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**TO:** Hunter & Central Coast Regional Planning Panel - Chair

**FROM:** W. Toose, Principal Development Officer (Planning) – City of Newcastle

**DATE:** 4 June 2026

**SUBJECT:** PPSHCC-386 – 711 Hunter Street, Newcastle West – DA2025/01348

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CN referred the development application to the Hunter & Central Coast Regional Planning Panel (HCCRPP) for determination on 2 June 2026 with a recommendation for approval, subject to conditions. The Panel requested additional information to assist with their findings and determination of the application.

The purpose of this memo is to provide further clarification in relation to matters raised by the HCCRPP at the determination meeting, to assist the Panel with their determination.

**i. Affordable Housing Contribution**

The Applicant was requested to provide further justification regarding to their preferred payment of a monetary contribution, in lieu of a dedication of affordable housing dwellings.

Refer to the Applicant's response below:

*“The starting point for consideration of affordable housing contributions is Section 7.32 of the Environmental Planning and Assessment Act 1979 (**EPA Act**) which allows a consent authority to impose conditions of development consent that require the dedication of land for the purpose of affordable housing, or the payment of monetary contributions for that purpose (or both).*

*In the Newcastle Local Government Area, the affordable housing contribution scheme is implemented through Clause 6.10 of the Newcastle LEP 2012 (**NLEP**) and the ‘Newcastle Affordable Housing Contributions Scheme – March 2025’ (**AHCS**). The overall affordable housing contribution scheme established by the EPA Act, the LEP, and the AHCS is similar in nature to other contribution schemes established under the EPA Act in that it is implemented by the imposition of conditions of development consent. It is not prescriptive about whether the scheme is implemented by monetary contribution or the dedication of land or both. That is made clear in the AHCS which identifies the area of floor space that must be dedicated or the **equivalent** monetary contribution. In effect, the dedication of land and the payment of money is interchangeable with either being capable of satisfying the objective of the scheme. In the normal course, unless a developer proposes to meet a required contribution by the dedication of land, a contribution scheme will usually be implemented by a condition requiring the payment of money. That is the developer's preference in this case.*

*The AHCS was adopted in March 2025 and acknowledges, at page 12, that there needs to be a 2 year transitional period where the market has an opportunity to adjust to and “absorb” the contribution (reflected in a discount). This project is being considered within that transition period, and should be given flexibility in how it satisfies the objective of the scheme. That is particularly the case because:*

- 1. The project is a large multi-use project the planning and design of which commenced well before the AHCS was adopted;*
- 2. The AHCS anticipates the imposition of a condition requiring the payment of an affordable housing contribution. The Council has not previously indicated it would not accept a contribution for affordable housing (notwithstanding a long-term preference (rather than requirement) for dedication referred to in the AHCS);*

3. *When Council requested confirmation about how the applicant would like to satisfy the Scheme as part of the RFI dated 3 February 2026, the payment of a monetary contribution was identified rather than dedication of land. This is reflected in the draft conditions of consent, presumably because it is considered to be deemed an acceptable method by the Council.*
4. *The feasibility of the project has been prepared on the basis of payment of a contribution (which is consistent with what the AHCS anticipates);*
5. *There has been no identification of which apartments should be subject to a condition requiring dedication. A condition requiring dedication is only appropriate where the land or apartment to be dedicated has been identified in the development application – that has not occurred in this case.*

*In the circumstances of this application, particularly in the transition period created by the AHCS, the above justifies the imposition of a condition requiring the payment of a contribution rather than the dedication of completed dwellings. Under the AHCS the monetary contribution is equivalent to any dedication and therefore satisfies the requirements and objectives of the Council's affordable housing scheme”.*

#### CN response:

By way of background, CN accepted the applicant's preferred approach on the view that, in some circumstances, a monetary contribution may deliver a greater number of affordable dwellings. As the monetary contribution could deliver more dwellings this was considered to be appropriate.

The proposed development is located on land identified as Area E on the *Affordable Housing Contributions Scheme Map* under Clause 6.10 (Affordable Housing Contributions) of the Newcastle Local Environmental Plan 2012. As the proposal includes residential development with a gross floor area equal to or exceeding 540 sqm, an affordable housing contribution is required and is to be calculated in accordance with the Newcastle Affordable Housing Contributions Scheme (NAHCS), adopted by Council on 25 March 2025.

Clause 6.10 (5) of the Newcastle LEP 2012 states:

*The affordable housing levy contribution **must** be calculated in accordance with the Newcastle Affordable Housing Contributions Scheme.*

The scheme applies to all applicable development applications lodged after the gazettal of the scheme.

In accordance with Section 2.1 of the NAHCS, the applicable formula is:

$$AH\ Contribution = 1\% \times residential\ GFA \times \frac{proposed\ dwellings - existing\ dwellings}{proposed\ dwellings}$$

Based on an assessment of the plans submitted, the following variables apply. It is noted that the final calculation will be based on the approved final plans:

- Proposed dwellings: 191
- Existing dwellings: 0
- Residential gross floor area: 20,759 sqm

Under the NAHCS, the dedication of completed dwellings is the preferred method of satisfying affordable housing contributions where practicable. In particular, Section 2.4 notes that Council prefers developers to dedicate completed dwellings for developments comprising more than 100 dwellings with a minimum dwelling size of 50 sqm, where feasible.

Applying the contribution rate to the proposal, the required affordable housing contribution equates to a residential GFA dedication of 207.59 sqm, representing 1 per cent of the total residential GFA. This quantum is to be used to determine the number and size of dwellings to be dedicated to Council.

Where the contribution is made as a monetary payment, the applicable suburb rate for Newcastle West, indexed to the December 2025 quarter (released May 2026), is \$95.52 per sqm. Applying this rate results in a monetary contribution of \$1,982,899.68, being the monetary equivalent of 1 per cent of the total residential GFA.

An affordable housing contribution may be satisfied by:

- the dedication of completed dwellings.
- a monetary contribution; or
- a combination of in-kind (dwelling) dedication and monetary contribution.

## Dedication of dwellings

Dwellings that are dedicated to CN must:

- Be identified on the subdivision plan in an approved development application.
- Align with the affordable housing principles in NAHCS Section 1.9.
- Have a minimum GFA equivalent to a 1-bedroom apartment (50sqm) under the Apartment Design Guide. (Where there is a balance deficit of more than 1 sqm, the remaining balance of the contribution would be paid as a monetary contribution).
- Be completed when dedicated.
- Be provided in perpetuity free of cost.

CN will assess the proposed dedication for operational viability, including considerations such as:

- Long-term management and maintenance costs
- Location and accessibility
- Alignment with CN's affordable housing principles

The applicant must enter a Deed with the Council on terms acceptable to the Council providing for the transfer of title of the affordable housing dwellings to the Council, free of charge. The Deed is to be generally in accordance with the Affordable Housing Dwellings Transfer Deed template and is to be submitted to the Council and executed prior to the issue of the first Construction Certificate for the development (i.e., whether for part or whole of a building).

The terms of this Deed must be to the satisfaction of the Council and must include provisions to the effect that:

- The transfer of the dwelling/s is to be completed within two months of the issue of an Occupation Certificate for the relevant dwelling/s that is preceded by subdivision that includes the relevant dwellings or, if subdivision occurs after the issue of such an Occupation Certificate, within two months of subdivision.
- An affordable housing covenant benefitting the Council is to be placed on the title of the land.
- The affordable housing dwelling is to be constructed to a standard which, in the opinion of the Council, is consistent with other dwellings in the development.
- The applicant must pay Council's reasonable legal costs in satisfying itself that the agreement is appropriate, and a provision to this effect is to be included in the agreement.

The construction certificate plans must demonstrate the physical requirements specified in the Housing Transfer Deed are satisfied.

## Discount rate

Discount rates apply to development applications where the contribution is paid before the relevant dates. The table below sets out the applicable discount rates and the periods to which they apply.

| Year                                                     | Discount Rate |
|----------------------------------------------------------|---------------|
| Initial period<br>[date of gazettal by NSW Government] - | 50%           |

|                                             |     |
|---------------------------------------------|-----|
| June 2026                                   |     |
| <b>Second year</b><br>July 2026 - June 2027 | 25% |
| <b>Third year onwards</b><br>July 2027+     | 0%  |

For monetary contributions, the applicable discount rate is applied at the time of payment, which must occur prior to the issue of the first construction certificate. The contribution is taken to be satisfied once payment is made.

For in-kind contributions, the discount rate is applied at the time the Affordable Housing Dwellings Transfer Deed is executed by all parties. The contribution is taken to be satisfied upon completion of the transfer of dwellings.

CN notes that the Panel has requested the contribution to be in-kind and provide the below conditions as requested:

### **Prior to issue of Construction Certificate:**

- **Affordable housing contributions – 7.32 Dedication of Dwellings for Affordable Housing**

In accordance with Newcastle Affordable Housing Contributions Scheme (the scheme), the applicant must dedicate to the Council one or more lots in a strata plan containing a dwelling in the development the subject of this consent with a total floor space of at least 207.59m<sup>2</sup> (subject to discount rate) for the purpose of affordable housing, free of cost to the Council.

In accordance with the scheme, the following formula and contribution rate was applied to calculate the area of land for affordable housing:

$$AH \text{ Contribution} = 1\% \times 20,759 \times \frac{191 - 0}{191}$$

In accordance with the scheme:

- a) Each dwelling must have a minimum internal gross floor area of 50m<sup>2</sup>.
- b) The total contribution for the purpose of affordable housing must be equal to, or greater than 207.59m<sup>2</sup> (subject to discount rate). Where the dedication of a dwelling does not cover the full contribution required, the remaining is to be paid as a monetary contribution at the contribution rate of \$95.52/m<sup>2</sup> (subject to indexation)

The applicant must enter a Deed with the Council in the form and on terms acceptable to the Council providing for the transfer of title of the affordable housing dwellings to the Council, free of charge.

The Deed is to be generally in accordance with the Affordable Housing Dwellings Transfer Deed template available at Council and is to be submitted to the Council and executed prior to the issue of the first Construction Certificate for the development (i.e., whether for part or whole of a building).

The terms of this Deed must be to the satisfaction of the Council and must include provisions to the effect that:

- The transfer of the dwelling/s is to be completed within two months of the issue of an Occupation Certificate for the relevant dwelling/s that is preceded by subdivision that includes the relevant dwellings or, if subdivision occurs after the issue of such an Occupation Certificate, within two months of subdivision.
- An affordable housing covenant benefitting the Council is to be placed on the title of the land.
- The affordable housing dwelling is to be constructed to a standard which, in the opinion of the Council, is consistent with other dwellings in the development.
- The applicant must pay Council's reasonable legal costs in satisfying itself that the agreement is appropriate, and a provision to this effect is to be included in the agreement.

The construction certificate plans must demonstrate the physical requirements specified in the Housing Transfer Deed are satisfied.

Condition reason: To ensure affordable housing contributions are levied in accordance with the adopted scheme

- **Affordable housing contributions – Fittings and Finishes**

The fit-out of the required affordable housing dwellings is to be designed to at least meet the median quality standard of all other units in the development and in accordance with the standards set out in the Housing Transfer Deed entered into with the Council. Details verifying compliance are to be included in documentation for relevant Construction Certificate application/s. Any costs associated with bringing the affordable housing dwellings to the standards required are to be borne by the developer.

Condition reason: To ensure dwellings dedicated for affordable housing provide the same level of amenity as those on the private market.

An updated schedule of draft conditions is provided in **Attachment A**.

- ii. **Objective 4A-1 of ADG & Sun-Eye Diagrams**

CN's assessment report identified that no sun angle diagrams or equivalent supporting analysis had been provided.

The Applicant has provided the following response to ADG Objective 4A-1, together with the accompanying sun-eye diagrams, prepared by Stewart Architects:

*"The proposal has been designed to optimise solar access, with all living rooms and primary private open spaces oriented to the north & east. Importantly, there are no south-facing living rooms or primary balconies within the development.*

*The proposal achieves the primary requirement of ADG Objective 4A-1, with more than 70% of apartments receiving a minimum of 2 hours of direct sunlight to living rooms and private open spaces between 9.00am and 3.00pm during mid-winter.*

*A total of 39 apartments (20.42%) do not receive direct sunlight during the prescribed assessment period. Of these, 9 apartments are located within the podium and form part of the walk-up apartment typology that sleeves the car parking levels. These dwellings provide important activation to the podium frontage, improved passive surveillance and screening of parking levels from the public domain. They are also designed with shallow floor plates, generous glazing and adjoining private open space, resulting in high levels of daylight access and natural ventilation. The podium dwellings were discussed at length during our sessions with the URDP and deemed important to the creation of vibrant streetscapes.*

*The remaining apartments are predominantly east-facing dwellings within the tower that have been oriented towards eastern outlook and view opportunities. Consistent with the ADG guidance, the orientation of these apartments represents an appropriate balance between view amenity and solar access. While these apartments do not receive direct sunlight between 9.00am and 3.00pm at mid-winter, they all receive direct morning sunlight prior to 9.00am and achieve excellent daylight access throughout the year.*

*Excluding the podium apartments, the number of apartments within the tower that do not achieve direct sunlight reduces to 30 apartments, representing 15.7% of the total development. In the context of a high-density city-centre development, this variation is minor and is offset by the high levels of*

*daylight access, housing diversity, view amenity and positive urban design outcomes achieved by the proposal.*

*Accordingly, the proposal satisfies the intent of Objective 4A-1 by optimising solar access while balancing broader residential amenity and urban design outcomes”.*

CN response:

Having regard to the assessment of the ADG from a merit perspective, Council officers are satisfied that the development has been responsibly designed and provides for acceptable levels of amenity for future residents. It is considered that the proposal successfully minimises adverse impacts on the amenity of neighbouring properties. The development is consistent with the intentions of the relevant planning controls and represents a form of development contemplated by the relevant statutory and non-statutory controls applying to the land.

**iii. Public Art conditions**

The following public art conditions are recommended to be placed on the consent, to ensure consistency with recent applications determined by the Panel and CN. These replace the conditions that were submitted to the Panel as part of the determination package.

Amended conditions:

**27. Art in publicly accessible places**

Before the issue of the first construction certificate for the development (i.e., whether for part or whole of a building), but excluding construction certificates related to in-ground works and/or the ground floor slab only, a detailed public art plan, is to be prepared by a suitably qualified person, that is generally consistent with the Public Art Strategy (endorsed by Newcastle City Council’s PASC on 27 May 2026).

The detailed public art plan is to address the following:

- a) Provide detailed design, artist selection and breakdown of the associated costings and maintenance plan requirements.
- b) Public art is to have a minimum value of 1% of the estimated development costs of the development.

The detailed public art plan is to be submitted to and endorsed by Newcastle City Council’s PASC.

Condition reason: To ensure publicly accessible art is installed to Newcastle City Council's satisfaction.

**28. Art in publicly accessible places – maintenance plan**

Before the issue of the first construction certificate for the development (i.e., whether for part or whole of a building), but excluding construction certificates related to in-ground works and/or the ground floor slab only for above ground works, a publicly accessible artwork maintenance plan is to be prepared and submitted to Newcastle City Council for endorsement and consistent with other conditions of this consent.

Condition reason: To ensure the effective management of publicly accessible artwork.

## 115. Art in publicly accessible places

Before the issue of the first occupation certificate for the development (i.e., whether for part or whole of a building), public art consistent with the detailed public art plan endorsed by the PASC is to be installed. Details confirming installation of the public art is to be submitted to Newcastle City Council's prior to issue of the first occupation certificate.

Condition reason: To ensure publicly accessible art is installed to Newcastle City Council's satisfaction.

An updated schedule of draft conditions is provided in **Attachment A**.

The above supplementary memo, in combination with the revisions to the draft conditions by CN, comprehensively addresses the concerns and issues arising from the determination meeting.

It is recommended that the application be supported on the combined basis of the 'Council Assessment Report' and this Supplementary Memo, subject to the revised draft conditions of consent.

Should you require any further information on this matter please contact William Toose, Principal Development Officer on [wtoose@ncc.nsw.gov.au](mailto:wtoose@ncc.nsw.gov.au) or (02) 4974 2731.

**W. Toose**  
**Principal Development Officer (Planning)**

### Attachments:

Attachment A – Schedule of Draft Conditions (clean version)

Attachment B – Schedule of Draft Conditions (marked-up version)

Attachment C – Solar Study (Sun Eye), prepared by Stewart Architecture