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<b>Application No:</b>	DA2021/00007
<b>Land:</b>	Lot 12 DP 280089
<b>Property Address:</b>	27D Riverside Drive Mayfield West NSW 2304
<b>Proposed Development:</b>	Proposed Battery Storage Facility (Electricity generating works)

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## SCHEDULE 1

Consent is granted subject to 'Deferred Commencement' in accordance with Section 4.16(3) of the *Environmental Planning and Assessment Act 1979*.

The following deferred commencement condition must be complied with to the satisfaction of Council within **12 months** from the date of this Notice of Determination to obtain an operational Development Consent.

1. Written evidence being provided that the Plan of Subdivision for the Stage 11 allotments has been registered by the NSW Land Registry Service in accordance with DA2006/2076.3. When Council is satisfied that it has received suitable evidence of registration, Council will confirm in writing the date from which Schedule 2 & 3 of the consent becomes operative.

The operational development consent will be issued by Council when the applicant provides documentary evidence to Council that the deferred commencement condition has been satisfied.

The following conditions of consent will be included in the operational development consent.

## SCHEDULE 2

### APPROVED DOCUMENTATION AND ADMINISTRATIVE CONDITIONS

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
Plan	Project No: 20269A Dwg No: DA01 Rev 9 DA06 Rev 9	GCA Engineering Solutions	22/6/21
Landscape Plan	Project No: 13360.5 Dwg No: L101 Rev H	Terras Landscape Architects	27/5/21

	L102 Rev H		
Civil Plans	Project No: 20269C Dwg No: C01 Rev3 C02 Rev 3	GCA Engineering Solutions	20/5/21

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.

2. A total monetary contribution of \$7,251.61 is to be paid to the City of Newcastle, pursuant to Section 7.12 of the *Environmental Planning and Assessment Act 1979*, such contribution to be payable prior to the issue of the first occupation certificate in respect of the proposed development.

The payment deferral arrangements enabling payment prior to the issue of the first occupation certificate applies from the 8th July 2020 to when the COVID-19 prescribed period ends. The payment deferral arrangements cease to apply if a construction certificate has not been issued for the development by 25 September 2022.

Note:

- i) This condition is imposed in accordance with the provisions of the City of Newcastle's *Section 7.12 Newcastle Local Infrastructure Contributions Plan 2019*.
- ii) The City of Newcastle's *Section 7.12 Newcastle Local Infrastructure Contributions Plan 2019* permits deferred or periodic payment of levies in certain circumstances. A formal modification of this condition will be required to enter into a deferred or periodic payment arrangement.
- iii) Certifiers are required to obtain documentation from City of Newcastle confirming the payment of infrastructure contributions prior to the issuing of an occupation certificate.
- iv) The amount of contribution payable under this condition has been calculated on the basis of the current rate as at the date of consent and is based on the most recent quarterly Consumer Price Index (CPI) release made available by the Australian Bureau of Statistics (ABS). The CPI index rate is expected to rise at regular intervals and therefore the actual contribution payable is indexed and recalculated at the CPI rate applicable on the day of payment.

CPI quarterly figures are released by the ABS on a date after the indexation quarter and, as a guide, these approximate dates are as follows:

Indexation quarters	Approximate release date
September	Late October
December	Late January
March	Late April
June	Late July

Any party intending to act on this consent should contact City of Newcastle's Customer Enquiry Centre for determination of the indexed amount of contribution on the date of payment.

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

3. 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. Full details are to be included in documentation for a Construction Certificate application.
4. Site drainage to be safely conveyed to the existing interallotment drainage system with no adverse impacts on adjoining properties. Full details being provided with the Construction Certificate application.
5. Prior to issue of a Construction Certificate for the premises, a copy of Contamination Certificate C being submitted to the Principal Certifying Authority and Council's Environmental Services Unit in accordance with contamination protocols developed for Steel River by URS.
6. All proposed planting and landscape elements indicated on the submitted 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 2012 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 a Construction Certificate application.

7. 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 cash 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 Section 50 *Hunter Water Act 1991*) is to be included in documentation for a Construction Certificate application.
8. Two industrial vehicular crossings to be constructed across the Riverside Drive road reserve, in accordance with the following criteria:
  - a) Designed and constructed in accordance with Council's A1300 - Driveway Crossings Standard Design Details.
  - b) The driveway crossings, within the road reserve, shall be a maximum of 6 metres wide.
  - c) Letterboxes, 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 road reserve.
  - e) The proposed driveway shall be a minimum of 750mm clear of the centre of any pole or obstruction within the road reserve and 1 metre clear of any drainage pit.
9. The proposed floodlighting of the premises is to be designed, positioned, and installed, including appropriate shielding and orientation of the lighting fixture, as to not give rise

to obtrusive light, interfere with traffic safety or detract from the amenity of surrounding properties in accordance with Australian Standard 4282:1997 - Control of the obtrusive effects of outdoor lighting. Full details are to be included in the documentation for a Construction Certificate application.

10. Prior to the commencement of any works or issue of any Construction Certificate, whichever occurs first, the proponent is to meet the Ausgrid requirements as detailed within their letter dated 4 February 2021 (Ausgrid Reference: 1900104526).
11. Prior to the commencement of any works or issue of any Construction Certificate, whichever occurs first, the proponent is to meet the ARTC requirements as detailed within their letter dated 2 August 2021.
12. The battery energy storage system shall be either containerised (Drawing DA01) or modular (Drawing DA06). If the battery modules, other than Tesla Model 1462965-XX-Y Megapack, are chosen as the final design for this development, the Applicant shall at least one month prior to installation of the battery modules, prepare a Final Hazard Analysis of the development, consistent with the Department of Planning's Hazardous Industry Planning Advisory Paper No. 6, 'Hazard Analysis' and Multi-level Risk Assessment, and consider recent developments in research and standards for battery energy storage systems. The Final Hazard Analysis shall be submitted to the written satisfaction of Council prior to the installation of the battery modules and issue of any Construction Certificate.

Note: the Final Hazard Analysis should consider standards and codes such as and not limited to NFPA 855, AS 5139, IEC 62897, UL 9540, FM Global DS 5-33. The PHA should verify that the proposed BESS capacity would be able to fit within the land area designated for the Battery Energy Storage System (BESS) while taking into account separation distances between the BESS sub-units (racks, modules, enclosures, etc.) ensuring that a fire from a sub-unit do not propagate to neighbouring sub-units and the overall BESS and other on-site or off-site receptors, ensuring fire safety.

Where testing of the BESS unit (container or cabinet) has been undertaken in accordance with UL9540A, the UL9540A test report should be submitted where separation distances are based on the results of this report.

13. The Final Hazard Analysis must include a final layout drawing demonstrating that the battery modules can meet the required separation distances within the area available without impacting on the remainder of the site including the approved landscaping. Full details to be submitted prior to the issue of any Construction Certificate.

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

14. All works must be undertaken in accordance with the Steel River Project - Site Development Guidelines prepared by Woodward-Clyde dated 25 January 2000, the Steel River Precinct Long-Term Environmental Management Plan- Stages 9, 10 and 11 RCA Australia, January 2020 (ref: 13191a-405/2), the Site Management Plan prepared by RCA Australia 27 November 2020 (RCA ref 13191e-401/0) and the Stormwater Management Plan prepared by GCA Engineer Solutions dated 04 April 2019.
15. 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.

- 16. All building work is to be carried out in accordance with the provisions of the National Construction Code.
- 17. 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 City of Newcastle reserves, including the road reserve, is not permitted.
- 18. City of Newcastle'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 the City of Newcastle, for the duration of demolition and construction work.

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

- 19. 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:
  - 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 4<sup>th</sup> Edition - Vol. 1* (the '*Blue Book*') published by Landcom, 2004.
- 20. Prior to the commencement of work, 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.
- 21. 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.
- 22. Where the proposed development involves the destruction or disturbance of any survey monuments, those monuments affected are to be relocated, at no cost to the City of

Newcastle, by a Surveyor registered under the *Surveying and Spatial Information Act 2002*.

23. 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*, or
- c) Be a temporary chemical closet approved under the *Local Government Act 1993*.

#### **CONDITIONS TO BE SATISFIED PRIOR TO THE COMMISSIONING OF THE DEVELOPMENT/ISSUE OF OCCUPATION CERTIFICATE**

24. Prior to commissioning of the development, the Applicant must develop and implement a comprehensive Emergency Management Plan and detailed emergency procedures of the development. The plan is to address the provision of temporary bunding during any emergency event to prevent any fire waters entering the stormwater system. The plan shall be consistent with the Department of Planning's Hazardous Industry Planning Advisory Paper No. 1, 'Emergency Planning'. The plan is to be developed in consultation with Fire and Rescue NSW.
25. A copy of contamination Certificate D being submitted to the Principal Certifying Authority and Council's Environmental Services Unit prior to the issue of the Occupation Certificate for the premises, in accordance with contamination protocols developed for Steel River by URS.
26. All works within the road reserve required by this consent are to be completed prior to the issue of a Occupation Certificate.
27. The site is to be identified by the provision of house number on the front fence such that they are clearly visible from the road frontage.

The minimum numeral height is to be 75mm.

#### **CONDITIONS TO BE SATISFIED DURING THE OPERATION AND USE THE DEVELOPMENT**

28. Any liquid wastes from the premises, other than stormwater are to be either discharged to the sewers of the Hunter Water Corporation in accordance with an approved Trade Waste Agreement or collected and disposed of by a licensed waste transport contractor in accordance with the Department of Environment and Climate Change 'Waste Classification Guidelines Part 1: Classifying Waste'.
29. All vehicles to enter and exit the site in a forward direction.
30. The largest permissible vehicle on the site is a 12.5m long rigid truck.
31. The battery energy storage system must not exceed a delivery capacity of 30 MW and being installed and operated in a manner consistent with the Preliminary Hazard Analysis of 3 June 2021.
32. Hazardous substances and/or dangerous goods are to be stored, labelled and handled in accordance with the requirements of SafeWork NSW and the NSW Environment Protection Authority.

*Note:* Hazardous substances and dangerous goods include those identified as 'Dangerous Goods' in the Australian Code for the Transport of Dangerous Goods by Road and Rail (Australian Dangerous Goods Code) and/or 'Hazardous Substances' as identified in the National Occupational Health and Safety Commission's List of Designated Hazardous Substances.

33. 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*.

Should City of Newcastle consider that 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 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, verifying that the recommended acoustic measures have been satisfactorily implemented, will be required to be submitted to City of Newcastle prior to the expiration of the nominated period.

34. 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*, that interferes unreasonably with the amenity of neighbouring premises and/or other sensitive receivers.

Should City of Newcastle 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 emission of air impurities to an acceptable level and such measures will be required to be implemented within a nominated time period. Furthermore, written certification from the suitably qualified consultant will be required to be submitted to City of Newcastle, 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.

## **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 the City of Newcastle and any other relevant authorities. City of Newcastle and other service authorities should be contacted for specific requirements prior to the commencement of any works.
- Prior to commencing any building works, the following provisions of Part 6 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 the City of Newcastle is to be notified of the appointment; and
  - c) The City of Newcastle is to be given at least two days notice of the date intended for commencement of building works.
- 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 are to describe the extent, capability and basis of design of each of the measures.

- Prior to the occupation or use of a new building, or occupation or use of an altered portion of, or an extension to a building, an Occupation Certificate is to be obtained from the Principal Certifier appointed for the proposed development. An application for an Occupation Certificate is to contain the information set out in Clause 149 of the *Environmental Planning and Assessment Regulation 2000*.
- 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* is to be submitted to the City of Newcastle 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* 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 (i.e. '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 (i.e. 'on-the-spot fine') or prosecution.

## **END OF CONDITIONS**



### **SCHEDULE 3**

#### **REASONS FOR THE DETERMINATION & CONSIDERATION OF COMMUNITY VIEWS**

The determination decision was reached for the following reasons:

- The proposed development, subject to the recommended conditions, is consistent with the objectives of the applicable environmental planning instruments, being; *Newcastle Local Environmental Plan 2012* (NLEP) and applicable State Environmental Planning Policies.
- The proposed development is, subject to the recommended conditions, consistent with the objectives of the Newcastle Development Control Plan 2012 (NDCP).
- The proposed development is considered to be of an appropriate scale and form for the site and the character of the locality.
- The proposed development has appropriate management and mitigation of impacts through conditions of consent.
- The proposed development, subject to the recommended conditions, will not result in unacceptable adverse impacts upon the natural or built environments.
- The proposed development is a suitable and planned use of the site and its approval is within the public interest.

#### **REASONS WHY THE CONDITIONS HAVE BEEN IMPOSED**

The following conditions are applied to:

- Confirm and clarify the terms of Council's determination;
- Identify modifications and additional requirements that will result in improved compliance, development and environmental outcomes;
- Prevent, minimise, and/or offset adverse environmental impacts including economic and social impacts;
- Set standards and measures for acceptable environmental performance; and
- Provide for the ongoing management of the development.