode	19/12/2024
AR-1006	E	General Arrangement Plan - Roof Plan	mode	19/12/2024
AR-2000	E	Elevations (West & East)	mode	19/12/2024
AR-2001	E	Elevations (North)	mode	19/12/2024
AR-2002	E	Elevations (South)	mode	19/12/2024
AR-3000	E	Sections	mode	19/12/2024
AR-3001	E	Sections	mode	19/12/2024
LD-1000	5	Landscape Plan	Mode	19/12/2024
LD-1200	4	Planting Plan	Mode	19/12/2024
LD-1500	4	Fencing layout plan	Mode	19/12/2024
LD-1805	4	Landscape Sections 5	Mode	19/12/2024
AR-9001	D	Landscape Section	Mode	15/11/2024
AR-9002	D	Landscape Section	Mode	15/11/2024
AR-9003	D	Landscape Section	Mode	15/11/2024
AR-9004	D	Landscape Section	Mode	15/11/2024
AR-9005	D	Landscape Section	Mode	15/11/2024
AR-9006	D	Landscape Section	Mode	15/11/2024

<b>Approved documents</b>			
<b>Document title</b>	<b>Version number</b>	<b>Prepared by</b>	<b>Date of document</b>
Plan of Management	-	Art Thinking - Dr Kristefan Minski	24/01/2024
Remediation Action Plan	0	Douglas Partners	04/12/2024
Arboricultural Impact Assessment	1	Redgum Horticultural	07/03/2024

In the event of any inconsistency between conditions of this development consent and plans/supporting documents referred to above, the conditions of this development consent prevail.

Condition reason: to ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

## 2. **Development contributions - 7.11 general**

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

<b>Description</b>	<b>Contribution (\$)</b>
Transport	\$38,878.37
Open Space and Recreation	\$167,070.30
Community Facilities	\$30,906.79
Plan Preparation and Administration	\$5,912.89
<b>TOTAL</b>	<b>\$242,768.35</b>

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 Newcastle City Council prior to the commencement of construction work.

Condition reason: To ensure development contributions are paid to address the increased demand for public amenities and services resulting from the approved development.

## 3. **Remediation Treatment**

Under no circumstances is onsite remediation treatment to be carried out.

Condition reason: Ensure contaminated land is removed from site.

# **BUILDING WORK**

## **BEFORE ISSUE OF A CROWN CERTIFICATE**

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Condition

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### **4. Erosion and sediment control measures**

Before the issue of the relevant Crown certificate for the development (i.e., whether for part or whole of a building), details are to be provided demonstrating the erosion and sediment control measures that are to be implemented prior to the commencement of works and be maintained during the period of construction in accordance with the details set out on an Erosion and Sediment Control Plan that is to be submitted with the Crown certificate. Controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover.

Condition reason: to require details of erosion and sediment control measures.

### **5. Car park design**

Before the issue of the relevant Crown certificate for the development (i.e., whether for part or whole of a building), full details of the design of the car parking and vehicular access complying with the relevant provisions of AS/NZS 2890 Parking facilities are to be documented, with full details included in the Crown certificate documentation.

Condition reason: to satisfy car parking and vehicular access standards for vehicles.

### **6. Vehicular crossings standards**

Before the issue of the relevant Crown certificate for the development (i.e., whether for part or whole of a building), full details are to be provided to, Newcastle City Council, for a residential vehicular crossing across the road reserve, in accordance with the following criteria:

- a) Designed in accordance with Newcastle City Council's A1300 - Driveway Crossings Standard Design Details.
- b) The driveway crossing, within the road reserve, is to be a maximum of 4.5m wide.
- c) Letterboxes, landscaping and any other obstructions to visibility are to be kept clear of or limited in height to 1.2m, in the 2.0m by 2.5m splay within the property boundary, each side of the driveway entrance.
- d) The proposed driveway is to be a minimum of 3.0m clear of the trunk of any tree within the road reserve.
- e) The proposed driveway is to be a minimum of 750mm clear of the centre of any pole or obstruction within the road reserve and 1.0m clear of any drainage pit.

Condition reason: to require full details of designs in accordance with council's criteria on vehicular crossings.

### **7. Electric vehicle circuitry and electric vehicle charging point requirements**

Before the issue of the relevant Crown certificate for the development (i.e., whether for part or whole of a building), details from an appropriately qualified person are to be provided to confirm that the development complies with Performance Requirement J1P4 of National Construction Code 2022 for the provision of electric vehicle charging equipment.

Condition reason: To ensure appropriate detail is provided for the provision of off-street electric vehicle charging infrastructure in accordance with the NCC 2022 minimum requirements.

**8. Roads Act Approval**

All proposed works within the public road and footway shall be designed and constructed to Council's standards and specifications and a copy of the detailed plans submitted to Council prior to work commencing. The applicant/developer shall arrange for necessary inspections by Council whilst the work is in progress or after completion of the works.

Condition Reason: to ensure public road and footway shall be designed and constructed to Council's standards.

**9. Public domain works required**

Before the issue of the relevant Crown certificate for the development (i.e., whether for part or whole of a building), full details are to be provided to, or other satisfactory arrangements confirmed in writing, from Newcastle City Council for the following works to be designed by the developer in connection with the proposed development within the public road reserve, adjacent to the site, at no cost to Newcastle City Council and in accordance with Newcastle City Council's guidelines and design specifications:

- a) Construction of new driveway to Teralba Road
- b) Removal of redundant driveways on Teralba Road and Bruncker Road.
- c) Installation of new kerb ramp on Bruncker road for bins to be rolled to a waste collection vehicle on the road. To be in accordance with City of Newcastle Standard drawing A1201.
- d) Stormwater outlet to Teralba Road
- e) Associated drainage works
- f) Two new street trees in suitable locations

Engineering design plans and specifications for the works to be undertaken within the public road reserve are to be prepared by a practising professional engineer with experience and competence in the related field.

Condition reason: to require details and council approval of works within the public road reserve.

**10. Controlling stormwater**

Before the issue of the relevant Crown certificate for the development (i.e., whether for part or whole of a building), full details are to be provided demonstrating that all roof and surface waters will be conveyed to the street gutter by way of a sealed pipe system, extending through the footway to Newcastle City Council requirements, in accordance with Section C4 'Stormwater' of Newcastle Development Control Plan 2023 and included in the Crown certificate documentation.

Condition reason: to control stormwater runoff.

**11. Water tanks and plumbing direction**

Before the issue of the relevant Crown certificate for the development (i.e., whether for part or whole of a building), details are to be provided demonstrating roof water from the proposed new work will be directed to the proposed water tank with a minimum capacity of 25,000 litres and being reticulated to any new toilet cisterns and cold water washing machine taps on the ground floor or level 01, with a mains water top up being installed to maintain between 10% and 15% of the tank capacity. Alternatively, an electronically activated mechanical valve device is to be installed to switch any new

toilet cisterns and laundry taps to mains water when the tank falls below 10% capacity. The water tank and plumbing is to be designed in accordance with the Plumbing Code of Australia (National Construction Code Volume 3). Full details are to be provided with the Crown certificate documentation.

Condition reason: to ensure appropriate design standards for water tanks and plumbing applicable to the new work are included at the detailed design stage.

## 12. **Stormwater management details**

Before the issue of the relevant Crown certificate for the development (i.e., whether for part or whole of a building), details are to be provided demonstrating how stormwater runoff from the proposed development is to be managed in accordance with the requirements of Section C4 'Stormwater' of Newcastle Development Control Plan 2023, the associated Technical Manual and AS/NZS 3500.3 Plumbing and drainage Part 3 Stormwater drainage, as indicated on the stormwater management concept plan prepared by Core Consulting Engineers (Project No. 23400, dated 31.10.2024), except as amended by this consent. Full details are to be included in documentation for the Crown certificate.

Condition reason: to control storm water runoff.

## 13. **Landscape plans and specifications**

Before the issue of the relevant Crown certificate for the development (i.e., whether for part or whole of a building), all proposed planting and landscape elements indicated on the approved landscape concept plan or otherwise required by the conditions of this consent are to be detailed on a comprehensive landscape plan and specification. The plan and specification are to be prepared in accordance with the provisions of Newcastle Development Control Plan 2023 and is to include details of the following:

- a) cross sections through the site
- 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) maintenance periods.

The plan and specification are to be prepared by a qualified landscape designer and be included in documentation for the Crown certificate.

Condition reason: to require a detailed landscape plan and specifications.

## 14. **Street trees removal approval**

The existing *Banksia integrifolia* street tree (Newcastle City Council ID 18660904) located on the Teralba Road frontage is approved to be removed, subject to arrangements being made for the removal of the street tree by contacting Newcastle City Council's City Greening Services. All tree removal works are to be carried out by the Newcastle City Council at the developer's expense.

Condition reason: to ensure street trees are not removed without approval.

15. **Street trees replacement**

Before the issue of the relevant Crown certificate for the development (i.e., whether for part or whole of a building), details are to be provided demonstrating that Two (2) street trees will be planted as compensation for street tree removal, and evidence provided that a fee, to be determined by contacting Newcastle City Council's City Greening Services, has been paid to Newcastle City Council for the required compensatory planting.

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

Condition reason: to ensure compensatory street tree planting is provided.

16. **Hunter Water Requirements - compliance certificate**

Before the issue of the relevant Crown certificate for the development (i.e., whether for part or whole of a building), a copy of a Hunter Water compliance certificate (*Water Act 1991 - Section 50*) must be obtained and included in the Crown certificate documentation.

**Note:** Compliance is required with all of Hunter Water's requirements to provide the development with water supply and sewerage service.

Condition reason: to require a Hunter Water compliance certificate.

17. **Mailbox for dwellings**

Before the issue of the-relevant Crown certificate for the development (i.e., whether for part or whole of a building), details are to be provided showing a group type mailbox at the street frontage in accordance with the requirements of Australia Post, clearly displaying individual unit numbers and the required street number. Full details are to be included in the documentation for the-Crown certificate.

Condition reason: to require details of mailboxes.

18. **Limiting noise - general**

Before the issue of the-relevant Crown certificate for the development (i.e., whether for part or whole of a building), details are to be provided demonstrating that all noise generating equipment such as air conditioning units, swimming pool filters, fixed vacuum systems and driveway entry shutters are designed to protect the acoustic privacy of residents and neighbours, and that all such noise generating equipment is acoustically screened. The noise level generated by any equipment does not exceed an LAeq (15 min) of 5dB(A) above background noise at the property boundary. Full details are to be included in the Crown certificate documentation.

Condition reason: to ensure the use of noise generating equipment does not give rise to offensive noise and complies under the *Protection of the Environment Operations Act 1997*.

19. **House numbering**

Within one week of obtaining the Crown certificate for the development (i.e., whether for part or whole of a building), the applicant must submit a Street Numbering Application to Newcastle City Council to commence the addressing allocation process. The allocated addressing will be as per the

Addressing Allocation document issued by Newcastle City Council and in accordance with the NSW Addressing Policy and the Australian/New Zealand Standard: Rural and Urban Addressing (AS/NZS 4819:2011). Any request for amendments to the Addressing Allocation must be submitted to Newcastle City Council for consideration and if approved, a revised Addressing Allocation document will be issued.

**Note:** Addressing for this property may change. Please do not use property addressing for advertising material until the Addressing Allocation has been issued. Addressing provided by Newcastle City Council must be correctly implemented prior to the occupation of the development.

Condition reason: to ensure the necessary house numbering is provided in accordance with the NSW Addressing Policy.

#### 20. **Liveable housing - Silver level**

Before the issue of the relevant Crown certificate for the development (i.e., whether for part or whole of a building), detailed plans and construction drawings are to be provided showing full compliance with Silver Level requirements of the Liveable Housing Australia Liveable Housing Guidelines (Fourth edition).

The detailed plans and construction drawings showing full compliance with the requirements of each standard within the Liveable Housing Guidelines and as identified within the access report, are certified as compliant by an accredited Liveable Housing Australia assessor. Full details are to be included in documentation for the Crown certificate.

Condition reason: to ensure compliance with Liveable Housing Australia, Liveable Housing Guidelines.

#### 21. **Noise Protection**

Before the issue of the relevant crown certificate, full details are to be provided of the compliance with the recommendations contained in the submitted Noise Impact Assessment prepared by BSE Acoustics dated 16 January 2024.

Condition reason: To ensure the protection of internal amenity from external noise

#### 22. **Construction Environmental Management Plan**

Prior to the issue of a Crown Certificate, a Construction Environmental Management Plan (CEMP) for construction/demolition works on the site must be prepared. The CEMP must be kept on site and made available to authorised Council officers upon request. The CEMP is to include but not be limited to:

- a) A site management strategy, identifying and addressing issues such as environmental health and safety, site security, and traffic management.
- b) A water management strategy, detailing erosion and sediment control, management of soil stockpiles, control and management of surface water, groundwater. Procedures should also be included to ensure that all roads adjacent to the site are kept free and clear from mud and sediment.
- c) A dust management strategy, detailing procedures to minimise dust generation, with reference to control techniques and operational limits under adverse meteorological conditions.
- d) A noise and vibration management program, detailing measures to minimise the impact of

the development on local amenity. Provision for noise and vibration monitoring during works should be incorporated into the program.

- e) A soil management strategy, detailing measures to be implemented to manage the identification and control and disposal of any acid sulphate soils or soil contamination identified during site works.
- f) A waste minimisation strategy, which aims to avoid production of waste and maximise reuse, recycling or reprocessing of potential waste material.
- g) A community relations plan, which aims to inform local residents and other local stakeholders of the proposed nature and timeframes for demolition and construction activities together with contact details for site management.

Condition reason: Ensure environmental management through construction.

**23. Awning over public footway**

All proposed works within the public road and footway shall be designed and constructed to Council's standards and specifications and a copy of the detailed plans submitted to Council prior to work commencing. The applicant/developer shall arrange for necessary inspections by Council whilst the work is in progress or after completion of the works".

Condition reason: To ensure appropriate approval is in place for private structures over public land.

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## BEFORE BUILDING WORK COMMENCES

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Condition

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**24. Toilets on site**

Before building work commences, toilet facilities are to be available or provided at the work site and maintained until the works are completed, at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site. Each toilet is to:

- a) be a standard flushing toilet connected to a public sewer, or
- b) have an on-site effluent disposal system approved under the *Local Government Act 1993*, or
- c) be a temporary chemical closet approved under the *Local Government Act 1993*.

Condition reason: to require provision of toilet facilities on site.

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## DURING BUILDING WORK

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Condition

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**25. Compliance with BCA**

Building work must be carried out in accordance with the requirements of the Building Code of Australia.

Condition reason: prescribed condition - EP&A Regulation (Section 69).

**26. Site signage - site and building work**

During site work and/or building work, a rigid and durable sign is to be erected in a prominent position 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 Crown Certifier for building work and subdivision work, and
- b) showing the name, address and telephone number of the Principal Contractor, if any, for any building work and 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, and must be removed when the work has been completed.

**Note:** This does not apply in relation to building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or Crown building work certified to comply with the *Building Code of Australia* under the Act, Part 6.

Condition reason: prescribed condition.

#### 27. **Erosion and sediment control measures**

During site work and/or building work, erosion and sediment control measures are to be implemented, and be maintained during the period of construction in accordance with the details set out on the Erosion and Sediment Control Plan submitted with the application, and with the below requirements:

- a) Control over discharge of stormwater and containment of run-off and pollutants leaving the site is to 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; and
- b) 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.

Condition reason: to prevent erosion and control sediment.

#### 28. **Controlling surface water**

During site work and/or building work 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.

Condition reason: to protect adjacent properties from additional surface water runoff.

#### 29. **Containing materials and plant**

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

Condition reason: to contain materials and plant and protect the public.

**30. Checking building siting**

During building work, a survey certificate prepared by a Registered Surveyor is to be submitted to the Crown 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.

Condition reason: to confirm siting of buildings.

**31. Checking floor levels - surveyor**

During building work, certification is to be prepared by a Registered Surveyor and submitted to the Crown certifier at the following stages of construction:

- 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.

Condition reason: to ensure finished floor levels equal approved plans.

**32. Limits on noise**

During building/demolition work, generation of noise that is audible at residential premises is to be restricted to the following times:

- Monday to Saturday, 7:00 am to 5:00 pm

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

Condition reason: to protect the residential amenity of neighbours.

**33. Pollution prevention signage**

During site work and/or building work, a Newcastle City Council '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 the Newcastle City Council for the duration of demolition and construction work.

**Note:** The sign can be obtained by presenting your development application receipt at Newcastle City Council's Customer Enquiry Centre, Wallsend Library or the Master Builders Association Newcastle.

Condition reason: to require pollution prevention signage.

**34. Imported fill material**

During site work and/or building work, 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*.

Condition reason: to ensure compliance with State Guidelines.

**35. Controlling dust**

During site work and/or building work, all necessary measures are to be undertaken to control dust pollution from the site. These measures are to include, but are 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 shadecloth mesh or similar products 1.8m high around the perimeter of the site and around every level of the building under construction.

Condition reason: to control dust during works.

**36. Street tree and any tree on Council land protection**

During site work and/or building work, all public trees including street trees (*Cupaniopsis anacardioides*) located on the Bruncker Road frontage and street tree *Tristaniopsis laurina* ('Luscious'), located on the Teralba road frontage and any tree on Council land that are required to be retained are to be physically protected in accordance with the Newcastle City Council '*Urban Forest Technical Manual*', Part B *Public Trees*.

**Note:** The tree protection fencing is to remain in place and be maintained until all works have been completed, with no waste materials, washouts, equipment or machinery to be stored within the fenced area.

Condition reason: to protect street trees and any tree on Council land.

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**-PRIOR TO OCCUPATION**

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Condition

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**37. Landscaping complete**

Prior to occupation landscape works are to be carried out generally in accordance with the details indicated on the approved landscape design plan except as required to be modified under the terms of this consent.

Condition reason: to ensure approved landscape plans are implemented.

**38. Basix implemented**

Prior to occupation of the development, all commitments listed in the relevant BASIX certificate for:

- a) BASIX development, or
  - b) BASIX optional development, if the development application was accompanied by a BASIX certificate,
- are to be satisfactorily completed.

Should there be any changes to the specifications of the dwelling that have implications for compliance

with the approved certificate, except where restricted or excluded by any other condition of consent, an amended BASIX Certificate can be relied upon as having complied with this condition. A copy of any amended BASIX Certificate is to be included with the relevant Crown Certificate documentation.

Condition reason: to ensure BASIX commitments are completed.

**39. Public infrastructure - rectification of damage**

Prior to occupation of the development, any public infrastructure (including all public footways, foot paving, kerbs, gutters and road pavement) damaged during the works (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concreting vehicles) are to be immediately fully repaired following the damage, to a condition that provides for safe use by pedestrians and vehicles, ~~to the written satisfaction of Council,~~ and at no cost to Council.

Condition reason: to ensure rectification of any damage to public infrastructure.

**40. Completion of road reserve works**

Prior to occupation of the development all works within the road reserve required by this consent are to be completed and a Crown certificate, or equivalent written advice, is to be obtained.

Condition reason: to ensure completion of works within the road reserve.

**41. Removing redundant driveways**

Prior to occupation of the development any redundant existing vehicular crossing is to be removed at no cost to the Newcastle City Council. The road reserve and kerb are to be restored in accordance with Newcastle City Council's specifications.

Condition reason: to ensure removal of redundant driveways.

**42. Consolidation of lots**

Prior to occupation of the development, the whole of the land Lot 1 DP318448, Lot 1885 DP666968 and Lot 1892 DP755247 is to be consolidated into a single title and documentary evidence of the lodgement for registration of a survey plan of consolidation with NSW Land Registry Services is to be submitted to Homes NSW.

Condition reason: to require consolidation of lots.

**43. Compliance with Hunter Water**

Prior to occupation of the development all requirements of the Hunter Water Corporation regarding the connection of water supply and sewerage services must be complied with, including the payment of any required cash contribution towards necessary amplification of service mains in the locality as a result of the increased intensity of land use proposed.

Condition reason: to satisfy Hunter Water requirements.

**44. Water management measures complete**

Prior to occupation of the development 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.

Condition reason: to ensure water management measures are as approved.

**45. Car park provision**

Prior to occupation of the development, on-site car parking accommodation is to be provided for a minimum of 12 vehicles and be set out generally in accordance with the details indicated on the approved DA plans except as otherwise provided by the conditions of consent.

Condition reason: to require minimum car spaces.

**46. Evidence of correct installation of EV charging**

Prior to occupation of the development, the principal contractor or owner-builder must submit to the satisfaction of the Crown certifier, certification by a suitably qualified and experienced person that the electric vehicle charger points and/or electric vehicle circuitry, has been installed in accordance with the Crown certificate plans and specifications as required by the appropriate conditions of consent that have been included in the determination.

Condition reason: to ensure proposed electric vehicle parking and charging facilities are completed.

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## **COMPLETION AND ONGOING USE**

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Condition

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**47. Waste management operation - storage areas**

During occupation and ongoing use, waste management (recyclable and non-recyclable) is to be collected from the refuse storage areas, as identified on the approved plans, serviced and returned immediately to the refuse storage areas. Under no circumstances are garbage bins to be presented to the kerb for collection.

Condition reason: to require appropriate use of waste storage areas.

**48. Management plan - Art Gallery**

During operation and ongoing use, the ancillary art gallery must always be operated/managed in accordance with the plan of management Report, prepared by Art Thinking dated 24.01.2024. A copy of the approved plan of management must be kept on the premises at all times and available to staff and Newcastle City Council on request.

Condition reason: to ensure proper management during operation of the premises.

## **DEMOLITION WORK**

### **BEFORE DEMOLITION WORK COMMENCES**

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Condition

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**49. Asbestos removal signage**

Before demolition work commences involving the removal of asbestos, a standard commercially manufactured sign containing the words 'DANGER: Asbestos removal in progress' (measuring not less than 400mm x 300mm) must be erected in a prominent position at the entry point/s of the site and maintained for the entire duration of the removal of the asbestos.

Condition reason: to alert the public to any danger arising from the removal of asbestos.

**50. Notice of commencement for demolition**

At least one week before demolition work commences, written notice must be provided to council and the occupiers of neighbouring premises of the work commencing. The notice must include:

- a) name
- b) address,
- c) contact telephone number,
- d) licence type and license number of any demolition waste removal contractor and, if applicable, asbestos removal contractor, and
- e) the contact telephone number of council and
- f) the contact telephone number of SafeWork NSW (4921 2900).

Condition reason: to advise neighbours about the commencement of demolition work and provide contact details for enquiries.

**51. Demolition standards - hazardous waste plan**

Before site work and/or demolition work commences, 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 the Newcastle City Council and to the demolisher before demolition work commences.

Condition reason: to comply with Australian standards.

**52. Toilets on site**

Before site work and/or demolition work commences, toilet facilities are to be available or provided at the work site and maintained until the works are completed, at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site. Each toilet is to:

- a) be a standard flushing toilet connected to a public sewer, or
- b) have an on-site effluent disposal system approved under the Local Government Act 1993, or
- c) be a temporary chemical closet approved under the Local Government Act 1993.

Condition reason: to require provision of toilet facilities on site.

**53. Erosion and sediment control measures**

Before site work and/or demolition work commences, erosion and sediment control measures are to be implemented and be maintained during the period of construction in accordance with the details set out on the Erosion and Sediment Control Plan approved with the application, and with the below requirements:

- a) Control over discharge of stormwater and containment of run-off and pollutants leaving the site is to 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; and

- b) 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.

Condition reason: to prevent erosion and control sediment.

**54. Erosion and sediment control - vehicle access**

Before site work and/or demolition work commences, a 3.0m 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 or soil is not to be stockpiled on the all-weather vehicle access.

Condition reason: to prevent soil erosion.

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## **DURING DEMOLITION WORK**

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### Condition

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**55. Asbestos safety**

During site work and/or demolition work, the removal of any asbestos material is to be in accordance with the requirements of the SafeWork NSW.

Condition reason: to require compliance with SafeWork NSW.

**56. Handling of asbestos during demolition**

While demolition work is being carried out, any work involving the removal of asbestos must comply with the following requirements:

- a) Only an asbestos removal contractor who holds the required class of Asbestos Licence issued by SafeWork NSW must carry out the removal, handling and disposal of any asbestos material.
- b) Asbestos waste in any form must be disposed of at a waste facility licensed by the NSW Environment Protection Authority to accept asbestos waste; and
- c) Any asbestos waste load over 100kg (including asbestos contaminated soil) or 10m<sup>2</sup> or more of asbestos sheeting must be registered with the EPA on-line reporting tool WasteLocate.

Condition reason: to ensure that the removal of asbestos is undertaken safely and professionally.

**57. Demolition standards - Australian Standards**

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

Condition reason: to comply with Australian standards.

**58. Erosion and sediment control measures**

During site work and/or demolition work, erosion and sediment control measures are to be implemented and maintained during the period of demolition in accordance with the requirements of Managing Urban Stormwater: Soils and Construction 4th Edition - Vol. 1 (the 'Blue Book') published by Landcom, 2004. Controls are not to be removed until the site is stable with all bare areas supporting

an established vegetative cover.

Condition reason: to prevent erosion and control sediment.

**59. Demolition - protecting services**

During demolition work, the demolisher is to ensure that all services (i.e. water, telecommunications, gas, electricity, sewerage etc) are disconnected in accordance with the relevant authority's requirements prior to demolition.

Condition reason: to protect services during demolition.

**60. Demolition - material management**

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

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, an application is to be made for the Newcastle City Council's approval to position the container on the adjacent public road in accordance with Newcastle City Council's adopted Building Waste Container Policy.

Condition reason: to protect public spaces during demolition.

**61. Site signage - site and building work**

During site work and/or demolition work, a rigid and durable sign is to be erected in a prominent position 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 responsible NSW Land & Housing Corporation officer for building work and subdivision work, and
- b) showing the name, address and telephone number of the Principal Contractor, if any, for any building work and 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, and must be removed when the work has been completed.

**Note:** This does not apply in relation to building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or Crown building work certified to comply with the *Building Code of Australia* under the Act, Part 6.

Condition reason: prescribed condition.

**62. Excavation and backfilling safety**

During site work and/or demolition work, all excavations and backfilling are to be executed safely, and excavations are to be properly guarded and protected to prevent them from being dangerous to life and property.

Condition reason: to protect the public near worksites.

**63. Safework NSW requirements**

During site work and/or demolition work, operations are to comply with all requirements of SafeWork NSW.

Condition reason: to require compliance with SafeWork NSW.

**64. Pollution prevention signage**

During demolition work, a Newcastle City Council '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 the Newcastle City Council for the duration of demolition and construction work.

Condition reason: to require pollution prevention signage.

**65. Handling excavated waste**

During site work and/or demolition work, any excavated material to be removed from the site is to be assessed, classified, transported and disposed of in accordance with the Department of Environment and Climate Change's (DECC) 'Waste Classification Guidelines Part 1: Classifying Waste'.

Condition reason: to ensure compliance with State Guidelines.

**66. Imported fill material**

During site work and/or demolition work, 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*.

Condition reason: to ensure compliance with State Guidelines.

**67. Resource recovery Orders**

During demolition work, documentation demonstrating 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 Newcastle City Council officers or the Crown certifier on request.

Condition reason: to provide evidence of compliance.

**68. Controlling dust**

During site work and/or demolition work, all necessary measures are to be undertaken to control dust pollution from the site. These measures are to include, but are 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.

Condition reason: to control dust during works.

**69. Street trees and any tree on Council land protection**

With the exception of the existing *Banksia integrifolia* street tree (Newcastle City Council ID 18660904) located on the Teralba Road frontage which is approved to be removed), during site work and/or demolition work, all public trees including street trees and any tree on Council land that are required to be retained are to be physically protected in accordance with Newcastle City Council's *Urban Forest Technical Manual, Part B Public Trees*.

**Note:** The tree protection fencing is to remain in place and be maintained until all works have been completed, with no waste materials, washouts, equipment or machinery to be stored within the fenced area.

Condition reason: to protect street trees and any tree on Council land.

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**ON COMPLETION OF DEMOLITION WORK**

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Condition

**70. Relocation of survey monuments**

On completion of demolition work, where the proposed development involves the destruction or disturbance of any survey monuments, those monuments affected are to be relocated at no cost to Newcastle City Council, by a surveyor registered under the *Surveying and Spatial Information Act 2002*.

Condition reason: to ensure relocation of survey marks.

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**REMEDIATION WORK**  
**DURING REMEDIATION WORK**

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Condition

**71. Remedial Action Plan Compliance**

During remediation work, the work is to be carried out in accordance with the requirements set out in the submitted Remedial Action Plan (RAP) prepared by Douglas Partners Pty Ltd, dated 4 December 2024.

Condition reason: Remedial Action Plan Compliance

## ON COMPLETION OF REMEDIATION WORK

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Condition

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### 72. Remediation Validation Report

Prior to the occupation of the development, the following documentation is to be submitted to the NSW Land & Housing Corporation and Newcastle City Council: a validation report prepared by a duly qualified consultant prepared in accordance with the requirements of the Remedial Action Plan (RAP), and State Government legislation and endorsed contaminated land guidelines.

Condition reason: To confirm remediation completed and land suitable for approved use.

## Advisory Matters

- It is recommended that, prior to commencement of work, the free national community service 'Dial before you Dig' be contacted on 1100 or by fax on 1200 652 077 regarding the location of underground services in order to prevent injury, personal liability and even death. Inquiries should provide the property details and the nearest cross street/road.
- Any necessary alterations to public utility installations are to be at the developer/demolisher's expense and to the requirements of Newcastle City Council and any other relevant authorities. Newcastle City 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 from any adjoining owner under the provisions of the *Dividing Fences Act 1991*.
- All construction documentation and building work is to be certified in accordance with Section 6.28 of the Environmental Planning and Assessment Act 1979.
- Newcastle City Council is to be given at least two days notice of the date intended for commencement of building works.
- Development applications are not assessed against the provisions of the National Construction Code. An application to modify the application under the *Environmental Planning and Assessment Act 1979* will be required if design amendments that cause the proposal to be inconsistent with the development consent are necessary to comply with the provisions of the Building Code of Australia.
- Prior to the occupation the relevant conditions of this development consent must be complied with. A Crown Certificate must contain the information set out in Section 37 of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021* (NSW).
- It is an offence under the provisions of the *Protection of the Environment Operations Act 1997* to act in a manner causing, or likely to cause, harm to the environment. Anyone allowing material to enter a waterway or leaving material where it can be washed off-site may be subject to a penalty infringement notice (ie 'on-the-spot fine') or prosecution.
- Failure to comply with the conditions of consent constitutes a breach of the *Environmental Planning and Assessment Act 1979*, which may be subject to a penalty infringement notice (ie 'on-the-spot fine') or prosecution.
- A person who is aware or believes that he or she has discovered or located a relic not identified and considered in the supporting documents for this approval, in any circumstances (including where works are carried out in reliance on an exception under section 139(4)), excavation or disturbance must cease in the affected area(s) and the Heritage Council must be notified in accordance with section 146 of the *Heritage Act 1977*. Depending on the nature of the discovery, additional assessment and approval under the *Heritage Act 1977* may be required prior to the recommencement of excavation in the affected area(s).

Note: Heritage NSW can be contacted on 02 9873 8500 or

[heritagemailbox@environment.nsw.gov.au](mailto: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 (NSW)* for a person to disturb or excavate any land upon which the person has discovered a relic except in accordance with a gazetted exception or an excavation permit issued by the Heritage Council of NSW.

- If any Aboriginal objects are discovered which are 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 notified in accordance with section 89A of the *National Parks and Wildlife Act 1974* (NPW Act). Depending on the nature of the discovery, additional assessment and approval under the NPW Act may be required prior to works continuing in the affected area(s). Aboriginal objects in NSW are protected under the NPW Act. Unless the objects are subject to a valid Aboriginal Heritage Impact Permit, work must not recommence until approval to do so has been provided by Heritage NSW.

Note: Heritage NSW can be contacted on 02 9873 8500 or [heritagemailbox@environment.nsw.gov.au](mailto:heritagemailbox@environment.nsw.gov.au). An 'Aboriginal object' is any deposit, object or other material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of an area of New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains. It is an offence under the provisions of the *National Parks and Wildlife Act 1974* (NPW Act) for a person to harm or desecrate an Aboriginal object, with defence from prosecution and certain activities exempt as prescribed under the NPW Act.