

DETERMINATION AND STATEMENT OF REASONS

HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

DATE OF DETERMINATION	21 November 2022
DATE OF PANEL DECISION	21 November 2022
PANEL MEMBERS	Alison McCabe (Chair), Chris Wilson, John Brockhoff, Peta Winney-Baartz and John MacKenzie
APOLOGIES	None
DECLARATIONS OF INTEREST	Juliet Grant declared a conflict as her employer, Gyde, acted for Stevens Group in opposition to this project in 2019. Sandra Hutton declared a conflict of interest as a previous employer of hers, ADW Johnson, has provided advice for an adjoining property.

Papers circulated electronically on 3 November 2022.

MATTER DETERMINED

PPSHCC-95 - Newcastle – DA2021/01256 at 198 Lenaghans Drive, Black Hill – subdivision (as described in Schedule 1).

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel has had the benefit of an initial and detailed briefing and site inspection.

The application is a Part 4 Application arising from a Part 3A Concept Approval issued in November 2013. It is also the subject of a s34(a)(3) certificate under the Biodiversity Conservation (Savings and Transitional) Regulation 2017 – two (2) State Voluntary Planning Agreements and certification that satisfactory arrangements have been made to contribute to Designated State Infrastructure.

Stage 1 for 62 lots was approved under DA 2020/01497 by Newcastle City Council in August 2021. The consent set out the arrangement for access from John Renshaw Drive and approved the clearing of the site. The current application is for Stages 2–7 and relies on the works required to John Renshaw Drive under DA 2020/01497.

Arising from the consideration of this matter, the Panel sought further clarification regarding:

- Status of M1 Motorway extension to Raymond Terrace.
- Need for a condition requiring a restriction as to use on Lot 211 given the proposed buried contaminated material.

The Panel considered a supplementary report dated 11 November 2022 which addressed these matters and an amended set of conditions. The amended conditions included a new condition A.81 requiring a restriction as to use on Lot 211.

The site is part of the emerging Black Hill Catalyst Area – an area of planned employment land.

The proposed subdivision is consistent with the Part 3A Concept Approval and consistent with the strategic planning framework for delivery of employment land.

A key consideration with this application is the potential traffic generation and impacts on the regional traffic network. TfNSW has considered detailed traffic modelling and advised that they do not object to the proposal subject to the advice and conditions provided.

Essentially conditions are proposed limiting the issue of subdivision certificates until particular works are completed.

Stages 1–3 require the Stage 1 John Renshaw Drive access, new left in access, and additional approach / departure / turning lanes and associated works required to upgrade the John Renshaw Drive / M1 Motorway / Weakleys Drive intersection.

Stages 4–7 require the section of M12RT between the Black Hill Interchange and Tarro Interchange including the flyover, to be completed and opened to traffic.

The Panel has understood the works required for Stages 1–3 – some of which are approved under Stage 1. The potential impacts of the additional works have been considered, and while they are subject to a separate approval process, will be contained within the existing classified road reserve.

The works required for Stages 4–7 have been approved, and the potential impacts considered as part of the assessment of SSI-7319. The Panel notes that these works are Critical State Infrastructure, and are approved and funded. There is no requirement for the applicant to contribute to these works. The Panel is satisfied that the conditions requiring these works to be in place prior to the release of a subdivision certificate for Stage 4 are appropriate.

The Panel considers that the proposal is consistent with the Part 3A Concept Approval. The site is suitable for the development as proposed. The traffic impacts of development can be managed, and infrastructure work required for each stage will be in place.

The Panel supports the application subject to the conditions in Attachment A to the supplementary report dated 11 November 2022.

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 in Schedule 2.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel determined to approve the application for the reasons outlined in the Council Assessment Report at Attachment A – Schedule 2.

CONDITIONS



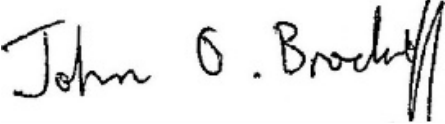


The Development Application was approved subject to the conditions in Schedule 2.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from all those wishing to address the Panel. The Panel notes that issues of concern included:

- Traffic impacts.

The Panel considers that concerns raised by the community have been adequately addressed in the Assessment Report and that no new issues requiring assessment were raised.

PANEL MEMBERS	
 Alison McCabe (Chair)	 Chris Wilson
 John Brockhoff	 Peta Winney-Baartz
 John Mackenzie	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSHCC-95 - Newcastle – DA2021/01256
2	PROPOSED DEVELOPMENT	Subdivision of 1 lot into 138 lots with roads and associated infrastructure
3	STREET ADDRESS	Lot 30 DP870411 – 198 Lenaghans Dr, Black Hill & Lot 4 DP847676 – 202B Lenaghans Dr, Black Hill
4	APPLICANT OWNER	Black Hill Industrial Pty Ltd Black Hill Industrial Pty Ltd (Lot 30 DP870411) and Hunter Water Corporation (Lot 4 DP847676)
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ◦ State Environmental Planning Policy (Biodiversity & Conservation) 2021 ◦ State Environmental Planning Policy (Planning Systems) 2021 ◦ State Environmental Planning Policy (Resilience & Hazards) 2021 ◦ State Environmental Planning Policy (Transport and Infrastructure) 2021 ◦ Newcastle Local Environmental Plan 2012 • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ◦ Newcastle Development Control Plan 2012 • Planning agreements: Nil • Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil • Coastal zone management plan: Nil • The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality • The suitability of the site for the development • Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations • The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Council Assessment Report: 3 November 2022 • Supplementary Council Assessment Report: 11 November 2022 • Written submissions during public exhibition: one (1)
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing: 10 November 2021 <ul style="list-style-type: none"> ◦ <u>Panel members</u>: Alison McCabe (Chair), Noni Ruker and Peta Winney-Baartz ◦ <u>Applicant representatives</u>: Brad Everett ◦ <u>Council assessment staff</u>: Brian Cameron, Priscilla Emmett and Olivia Magrath ◦ <u>Department staff</u>: Alexandra Hafner, Leanne Harris, Lisa Foley and Carolyn Hunt • Site inspections: <ul style="list-style-type: none"> ◦ <u>Alison McCabe (Chair)</u>: 26 June 2022 ◦ <u>Chris Wilson</u>: 1 July 2022 ◦ <u>John Brockhoff</u>: 15 April 2022 ◦ <u>Peta Winney-Baartz</u>: 28 February 2022 • Briefing: 2 March 2022

		<ul style="list-style-type: none"> ○ <u>Panel members</u>: Alison McCabe (Chair), Chris Wilson and John Brockhoff ○ <u>Council assessment staff</u>: Brian Cameron, Priscilla Emmett, Amy Ryan, Damian Jaeger, Steven Masia, Edward Kenney and Olivia Magrath ○ <u>Transport for NSW</u>: Damien Pfeiffer and Marg Johnston ○ <u>Department staff</u>: Leanne Harris, Carolyn Hunt, Jeremy Martin and Lisa Foley <ul style="list-style-type: none"> ● Final briefing to discuss council's recommendation: 10 November 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Alison McCabe (Chair), Chris Wilson, John Brockhoff, Peta Winney-Baartz and John MacKenzie ○ <u>Council assessment staff</u>: Brian Cameron, Roland Payne, Stephen Masia and Priscilla Emmett ○ <u>Department staff</u>: Carolyn Hunt and Lisa Foley ● Applicant Briefing: 10 November 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Alison McCabe (Chair), Chris Wilson, John Brockhoff, Peta Winney-Baartz and John MacKenzie ○ <u>Council assessment staff</u>: Brian Cameron, Stephen Masia and Priscilla Emmett ○ <u>Department staff</u>: Carolyn Hunt and Lisa Foley ○ <u>Applicant representatives</u>: Brad Everett, Deb Gordon and Ian Piper <p><u>Note</u>: Applicant briefing was requested to respond to the recommendation in the council assessment report</p>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Supplementary Assessment Report dated 11 November 2022

SCHEDULE 2

CONDITIONS - DA2021/01256 BLACKHILL INDUSTRIAL ESTATE STAGES 2 TO 7

SCHEDULE NO 1

PART A

Any reference in this consent to guidelines, technical directions, specifications, policies or plans or a like document (Document), is to be construed as a reference to the version of the Document applicable at the time that an obligation or requirement under a condition of this consent arises for consideration. For avoidance of doubt, where such a Document has been repealed or replaced, but not by a Document of the same name, the reference extends to any Document, in the opinion of the consent authority, that contains like or similar requirement.

GENERAL CONDITIONS

- A.1 Pursuant to Section 4.17(1)(b) of the *Environmental Planning and Assessment Act, 1979* the development consent granted for DA2020/01497 (Stage 1) is modified to remove the approval for the clearing of vegetation from that part of the development site within Lots 410 to 413 (Stage 4) and Lot 519 (Stage 5) and defined by the extent of the proposed Lower Hunter Freight (Rail) Corridor (as determined by any Environmental Planning Instrument (including any draft instrument) or otherwise by TfNSW or other relevant infrastructure agency) or within 20m, generally to the west, of the western boundary of the proposed Lower Hunter Freight (Rail) Corridor.
- A.2 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.

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.

Plan No / Supporting Document	Prepared by	Reference_Version	Dated
Amended Staging Plan	Northrop	NL166552-DA2-C01.01.21 Revision 6	30/08/2022
Concept Engineering Plans	Northrop	Ref: NL166552 DA2-C01.01 Rev 2 DA2-C02.01 Rev 2 DA2-C03.01 Rev 3 DA2-C03.11 Rev 3 DA2-C03.12 Rev 3 DA2-C03.13 Rev 3 DA2-C03.41 Rev 1 DA2-C03.51 Rev 1	27/04/2021 27/04/2022 02/09/2022 02/09/2022 02/09/2022 27/04/2022 19/07/2021 19/07/2021

		DA2-C03.52 Rev 1 DA2-C04.01 Rev 1 DA2-C04.11 to 19 Rev 1 DA2-C04.20 Rev 2 DA2-C04.51 to 62 Rev 1 DA2-C06.11 Rev 1 DA2-C07.01 to 02 Rev 1	19/07/2021 19/07/2021 19/07/2021 27/04/2022 19/07/2021 19/07/2021 27/04/2022
Engineering Design Report (excluding the Engineering Drawings in Appendix A)	Northrop	NL166552 Revision A	21/07/2021
Landscape Plans	Paul Scrivener	Ref: 20/2220 Sheets 1 to 24 Rev B	09/08/2021
Traffic Modelling and Upgrades Assessment	Bitzios	P5510.002R	21/07/2022
M1 Intersection Upgrade plan (as referenced in TfNSW letter dated 16/09/2022)	Northrop	Ref: NL166552 SD2-C01.41 Rev 3 SD2-C01.21 Rev 2	29/08/2022 19/08/2022
Construction Environmental Management Plan	Northrop	NL166552 Rev 2	13/04/2022
Acid Sulphate Management Plan	Northrop	NL166552 Rev A	19/10/2022
Groundwater Management Plan	Cardno	82218039-002.2	08/05/2018
Bushfire Assessment Report	Building Code and Bushfire Hazard Solutions	181048C Rev 2	12/08/2021
Vegetation Management Plan	Ecological	17750 Rev V0e	15/09/2021
Aboriginal Cultural Heritage Management Plan	Yancoal	Black Hill, NSW	05/03/2019
Remediation Action Plan	Stantec (formerly Cardno)	82218039 Rev 3	28/10/2022

- A.3 Construction of the proposed subdivision taking place generally in the consecutive manner indicated on the approved Staging Plan (refer Condition A.1) except as otherwise provided by the conditions of this consent or as agreed in writing by Council. Consecutive stages may be constructed concurrently.
- A.4 Prior to the issue of a Subdivision Works Certificate for a particular Stage all relevant general conditions of Schedule 1 (Part A) and all relevant conditions within Schedule 1 (Part B) as required by Subsidence Advisory NSW (SANSW) and all relevant conditions within Schedule 1 (Part C) as required by Transport for NSW (TfNSW) for the particular Stage are to be complied with.
- A.5 Prior to the endorsement of a Subdivision Certificate for a particular Stage, all relevant general conditions of Schedule 1 (Part A) and all relevant conditions within Schedule 1 (Part B) as required by Subsidence Advisory NSW (SANSW) and all relevant conditions within Schedule 1 (Part C) as required by Transport for NSW (TfNSW) for the particular Stage (if applicable) are to be complied

with.

- A.6 The Developer is responsible for all costs associated with this development, unless otherwise agreed by Council as being 'works-in-kind' as specifically identified in Council's applicable section 7.12 Newcastle Local Infrastructure Contributions Plan.
- A.7 For clarity, this development consent does not authorise the clearing and grubbing of vegetation or harvesting and propagation of native seed stock associated with preliminary site works within Stages 2 to 7. Such works are to be undertaken in accordance with the terms of the development consent issued for DA2020/01497.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A SUBDIVISION WORKS CERTIFICATE FOR STAGES 2 TO 7

- A.8 Prior to the issuing of any Subdivision Works Certificate for Stage 2 (in whole or part), the Developer is to provide to the Registered Certifier and the Council:
- a) Written evidence of a Works Authorisation Deed executed with Transport for NSW (TfNSW); and
 - b) A copy (in pdf format) of design drawings approved by TfNSW for all works within any classified road reserve or proposed road reserve widening associated with that Stage. The approved design drawings are to include sufficient detail to confirm consistency with the detailed construction plans submitted with an application for the Subdivision Works Certificate.
- A.9 For each stage of the development a NSW Environment Protection Authority (EPA) accredited Site Auditor is to review the Stantec 2022 Remediation Action Plan (**RAP**) (Ref: 82218039 Revision 3 dated 28 October 2022) and all related reports, and is to prepare and issue to the Certifier and Council, either:
- a) a Site Audit Statement (SAS) and Site Audit Report (SAR) certifying that all detailed investigation, remediation and validation has been carried out and the relevant stage of development is suitable for all the intended land uses [i.e. a Section (A) SAS]; or
 - b) a Site Audit Statement (SAS) and Site Audit Report (SAR) certifying the land within the relevant stage can be made suitable for all the intended land uses if the site is remediated in accordance with a Stage-specific RAP [i.e. a Section (B5) SAS]. The Stage-Specific RAP must be consistent with the preferred remediation options described in the Stantec 2022 RAP. For avoidance of doubt, the Stage-specific RAP must include any additional requirements that the Site Auditor may impose.
- A.10 The Developer is to identify all locations and extents of any existing and/or proposed stockpiles of surplus virgin excavated natural material (VENM) resulting from previous or current proposed subdivision works. Full details, including associated ongoing environmental management measures, are to be included in the detailed design drawings provided to Council for a Subdivision Works Certificate application.
- A.11 All subdivision and associated works are to be designed and constructed in accordance with the following documents or current equivalent document at the time of application.
- a) Relevant Austroads publications
 - b) Associated Transport for NSW (TfNSW) (formerly the Roads and Maritime Services (RMS)) supplements and Technical Directions
 - c) Council's Development Control Plan

- d) The Newcastle City Council – Engineering Specifications for Development Design and Construction.
- A.12 Road infrastructure including intersection treatments, road pavement, foot/cycle/shared paths, kerb and gutter, stormwater drainage, services, landscaping (including street trees), street lighting, signage and markings is to be provided for each Stage of the subdivision, generally in accordance with the approved plans or as otherwise detailed in this consent. Full details to be included in the detailed design drawings for a Subdivision Works Certificate application.
- A.13 Each Subdivision Works Certificate application for road and drainage construction works is to be accompanied by a comprehensive MUSIC model demonstrating that the proposed works will achieve the water quality reduction targets specified by Council's Development Control Plan.
- A.14 Detailed design drawings prepared in association with Subdivision Works Certificate applications for Stages 4 and 5 must take into account the retention and preservation of vegetation and limitations on earthworks in the vicinity of the proposed Lower Hunter Freight (Rail) Corridor and the amended location and extent of the 20m wide vegetation buffer as required under the terms of this consent.
- A.15 Stormwater Management and associated Water Sensitive Urban Design (WSUD) measures are to be designed and constructed in accordance with Council's Development Control Plan and Standard Drawings that are current when making each application for Subdivision Works Certificate and in accordance with the following additional requirements:
- a) Upright kerb and gutter shall be provided to both sides of all roads.
 - b) All roads shall be provided with a crown on the pavement centreline and 2-way crossfall (3 %) toward the respective kerb and gutter.
 - c) All footway and verge areas are to have 2.5 % crossfall toward the respective kerb and gutter.
 - d) Trafficable all-weather maintenance vehicle access tracks are to be provided from the public road to all basins, pits and headwalls.
 - e) Bio-retention basins shall initially be constructed with a separate sacrificial layer of Bidum A64 or approved equivalent laid over the surface of the filter media prior to the laying of a temporary full width/length turf cover.
(Note: The Developer is responsible for removing all temporary and sacrificial measures and completing the construction and planting of the Bio-retention basins in accordance with the terms of this consent.)
 - f) Proprietary gross pollutant traps (GPT's) proposed upstream of all Bio-retention basins shall be centrifugal type with removable capture baskets such as 'Rocla CDSTM' or products with a similar function, as agreed by Council with an offline capture chamber.
 - g) All GPT's are to be provided with hardstand maintenance pads to the requirements of Council.
- A.16 Designs for flexible road pavements associated with the development shall be in accordance with Council's Development Control Plan, relevant Austroad and Transport for NSW (TfNSW) publications and the following additional requirements. Full details to be included in the detailed design drawings for a Subdivision Works Certificate application or application under s138 (*Roads Act, 1993*), as appropriate.
- a) Shall be accompanied by a .pdf copy of a pavement design report prepared and certified by a practising geotechnical engineer.
 - b) All roads to be Benkleman Beam tested prior to prime sealing with a maximum permissible deflection of 1.0 mm being allowed for all internal Local roads. New pavements associated with works on any Classified Road shall have a maximum permissible deflection of 0.8 mm.
 - c) All roads to be primer sealed (7mm) prior to asphaltting.
 - d) The minimum wearing surface of all internal roads is a 50 mm compacted thickness layer of asphaltic concrete (AC 14).

- A.17 Intersections associated with the development shall be in accordance with Council's Development Control Plan, relevant Austroad and Transport for NSW (TfNSW) publications and the following additional requirements. Full details to be included in the detailed design drawings for a Subdivision Works Certificate application or application under s138 of the *Roads Act, 1993*, as appropriate.
- a) The proposed intersection with John Renshaw Drive is to comply with the requirements of TfNSW.
 - b) The standard design vehicle for all proposed Local roads shall be a Performance Based Standards (PBS) Level 1 vehicle up to 20m in length as defined by the National Heavy Vehicle Regulator (NHVR).
 - c) All proposed Local road intersections are also to be capable of catering for PBS Level 2 vehicles up to 30 m in length as defined by the NHVR without encroachment onto kerbs, medians, footways or verges.
- A.18 Concrete footway paving and shared paths are to be provided to the development in accordance with the following requirements. Full details to be included in the detailed design drawings for a Subdivision Works Certificate application or application under s138 of the *Roads Act, 1993*, as appropriate.
- a) A minimum 2.5 m wide reinforced concrete shared path within the eastern footway of proposed Road MCL01 from the intersection of Road MCL03 to John Renshaw Drive.
 - b) A minimum 2.5 m wide reinforced concrete shared path around all kerb returns associated with each proposed roundabout. These shared paths shall extend in length until satisfactory on-road provision exists for cyclists on the respective road.
 - c) A minimum 1.2 m wide reinforced concrete footpath is to be provided to both sides of proposed Roads MCL01 and MCL03 except where a shared path is provided in accordance with a) and b) above.
 - d) A minimum 1.2 m wide reinforced concrete footpath is to be provided to at least one side of all other proposed Roads not specified in a), b) or c) above.
 - e) Appropriate on and off ramps, holding rails and signage are to be provided for in association with any shared path.
 - f) Appropriate kerb ramps are to be provided at all intersections for pedestrians.
- A.19 All footways containing a shared path are to be widened to a minimum 5.0m and appropriate amendments made to proposed road reserve boundaries and the proposed boundaries of affected lots. Full details to be included in the detailed design drawings for a Subdivision Works Certificate application or application under s138 of the *Roads Act 1993*, as appropriate.
- A.20 The approaches and circulating road pavement for all roundabouts is to be steel reinforced concrete designed and certified by a suitably qualified engineer as being in accordance with the RMS's '*Concrete Roundabout Pavements: A Guide to their Design and Construction*' or as agreed by Council. Full details to be included in the detailed design drawings for a Subdivision Works Certificate application or application under s138 (*Roads Act, 1993*), as appropriate.
- A.21 All splitter islands associated with each roundabout are to include pedestrian refuges in accordance with relevant Austroad and Transport for NSW (TfNSW) publications. Full details to be included in the detailed design drawings for a Subdivision Works Certificate application or application under s138 of the *Roads Act 1993*, as appropriate.
- A.22 In addition to the regulatory line marking and sign posting associated with the roundabouts and any requirements of TfNSW, the following additional regulations on traffic and parking are to be shown on the relevant in the detailed design drawings for a Subdivision Works Certificate application or application under s138 of the *Roads Act 1993*;
- a) Stage 2 – 'No Exit', 'Left Only' and 'Wrong Way Go Back' signage to prevent drivers from attempting to use Road MCL01 to exit onto John Renshaw Drive.

- b) Stage 2 - 'No Stopping' restrictions to the western side of Road MCL01 from John Renshaw Drive to Road MCL10.
- c) Stage 2 - 'No Stopping' restrictions on the eastern side of Road MCL01 from John Renshaw Drive to the southern edge of the landscape buffer where it crosses Road MCL01.
- d) Stage 2 - 'No Parking' restrictions across the frontage of proposed Lot 201 to Road MCL01 from the southern extent of b) above to Road MCL10.
- e) Stage 2 – 'Stop' controls on Roads MCL09 and MCL10 at the intersection with Road MCL03.
- f) Stage 4 – 'Stop' controls on Roads MCL08 and MCL09 at the intersection with Road MCL01.
- g) Stage 4 – 'Stop' controls on Roads MCL04 and MCL05 (in Stage 1) at the intersection with Road MCL01.
- h) Stage 4 - 'No Stopping' restriction to both sides Road MCL01 between Road MCL09 and approved Stage 1.

A.23 Temporary culdesac turning heads are to be provided at the following locations. The turning heads are to be constructed having full depth road pavement with the exception that the final asphaltic concrete seal may be replaced with a two-coat bitumen spray seal.

- a) Stage 6 in the vicinity of proposed Lot 701.

A.24 Prior to making application for a Subdivision Works Certificate for each Stage the Developer is to submit to Council and obtain approval for all proposed road names within that Stage and the approved road names are to be shown on the submitted documentation accompanying the Subdivision Works Certificate.

A.25 No clearing of native vegetation or earthworks are to occur in the 20m wide Vegetated Buffer unless such works are necessary for the construction of stormwater infrastructure or the installation of underground services.

A.26 All disturbed, regraded or exposed areas outside of development lots are to be stabilised and suitably revegetated. All revegetation is to be undertaken using native plants propagated from local native seed from on-site or a nearby seed source. Propagation material is to be sourced from areas to be cleared in preference to areas that will be retained as bushland. Full details are to be included in documentation for a Subdivision Works Certificate application.

A.27 Detailed Landscape Plans and Specifications being prepared for each Stage by a Landscape Architect or similar qualified professional practising at the membership level of Registered Landscape Architect of the Australian Institute of Landscape Architects and is also to comply with the following requirements. Full details to be included in the detailed design drawings for a Subdivision Works Certificate application.

- a) Existing trees on the site, which are to be retained, are to have no cut or fill under their canopy areas and the location of these trees is to be clearly identified on the Landscape Management Plan and Engineering Plans.
- b) Areas of restricted access and fence detail to be erected during construction and areas proposed for storage/stockpile of plant and materials are to be identified.
- c) To specify
 - The use of plant stock propagated from seed harvested in accordance with DA2020/01497 (Stage 1).
 - Establishment methods for all new plantings.
 - Maintenance scheduling for all new plantings.
 - Guidelines for formative pruning of street trees.
 - Weed eradication program.
 - Reporting methods.
- d) Street tree species are to be agreed by Council's City Greening Services.
- e) All street trees are to be selected and certified by the supplier to comply with the current NATSPEC guide with respect to root development, height, trunk diameter and branch structure

and balance (refer to *Specifying Trees, Construction Information Systems Australia PL, Clark, R 2003*).

- f) For all internal Local roads street trees are to be a minimum 75 litre pot size, or as otherwise approved by Council, planted at a maximum spacing of 12m.
- g) All street trees are to be protected with tree guards to Council's requirements.
- h) No turf is to be installed between the road and riparian zone. A continuous double line of *lomandra* species is to be installed in lieu of weed control and territorial enforcement.
- i) For all batters which will remain or adjoin public land; and
 - More native species are included in the planting schedule. No single species to exceed 15% of the total species mix. No non-native species.
 - Type, diversity and density of native species to replicate structure of adjacent Vegetation Types (see VMP list).
 - Taller longer-lived plants are required on the lower third of batters.
 - Lomandra to be limited to interfaces eg between turf and natives.
 - Measures to increase the resilience of riparian corridor for example retention of habitat logs; use of vines, midstory and longer-lived canopy species to out compete weeds.
- j) Where cul-de-sacs adjoin 20m vegetation buffers, Landscape Plans are to include measures to stop illegal vehicle access into vegetated buffer zones and include installation of continuous, large non-uniform rock walls >800 mm high; rocks >400 mm in minimum dimension and placed at the back of the nominal footway area.

- A.28 A copy of a current Aboriginal Heritage Impact Permit issued by the NSW Office of Environment and Heritage, pursuant to *National Parks and Wildlife Act 1974*, is to be included in the documentation for each Subdivision Works Certificate application where land containing an identified Aboriginal object or site will be impacted.
- A.29 The Developer is to obtain all necessary approval(s) issued pursuant the *Water Management Act, 2000*, unless subject to an exemption, and keep all such approval(s) current for the duration of the respective works. A pdf copy of such approval(s) is to be provided to the Accredited Certifier prior to the issuing of the respective Subdivision Works Certificate.
- A.30 Water, electricity and gas installations are to comply with Section 4.1.3 of the NSW Rural Fire Service document '*Planning for Bushfire Protection 2006*' (or as updated). Full details to be included in documentation for a Subdivision Works Certificate application.
- A.31 No permanent or temporary Asset Protection Zones (APZ's) are to be located in any part of the Drainage Reserve intended to be dedicated to Council or in any part of land identified as a Vegetated Buffer 20m wide.

CONDITIONS TO BE SATISFIED PRIOR TO THE COMMENCEMENT OF WORK AND DURING THE CONSTRUCTION PHASE FOR STAGES 2 TO 7

- A.32 Site Specific Environmental Management Plans (SSEMPs) are to be prepared for each of the Stages 2 to 7 such to be designed and implemented to manage all environmental aspects associated with the clearing, earthworks (including contaminated land remediation and mine subsidence) and construction works. A copy of each SSEMP is to be provided in .pdf format to the Principal Certifier and Council and the SSEMP is to be maintained on site during all site works and be made available to Authorised Officers upon request. The SSEMP is to include but not be limited to:
 - a) A statement of compliance together with detailed justification(s) for any diversions from the overarching Construction Environmental Management Plan (Northrop, NL166552 Rev 2

13/04/2022), including all appendices and subplans (the CEMP) that demonstrate how such diversions meet the stated objectives of the CEMP.

- b) The Flora and Fauna Management Plan prepared for Stage 1 in accordance with DA2020/01497.
- c) The Vegetation Management Plan prepared for Stage 1 in accordance with DA2020/01497.
- d) Archaeological and Aboriginal heritage.
- e) Acid sulfate soils management.
- f) Mine subsidence.
- g) A site management strategy, identifying and addressing issues such as environmental health and safety, site access and security, 'no-go' zones and traffic/pedestrian/cyclist management.
- h) A Construction Traffic Management Plan approved by TfNSW and Council pursuant to Condition C.15.
- i) Site office, compounds and parking locations.
- j) A soil and water management strategy, detailing erosion and sediment control, management of soil stockpiles, control and management of surface water and groundwater. Procedures should be included to ensure that all roads adjacent to the site are kept free and clear from mud and sediment.
- k) A dust management strategy, detailing procedures to minimise dust generation, with particular reference to control techniques and operational limits under adverse meteorological conditions.
- l) A noise management strategy detailing measures to minimise the impact of the construction phase on the amenity of the locality, in accordance with Australian Standard AS 2436, 1981 '*Guide to Noise control on Construction, Maintenance and Demolition Sites*'. Noise monitoring during the construction phase should be incorporated into the program.
- m) A waste minimisation strategy, which aims to avoid production of waste and maximise reuse, recycling or reprocessing of potential waste material including felled trees and other vegetation.
- n) A community relations plan that aims to inform local residents and other local stakeholders of the proposed nature and timeframes for construction activities together with contact details for site management.

A.33 The development is to be undertaken in accordance with the Heritage Management Protocols and Heritage Contingency Protocols set out in the Aboriginal Cultural Heritage Management Plan prepared by Yancoal (5/9/2019).

A.34 Prior to works commencing, all contractors and sub-contractors are to undergo a site induction provided by a suitably qualified heritage professional, which is to include the significance of the site and the relevant obligations under the *Heritage Act 1977* and the *National Parks and Wildlife Act 1974*, and the protocols set out in the Aboriginal Cultural Heritage Management Plan prepared by Yancoal (5/9/2019).

A.35 An Aboriginal Heritage Impact Permit (AHIP) is required to be obtained from Heritage NSW under Part 6 of the *National Parks and Wildlife Act 1974* prior to the commencement of ground disturbance works within any Stage of the development known to contain Aboriginal objects or sites. The AHIP is to include provision for the completion of Aboriginal archaeological investigations in the form of test excavations and (if required) further salvage activities.

During any excavation work, in the event that any Aboriginal objects are identified within the area of works, works within the immediate vicinity of the Aboriginal object should cease and Heritage NSW should be contacted so that appropriate management strategies can be identified.

In the unlikely event that a potential burial site or potential human skeletal material is exposed, work in the vicinity of the remains is to halt immediately to allow assessment and management. If the remains are suspected to be human, it will be necessary to contact NSW Police, Heritage NSW and the Heritage Division to determine an appropriate course of action.

- A.36 If unanticipated suspected Aboriginal heritage objects are uncovered at any time throughout the life of the project, 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). 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.
- A.37 No permanent keeping place or re-burial of Aboriginal objects is to occur on any land owned by Council or intended to be dedicated to Council.
- A.38 Contamination assessment and/or validation reports subject to site auditor review in accordance with Conditions A.9, A.76 and A.77 must demonstrate that any land to be dedicated to Council does not contain any concentrations of contaminants exceeding soil investigation levels or waste criteria set out in Table 1 of the Newcastle Contaminated Land Management Technical Manual.
- A.39 Remediation must be carried out in accordance with the Stantec 2022 RAP or the relevant Stage-specific RAP approved by the Site Auditor pursuant to Condition A.9.
- A.40 A suitably qualified and experienced Environmental Consultant certified under a scheme approved by the NSW EPA must be employed to supervise the implementation of the contaminated sites aspects of the development in accordance with the Stantec 2022 RAP or the relevant Stage-specific RAP approved by the Site Auditor pursuant to Condition A.9, for each Stage of the development.
- A.41 Any new information discovered during the construction or remediation work that, in the opinion of the Environmental Consultant, has the potential to alter previous conclusions about site contamination must be immediately notified in writing to Council, the Principal Certifier and the Site Auditor. The Environmental Consultant must develop a strategy and methodology to satisfactorily address the contamination, and the Site Auditor must confirm in writing to the Council and the Principal Certifier that the requirements of Condition A.9 can be met by the revised strategy and methodology.
- A.42 No changes to the remediation strategy approved by the Site Auditor pursuant to Condition A.9, shall be undertaken without prior written approval from the Site Auditor.
- A.43 Written approval is to be obtained from the Road Authority for all proposed temporary changes to traffic conditions or traffic regulations on any existing Public Road as a result of the development. The Developer shall be responsible for all costs associated with any public notification and implementation of the proposed temporary changes.
- A.44 Closed Circuit Television (CCTV) digital recordings is to be undertaken of all pipes constructed in any existing or proposed public road and any proposed drainage reserve and copies are to be provided to the Principal Certifier and Council.

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

Prior to Practical Completion being achieved for the respective Subdivision Works Certificates and/or prior to the finalisation of the respective Works Authorisation Deed issued by the Road Authority for all works granted consent under section 138 of the *Roads Act 1993*, any defects identified by Council are to be repaired by the Developer and further CCTV footage and reports provided demonstrating that the repairs have been satisfactorily completed.

- A.45 All required landscape works are to be implemented by members of the Landscape Contractors Association of NSW and/or similar qualified contractors and under the direction and supervision of a Landscape Architect or similar qualified professional practising at the membership level of Registered Landscape Architect of the Australian Institute of Landscape Architects.
- A.46 A Landscape Practical Completion Report is to be submitted to the Principal Certifier prior to achieving Practical Completion for each respective Stage of the development. The report is to verify that all landscape works have been carried out in accordance with the comprehensive landscape design plan and specifications that were approved under the respective Subdivision Works Certificate and/or all works granted consent under section 138 of the *Roads Act, 1993* and is to verify that an effective maintenance program has been commenced.
- A.47 All required bushland vegetation management works within the proposed Drainage Reserve are to be undertaken by suitably qualified and experienced bush regeneration contractors who are members of the Australian Association of Bush Regenerators or fulfil the membership criteria and under the direction and supervision of a team Leader having, as a minimum, a Certificate III in Conservation & Land Management or equivalent. A copy of the contractor's qualifications is to be submitted to Council and an initial site inspection is to be undertaken in the company of an appointed Council representative prior to undertaking any work identified in the VMP.
- A.48 Council's 'PREVENT POLLUTION' sign is to be erected and maintained in a conspicuous location on or adjacent to the property boundary so it is clearly visible to the public or at other locations on the site as otherwise directed by Council for the duration of demolition and construction work.
- Note: The sign can be obtained by presenting your development application receipt at Council's Customer Enquiry Counter, Wallsend Library or the Master Builders Association Newcastle.
- A.49 A copy of the Notice of Determination and relevant Subdivision Works Certificates, including associated approved plans, is to be kept on-site at all times during construction works.
- A.50 The project manager nominating a community contact person and advising adjoining owners and Council of the name of the nominated contact person, along with a contact telephone number. The contact person is to be available at all times for the duration of the construction work.
- A.51 Construction/demolition work that generates noise that is audible at residential premises is to be restricted to the following times:
- Monday to Friday, 7:00 am to 6:00 pm and
 - Saturday, 8:00 am to 1:00 pm.
- No noise from construction/demolition work is to be generated on Sundays or public holidays.
- A.52 Mechanical rock breaking is to be confined to between 9.00am to 3.30pm Monday to Friday excluding any Public Holiday. Rock breaking methods must not include blasting.
- A.53 The Developer ensuring services and vehicular access are maintained at all times to all existing properties and buildings adjoining the development site.

- A.54 Compaction of earthworks is to be carried out under Level 1 supervision as per AS 3798-1996 "*Guidelines on earthworks for commercial and residential developments*".
- A.55 The removal of any asbestos material found during the works is to be undertaken in accordance with the requirements of the WorkCover Authority of NSW.
- A.56 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.
- A.57 Any excavated material to be removed from the site is to be assessed, classified, transported and disposed of in accordance with the provisions of the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment (Waste) Regulation 2014*, including the EPA '*Waste Classification Guidelines*' or the conditions of a relevant Resource Recovery Order.
- A.58 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*.
- A.59 Documentation demonstrating the compliance with the conditions of the appropriate Resource Recovery Order and Resource Recovery Exemption must be maintained for any material received at the site and subsequently applied to land under the conditions of the Resource Recovery Order and Exemption. This documentation must be provided to Council officers or the Principal Certifier on request.
- A.60 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 must be undertaken through the installation of erosion control devices such as catch drains, energy dissipaters, level spreaders and sediment control devices such as hay bale barriers, filter fences, filter dams and sediment basins; and
 - b) controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover. Erosion and sediment control measures are to be designed in accordance with the requirements of the *Managing Urban Stormwater: Soils and Construction 4th Edition – Vol. 1 (the 'Blue Book')* published by Landcom, 2004.
- A.61 All necessary measures are to be undertaken to control dust pollution from the site. These measures must include, but not are 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; and
 - c) alter or cease construction work during periods of high wind.
- A.62 Where the proposed development involves the destruction or disturbance of any existing survey monuments, those monuments affected are to be relocated at no cost to Council by a Surveyor registered under the *Surveying and Spatial Information Act 2002* (NSW).
- A.63 Plans of any proposed traffic management devices, line marking and signposting works on existing or proposed public roads being submitted to Council and approved by the Newcastle City Traffic Committee prior to those works being undertaken.

- A.64 The routes for import of any fill material or export of any spoil is to be submitted to and agreed to by the Road Authority prior to the commencement of haulage. Any deterioration or failures within public roads that can reasonably be attributable to such operations are to be restored to the requirements of, and at no cost to, the Road Authority.
- A.65 Toilet facilities being provided at or in the vicinity of the site on which work is being carried out at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. The required toilet facilities are to be in place and operational prior to any other work being undertaken on the site.

<p>CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A SUBDIVISION CERTIFICATE</p>
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- A.66 Prior to the issue of any Subdivision Certificate in respect of the Stages 2 to 7 inclusive the following must occur:

- (i) Details of the cost of carrying out the respective Stage of the development calculated in accordance with City of Newcastle's *Section 7.12 Development Contributions Plan 2021* must be submitted to the City of Newcastle.
- (ii) A development contribution, calculated in accordance with the City of Newcastle's *Section 7.12 Development Contributions Plan (the Plan)* must be paid to the Council. The contribution is to be calculated as a proportion of the cost of carrying out the development determined in accordance with (i) above. The proportions are to be paid as follows:

Proposed cost of the development	%of the levy
Up to \$100,000	NIL
\$100,001-\$200,000	0.5%
More than \$200,000	1.0%

- (iii) If the contribution is not paid within the same financial quarter that the cost report is prepared in, the contribution 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.

- A.67 Prior to making application for a Subdivision Certificate for each Stage the Developer is to obtain from Council the required street addresses and show such addresses on the respective Administration Sheet.
- A.68 All subdivision works, road works granted consent under s138 of the *Roads Act 1993* and public utility installations associated with a particular Stage are to be completed, prior to issue of the relevant Subdivision Certificate
- A.69 A Final Inspection Report (or equivalent as determined by the Road Authority) is to be issued by the Road Authority for any works granted consent under section 138 of the *Roads Act 1993* in association with the respective Stage of the development.
- A.70 A Final Inspection Report, which is in addition to any Practical Completion certificate, is to be issued by the Principal Certifier for any works approved under a Subdivision Works Certificate in association with the respective Stage of the development.
- A.71 The Developer making good any damage caused to a public road or associated structures, including drains and kerb and gutter, as well as to private property, and revegetating any disturbed areas

resulting from the works.

- A.72 Prior to the issuing of the Subdivision Certificate for each Stage of the development, the Developer is to submit to Council (in .pdf format) a Statement of Account detailing all actual and projected contribution expenditure made from the \$2 million allocation referred to in the Concept Approval MP 10_0093 dated 19 November 2013.
- A.73 Prior to the issuing of a Subdivision Certificate for each Stage all approved remediation work is to be completed in accordance with the Stantec 2022 RAP or the relevant Stage-specific RAP approved by the Site Auditor pursuant to Condition A.9 for the respective Stage.
- A.74 Where the subject land has already been certified by a Site Auditor as suitable for the intended land uses by way of SAS and SAR in accordance with Condition A.9(a) and no additional remediation or validation is required, an Environmental Consultant certified under a scheme approved by the NSW EPA must certify in writing that no environmental conditions have changed that affect the suitability of the land and a copy of the certification must be provided to the Principal Certifier and to Council prior to the issuing of a Subdivision Certificate. Where this certification is provided, Conditions A.76 and A.77 will not apply.
- A.75 Prior to the issuing of a Subdivision Certificate for each Stage, a Validation Report must be prepared by, or reviewed and approved by, an Environmental Consultant certified under a scheme approved by the NSW EPA and a copy of the Validation Report must be provided to the Site Auditor, the Principal Certifier and to Council.

The Validation Report must verify that the land is suitable for all the intended uses and that the remediation and validation of the site has been undertaken in accordance with the approved remediation strategy described in the Stantec 2022 RAP or the relevant Stage-specific RAP approved by the Site Auditor pursuant to Condition A.9(b). The Validation Report must detail all locations where remediation has occurred.

- A.76 A NSW EPA accredited Site Auditor must review the Validation Report and any new contamination information discovered during implementation of the Stage-specific RAP.
- A.77 Prior to the issuing of a Subdivision Certificate for each Stage, a final Site Audit Statement and a final Site Audit Report prepared by the Site Auditor certifying that the relevant Stage of the development is suitable for all the intended land uses within the relevant Stage of the development must be provided to the Principal Certifier and Council.
- A.78 A Subdivision Certificate Application is to be submitted to the Principal Certifier in respect of each Stage of the development, accompanied by the appropriate fee. Each application is to be supported .pdf copies of the following documentation, together with any other documentation required under the conditions of this consent:
- a) The plan of subdivision prepared by a Registered Surveyor.
 - b) The instrument prepared under s88B of the *Conveyancing Act, 1919* as appropriate.
 - c) Copies of NATSPEC certification in respect to tree plantings.
 - d) A geotechnical assessment prepared by a suitably qualified geotechnical engineer that:
 - i) indicates any areas of potential slip or subsidence which may influence future road and building design requirements.
 - ii) indicates the location, extent and suitability of any fill placed on the site.
 - iii) provides a report on all earthworks carried out under Level 1 supervision as per AS 3798-1996 '*Guidelines on earthworks for commercial and residential developments*'; and
 - iv) provides testing results for each phase of construction in relation to earthworks and road works.

- e) A statement from a registered surveyor verifying that:
 - i) no survey control marks were interfered with during site work; or
 - ii) that the requirements of the Department of Lands had been obtained in respect of any marks which were destroyed and that such requirements have been complied with.
- f) A statement from the Ecologist who supervised the implementation of the Flora and Fauna Management Plan (FFMP) verifying that any vegetation removal works were undertaken in accordance with the FFMP and detailing any injuries, deaths or relocations of fauna and providing detail on the number, type and location (GPS coordinates) of any nest boxes installed.

A.79 The appropriate notation is to be placed on the plan of subdivision and an instrument under Section 88B of the *Conveyancing Act, 1919* and submitted to the Principal Certifier setting out the terms of easements (including easements in gross) and/or rights of carriageway and/or restrictions as to user required for the subdivision, in respect of the following where applicable:

- a) Interallotment drainage lines in favour of upstream properties utilising the lines.
- b) Rights of carriageway in favour of the property serviced.
- c) Easements for services in favour of the property serviced and /or the appropriate utility provider.
- d) Vegetated Buffers (20m wide).
- e) Restricting access to the M1 Motorway and John Renshaw Drive.
- f) Temporary Asset Protection Zones (APZ).
- g) Public stormwater drains, existing and proposed stormwater outlets, overland flow paths and any temporary culdesac heads or turning facilities in favour of Council.

(Note: i) Council in addition to the owner of any land benefited by the easement is to be a party whose consent is needed to release or vary easements or positive covenants.
 ii) Council advises that it will not withhold consent to release the Positive Covenants or Easements in respect of temporary culdesac heads or turning facilities or Temporary APZ's subject to adequate alternate measures being provided in lieu.)

A.80 The Subdivision Certificate application for Stage 2 must include appropriate notation placed on the respective plan of subdivision and an instrument under Section 88B of the *Conveyancing Act, 1919* for a 'restriction on use of land' such to prevent the removal of native vegetation and prevent the altering of the ground surface levels within that part of the site affected by the proposed Lower Hunter Freight (Rail) Corridor (as determined by any Environmental Planning Instrument, including any draft instrument, or otherwise by TfNSW or other relevant infrastructure agency) or within 20m, generally to the west, of the western boundary of the proposed Lower Hunter Freight (Rail) Corridor. Council is to be nominated as the Prescribed Body having benefit of the 'restriction on use of land'.

A.81 The Subdivision Certificate application for Stage 2 must include appropriate notation placed on the respective plan of subdivision and an instrument under Section 88B of the *Conveyancing Act, 1919* for a 'restriction on use of land' affecting that part of proposed Lot 211 containing the Consolidation Area proposed within the Stantec 2022 RAP or the relevant Stage-specific RAP approved by the Site Auditor pursuant to Condition A.9(b), as appropriate. The Restriction is to restrict any person or company from doing anything that is inconsistent with final Environmental Management Plan specified in the Site Audit Statement prepared for Stage 2. Council is to be nominated as the Prescribed Body having benefit of the 'restriction on use of land'.

A.82 Appropriate documentation is to be submitted with the Subdivision Certificate application for each respective Stage such to provide for the release of any easement, right of carriageway or restriction as to user, including those affecting proposed public roads, made redundant by that particular Stage of the development.

- A.83 Written evidence from Subsidence Advisory NSW (SANSW) that they are satisfied that all mine subsidence remediation works for a particular Stage of the development have been satisfactorily completed is to be submitted to the Principal Certifier prior to certification of the Subdivision Certificate in respect of that Stage.
- A.84 Written evidence of arrangements made with the Hunter Water Corporation Limited, or other approved supplier, for the provision of individual water supply and sewerage services to all lots within each Stage, is to be submitted to the Principal Certifier prior to certification of the Subdivision Certificate in respect of that Stage.
- A.85 Written evidence of arrangements made with Ausgrid, or other approved supplier, for the provision of underground electricity supply to all lots and street lighting within each Stage, is to be submitted to the Principal Certifier prior to certification of the Subdivision Certificate in respect of that Stage.
- (Note: Any required transformers are to be located in reserves or private property, with appropriate easements being created, and are not to be installed in road reserves.)
- A.86 Written evidence of arrangements made with the NBN Co. Ltd, or other approved supplier, for the provision of underground National Broadband Network services to all lots within each Stage. The evidence is to be submitted to the Principal Certifier prior to certification of the Subdivision Certificate in respect of that Stage.
- A.87 Written evidence of consultation with and any resulting arrangements made with the Telstra for the provision of underground broadband and/or telecommunication services to all lots within each Stage. The evidence is to be submitted to the Principal Certifier prior to certification of the Subdivision Certificate in respect of that Stage.
- A.88 Written evidence of any arrangements made with Jemena, or other approved supplier, for the provisioning of underground natural gas services is to be submitted to the Principal Certifier prior to certification of the Subdivision Certificate in respect of each Stage of the development.
- A.89 Written evidence from the Secretary of the NSW Department of Planning, Industry and Environment that the Developer has satisfied, in full or for the respective Stage, the Secretary's Certificate dated 09 November 2021 (Ref. IRF21/4040) regarding Satisfactory Arrangements for designated State public infrastructure for DA2021/01256, is to be submitted to the Principal Certifier prior to certification of the Subdivision Certificate in respect of that Stage.
- A.90 Certified works-as-executed (WAE) plans being lodged in .pdf format with the Principal Certifier and with Council immediately after having achieved Practical Completion of works for each Stage. The WAE plans are also to be registered with Council in digital form via Council's on-line lodgement portal and in accordance with the 'A-Spec'TM Digital data Specification or as otherwise specified by the Council and are to include:
- a) Details of any alterations made to the approved plans.
 - b) The location and type of service conduits.
 - c) The location and extent of any temporary Asset Protection Zones and Fire Trails.
 - d) Details of all kerbs and gutters, pits and pipelines, stormwater management devices and drainage swales.
 - e) Certification by a Registered Surveyor that all pipes, services and access driveways within proposed lots are totally within their respective easements.

Where the WAE plans indicate variations between the works as installed and the approved plans, the Principal Certifier is to determine whether the works are acceptable or require reconstruction.

- A.91 A six-month defect liability period applying in respect of each Subdivision Works Certificate issued for Stages 2 to 7 of the development, prior to Council accepting maintenance responsibility for subdivision infrastructure, with the exception of the proposed landscaping. Each defect liability period is to commence at the date of registration of the respective plan of subdivision.

In this regard, a cash bond or bank guarantee in an amount equivalent to 5.0% of the final construction value of the subdivision works for which Council is accepting maintenance responsibility for, with the exception of the proposed landscaping, or an alternative lesser amount as may be agreed to by Council, is to be submitted to Council prior to certification of the Subdivision Certificate in respect of each Stage of the development.

- (Note: i) A further inspection of the subdivision infrastructure will be undertaken by Council at the cessation of the Defect Liability period.
ii) Any defects identified by Council are to be rectified by the developer prior to Council's acceptance of maintenance responsibility and the release of the bond.
iii) In the event that the developer fails to rectify defects notified by Council within one month of notification, Council may elect to call on the bond to affect the required repairs.
iv) A Final Inspection will be undertaken by Council at the completion of the specified maintenance period.

- A.92 A 12 month maintenance period applying in respect of Stages 2 to 7 of the development, prior to Council accepting maintenance responsibility for any proposed landscape works (including plants, mulch, street trees and guards). Each defect liability period is to commence at the date of registration of the respective plan of subdivision. A lesser maintenance period for individual elements may be agreed to by Council.

In this regard, a cash bond or bank guarantee in an amount equivalent to 25% of the value for the supply, installation and associated maintenance of the landscaping that Council is to accept maintenance responsibility for, or an alternative lesser amount as may be agreed to by Council, together with the required Landscape Establishment report, is to be submitted to Council prior to certification of the Subdivision Certificate in respect of each Stage of the development.

- (Note: i) A further two inspections (six month intervals) of the landscaping will be undertaken by Council officers in accordance with the terms of this consent.
ii) Any defects or maintenance requirements identified by Council are to be rectified by the developer prior to Council's acceptance of maintenance responsibility and the release of the bond.
iii) In the event that the Developer fails to undertake such maintenance within one month of notification, Council may elect to call on the bond to affect the required repairs or maintenance.
iv) A Final Inspection will be undertaken by Council at the completion of the specified maintenance period.)

- A.93 The Developer shall prepare and submit to Council, for approval, a Five Year Water Sensitive Urban Design Management Plan, inclusive of estimated costings for the regular maintenance and cleaning of the Gross Pollutant devices and any pit basket inserts and regular maintenance, cleaning and full reconstruction (worst case scenario) of all drainage media, subsoil drainage and temporary Bidum and turf cover associated with the Bio-retention basins within the respective Stage of the development.

In this regard, a cash bond or bank guarantee for 50% of the combined value of these works, as agreed by Council, over the 5 year period, or an alternative lesser amount as may be agreed to by Council, is to be submitted to Council prior to certification of the Subdivision Certificate in respect of each Stage of the development.

- (Note: i) A further five inspections (twelve month intervals) of the associated devices and infrastructure will be undertaken by Council officers in accordance with the terms of this consent.
- ii) Any defects or maintenance requirements identified by Council are to be rectified by the developer prior to Council's acceptance of maintenance responsibility and the release of the bond.
- iii) In the event that the Developer fails to undertake such maintenance within one month of notification, Council may elect to call on the bond to affect the required repairs or maintenance.
- iv) A Final Inspection will be undertaken by Council at the completion of the specified maintenance period.)

- A.94 A cash bond or bank guarantee in an amount equivalent to 100% of the contract price for the works to be completed by the Developer under the Vegetation Management Plan (VMP), or an alternative lesser amount as may be agreed to by Council, is to be submitted to Council prior to certification of the Subdivision Certificate in respect of Stage 7 of the development.

The Developer may make written request to Council to 'draw down' the amount of security on an annual basis upon acceptance by Council of the works completed and identified in the respective annual report. The amount of each 'draw down' shall be agreed by Council (Council fees apply for reducing or replacing bonds and bank guarantees).

- (Note: i) As a minimum, Council officers will inspect the condition of the proposed Drainage Reserve on an annual basis following receipt of the annual report.
- ii) Any maintenance requirements identified by Council are to be addressed by the Developer within one month of notification and are to be completed to Council's satisfaction prior to Council's acceptance of maintenance responsibility and the ultimate release of the bond.
- iii) In the event that the Developer fails to undertake such maintenance within one month of notification, Council may elect to call on the bond to affect the required repairs or maintenance.
- iv) A Final Inspection will be undertaken by Council at the completion of the respective 8 year establishment and maintenance period.)

<p>CONDITIONS TO BE SATISFIED DURING THE OPERATION AND USE OF THE DEVELOPMENT</p>
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- A.95 No estate entry features, billboards, promotional/sale signage or bunting are to be located on existing land owned by Council or on land or road reserves proposed to be dedicated to Council or within the proposed 20m wide Landscape Buffer
- A.96 The Developer shall undertake regular maintenance of all Bio-retention basins, Gross Pollutant devices and pit basket inserts and any other temporary erosion and sedimentation control basins and devices for a 5 year maintenance period. The 5 year period commences from the date of registration of the plan of subdivision for that Stage at the NSW Land Registry Services or until all lots within the respective Stage have been sold, whichever is the later at which time the Developer shall be responsible for removing any gross pollutants, accumulated sediment, all temporary controls and fully

landscaping the Bio-retention basins with appropriate native grass and sedge species selected from Appendix 4 of the Stormwater and Water Efficiency for Development Technical Manual (April 2019) or as updated and to the requirements and satisfaction of Council.

During the maintenance period in this condition the Developer shall record the sediment volumes removed from the devices until the end of the abovementioned maintenance period. A copy of this record is to be made available to Council to assist in determining a suitable maintenance schedule for the respective devices.

The Developer shall also ensure that the controls are cleaned and operating at maximum function immediately prior to the end of the maintenance period.

- A.97 The entire proposed Drainage Reserve, generally being the land described as Lot 2 on '3 Lot Subdivision Plan' (Ref. HD15, Dwg 3 Lot, Revision 9-1, dated 06/11/2022) approved under DA2020/01497 (Stage 1), is to be continuously established, managed and maintained by the Developer in accordance with the Vegetation Management Plan (VMP) for a minimum of 8 years commencing on the date of registration of the plan of subdivision for Stage 7.

The Developer is to submit annual reports (.pdf format) to Council detailing works undertaken, the results of such work, identifying future works programs and any making any necessary recommendations to enhance the VMP.

- A.98 The registered title for all land proposed as Drainage Reserve, generally being the land described as Lot 2 on '3 Lot Subdivision Plan' (Ref. HD15, Dwg 3 Lot, Revision 9-1, dated 06/11/2022) approved under DA2020/01497 (Stage 1), is to be transferred to Council, and at no cost to Council, within 28 days of Council providing written notice to the Developer that satisfactory completion of the eight-year Vegetation Management Plan has been achieved.

- A.99 The applicant is to comply with all requirements of the Hunter Water Corporation regarding the connection of water supply and sewerage services.

- A.100 The developer being responsible for all adjustments to and/or relocation of public utilities. Any necessary alterations are to be at the Developer's expense and to the requirements of the appropriate Authorities.

- A.101 A six-monthly Landscape Establishment Report (.pdf format) is to be submitted to Council for the term of a twelve month landscape defect and maintenance period commencing from the date of registration of the relevant Subdivision Certificate in respect of each Stage, verifying that satisfactory maintenance of the landscape works including street trees, re-vegetation and weeding, has been undertaken in accordance with the approved Landscape Plans and Vegetation Management Plan and any necessary rectification measures have been carried out to a high professional standard.

- A.102 It being the responsibility of the Developer to meet all expenses incurred in undertaking the development including expenses incurred in complying with conditions imposed under the terms of this consent.

ADVISORY MATTERS

- Prior to commencing any subdivision works, the following provisions of Division 6.2 of the *Environmental Planning and Assessment Act 1979* (the Act) are to be complied with:
 - a) A Subdivision Works Certificate is to be obtained; and
 - b) Council is to be appointed as the Principal Certifier for the subdivision works (consistent with Section 6.5(3) of the Act); and
 - c) Council is to be given at least two days' notice of the date intended for commencement of subdivision works.
- It is an offence under the provisions of the *Protection of the Environment Operations Act 1997* (NSW) to act in a manner causing, or likely to cause, harm to the environment. Anyone allowing material to enter a waterway or leaving material where it can be washed off-site may be subject to a penalty infringement notice ('on-the-spot fine') or prosecution.
- Failure to comply with the conditions of consent constitutes a breach of the *Environmental Planning and Assessment Act 1979* (NSW), which may be subject to a penalty infringement notice ('on-the-spot fine') or prosecution.
- If archaeological deposits or relics not considered in the supporting documents for this consent are discovered, work must cease in the affected area(s) and the Heritage Council of NSW notified. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

Note: The Heritage Council of NSW can be contacted on 02 9873 8500 or heritagemailbox@environment.nsw.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 on which the person has discovered a relic except in accordance with a gazetted exemption or an excavation permit issued by the Heritage Council of NSW.

PART B

CONDITIONS IMPOSED TO THE REQUIREMENTS OF SUBSIDENCE ADVISORY NSW

GENERAL																
Plans, Standards and Guidelines																
B.1	<p>These General Terms of Approval (GTAs) only apply to the subdivision development described in the plans and associated documentation relating to DA2021/01256 and provided to Subsidence Advisory NSW.</p> <p>Any amendments or subsequent modifications to the development may render these GTAs invalid.</p> <p>If the proposed development is amended or the development consent modified, Subsidence Advisory NSW must be notified to determine if any variations to these GTAs are required.</p>															
B.2	<p>This approval expires 5 years after the date the approval was granted if construction work has not physically commenced.</p>															
B.3	<p>Subsidence Advisory NSW is to be notified of any changes to lot numbering and the registered DP number.</p>															
GENERAL																
B.4	<p>For areas of the site that are affected by existing mine workings</p> <p>The proposed structure(s) associated with subdivision works shall be designed to be “<i>safe, serviceable and readily repairable</i>” using the subsidence parameters outlined below:</p> <table><tr><td>a)</td><td>Maximum Vertical Subsidence:</td><td>60 mm/m</td></tr><tr><td>b)</td><td>Maximum Tensile Strains :</td><td>0.5 mm/m</td></tr><tr><td>c)</td><td>Maximum Compressive Strains (+/-):</td><td>0.7 mm/m</td></tr><tr><td>d)</td><td>Maximum Tilt:</td><td>2 mm/m</td></tr><tr><td>e)</td><td>Minimum Radius of Curvature:</td><td>25 Km</td></tr></table> <p>Final plans are to be submitted prior to the commencement of construction which include certification by a qualified engineer to the effect that the subdivision works will remain “<i>safe, serviceable and readily repairable</i>” taking into consideration the mine subsidence parameters outlined above.</p> <p>The following is to be done prior to, or during subdivision construction:</p> <ul style="list-style-type: none">• Remediate any mining features that pose a risk to improvements or persons such as tension cracks.• Locate and eliminate the risk of subsidence from the Ironbark drift(s) / shaft(s).• No construction is to occur within 5m of any drifts or shafts. <p>Provide certification for Subsidence Advisory NSW’s acceptance remediation has been completed.</p>	a)	Maximum Vertical Subsidence:	60 mm/m	b)	Maximum Tensile Strains :	0.5 mm/m	c)	Maximum Compressive Strains (+/-):	0.7 mm/m	d)	Maximum Tilt:	2 mm/m	e)	Minimum Radius of Curvature:	25 Km
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B.5	Approval under Clause 22 of the <i>Coal Mine Subsidence Compensation Act 2017</i> is also required for the erection of all improvements on the land. As a guide, improvements shall comply with Subsidence Advisory NSW nominated Surface Development Guidelines, or otherwise assessed on merit.
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Dispute Resolution

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

PART C

CONDITIONS IMPOSED TO THE REQUIREMENTS OF TRANSPORT FOR NSW (TfNSW)

John Renshaw Drive upgrades

- C.1 Prior to any Subdivision Certificate for any of Stages 2-7, the signal controlled access and the duplication of John Renshaw Drive to four lanes required under Stage 1 DA/2020/1497 shall be deemed practically complete by TfNSW in writing and opened to traffic.
- C.2 Prior to any Subdivision Certificate for any of Stages 2-7, the westbound 'left-turn in only' intersection towards the east end of site generally in accordance with Northrop Plan NL 166552 Drawing No. CSK91 Rev 2 shall be deemed practically complete by TfNSW in writing and opened to traffic.

John Renshaw Drive / M1 Motorway / Weakleys Drive intersection upgrades

- C.3 Prior to any Subdivision Certificate for Stage 2, obtain confirmation in writing from TfNSW that satisfactory arrangements (see condition (C.4) below) have been made to upgrade the John Renshaw Drive / M1 Motorway / Weakleys Drive intersection generally in accordance with Northrop drawings attached at Annexure B, being NL166552 C01.21 Rev 2 (typical sections) and C01.41 Rev 3 (overview plan), to:
- a. Provide both new right turn lanes required as part of Stage 1 DA/2020/1497 at the intersection:
 - i. An additional right turn bay on the Weakleys Drive (northern) approach, to turn west to JRD.
 - ii. An additional right turn bay on the JRD (eastern) approach, to turn north to Weakleys Drive.
 - b. Provide a second right turn lane on the Weakleys Drive northern approach turning west to John Renshaw Drive, with both right turn lanes to be increased to 120m in length plus tapers.
 - c. Provide an additional (second) John Renshaw Drive west approach channelised right turn lane toward the M1 Motorway with 120m length, plus tapers,
 - d. Provide all ancillary works to the satisfaction of TfNSW including but not limited to lane realignments on approach and departure, reconfiguration and addition of signals, pedestrian crossings, drainage, shoulders, medians, line markings and signage.

Advice: The intent of this condition is to enable the consent holder to upgrade the intersection under both DAs as a single WAD package. Formal modification of DA/2020/1497 may also be required to enable Stage 1 works at this intersection to be deferred for completion after release of the Stage 1 Subdivision Certificate. TfNSW may support such a modification request (if supported by Council as the consent and roads authority) generally on similar terms to those set out below. Please refer any modification application to TfNSW under s 2.122 of the TISEPP for a final response.

- C.4 For the purpose of the above condition (C.3) 'satisfactory arrangements' shall include completion of (but details shall not be limited to, in TfNSW sole discretion) all the following:

- a. Lodgement with TfNSW of a refundable bond security for the full value of the construction works (100%) including all project management, finance, traffic management, mobilisation / demobilisation and other reasonable costs which TfNSW would reasonably incur if it were to complete construction in lieu of the developer. The cost estimate is to be based on a report prepared by an independent and experienced civil construction quantity surveyor who holds certification with an Australian peak professional body such as the AIQS. Bond terms and conditions are to be set out in the Works Authorisation Deed. TfNSW may request separate guarantees in different amounts adding up to 100% to enable progressive release of securities at practical completion and upon discharge of any defects liability period obligations. The developer must have entered into a Works Authorisation Deed with TfNSW to finance and construct the ultimate John Renshaw Drive / M1 Motorway / Weakleys Drive intersection works (turn lanes on west, north and east approaches and all ancillary works), and the detailed engineering designs must be approved by TfNSW for construction.
- b. If any WAD design approval has been issued by TfNSW for only the Stage 1 DA intersection works (north and east approaches) it shall be revoked and replaced by the combined ultimate works design (west, north and east approaches).
- c. The principal constructor must have substantially mobilised and commenced works onsite, and proof of payment of the constructor's progress claims amounting to at least 20% of the total value of the ultimate intersection works (west, north and east approaches) shall be provided to the TfNSW Developer Works representative or a generally equivalent milestone may be accepted by TfNSW Manager Developer Works or higher authorised person.

C.5 Prior to any Subdivision Certificate for any of Stages 3 to 7, the John Renshaw Drive / M1/ Weakleys Drive intersection upgrades detailed above must be deemed by TfNSW as practically complete and opened to public traffic. Nothing in this condition affects the rights of TfNSW under the Works Authorisation Deed to require rectification of any outstanding works or defects or hold onto bond securities.

M1 to Raymond Terrace project

C.6 Prior to any Subdivision Certificate for any of Stages 4 to 7, generally as depicted in the staging plan (Northrop, NL166552, drawing DA2-C01.21 Rev 6, excerpt attached at Annexure B), the section of the M1 to Raymond Terrace (M1RT) project between Black Hill Interchange and Tarro Interchange and including the flyover, currently under construction by TfNSW, shall be practically completed and opened to public traffic.

Advice: Stages 1 to 3 are expected to contribute approximately 60% of development traffic, beyond which current modelling indicates the Black Hill flyover and motorway extension would need to be operational to relieve pressure on the John Renshaw Drive / Weakleys Drive signalised intersection.

Restrictions on site access to and from M1 Motorway and John Renshaw Drive

C.7 Any existing access between site and the M1 Motorway or John Renshaw Drive, other than the two (2) public road intersections approved under Stage 1 DA/2020/1497, shall be physically and legally closed and the road verge reinstated by the Developer to Transport for NSW (TfNSW) and Council requirements. Works are required to be completed prior to any Subdivision Certificate being issued for the development.

C.8 As part of each Subdivision Certificate, a restriction as to user must be registered (or remain) on the title of each lot prohibiting direct vehicular access between the subject land and the M1 Motorway or John Renshaw Drive. For lots that will no longer have direct frontage to either road corridor following the subdivision, such restrictions can

be released without obtaining the concurrence of TfNSW.

Vegetated Buffer

C.9 A 20m wide vegetated buffer is to be provided and maintained to the satisfaction of Council and at no cost to TfNSW or Council. within the site along each of the M1 Motorway and John Renshaw Drive frontages generally consistent with DA/2020/1497.

General

C.10 Each local road interconnection between stages and between the adjacent property to the west must be constructed prior to any Subdivision Certificate for the stage it falls within the boundary of. This includes the culvert crossings of the central Viney Creek as part of or before Stages 2 and 4, and the local road connection to the adjacent property as part of Stage 6.

Advice: Local road connections are necessary to minimise the burden of local area traffic demand on nearby State roads.

C.11 The Developer must:

- a. Obtain Roads Act 1993 consent from TfNSW for all works within the classified State road reserves in the form of a Works Authorisation Deed (WAD).
- b. Dedicate any land if required for the purpose of the State road works at no cost to TfNSW or Council, prior to a practical completion certificate for the works.
- c. Design and construct State road works in accordance with Austroads Guidelines, Australian Standards and TfNSW Supplements to the satisfaction of TfNSW and Council and at no cost to TfNSW or Council.

As State road works are required the developer must enter into a Works Authorisation Deed (WAD) with TfNSW. TfNSW would exercise its powers and functions of the road authority, to undertake road works in accordance with Sections 64, 71, 72 and 73 of the Roads Act, as applicable, for all works under the WAD.

The developer is advised that the Conditions of Consent do not guarantee TfNSW final consent to the specific road work, traffic control facilities and other structures or works, for which it is responsible, on the road network. TfNSW must provide a final consent for each specific change to the classified (State) road network prior to the commencement of any work.

The WAD process, including acceptance of design documentation and construction, can take time. The developer should be aware of this and allow sufficient lead time within the project development program to accommodate this process. It is suggested that the developer work through this process as soon as possible with the TfNSW.

C.12 The developer is to design works and provide any information required to satisfy Council that discharged stormwater from the development shall not exceed the capacity of either the M1 Motorway or John Renshaw Drive stormwater drainage systems. No increase in surface flooding or discharge rates onto the road carriageway shall occur in any event up to and including the critical 1% Annual Exceedance Probability (AEP) event.

C.13 Prior to the issue of any Subdivision Works Certificate, the Developer must satisfy Council that drainage from the site will be appropriately managed and obtain all

required approvals from Council and TfNSW including under the Roads Act 1993 for any adjustments to the existing public drainage system that are required. Any required adjustments are to be at no cost to TfNSW or Council.

- C.14 The intersection works shall include new road lighting, designed by a qualified and experienced professional to achieve at least V3 illumination category for all new pavement surfaces, in accordance with AS/NZS 1158.1.1. The Developer must ensure that appropriate traffic measures are in place during the construction phase of the development to minimise the impacts of construction vehicles on traffic efficiency and road safety within the vicinity of the site.
- C.15 The proponent must obtain a Road Occupancy Licence (ROL) prior to any work with potential to impact State road traffic operations, or traffic signal operations on any road, including use of temporary traffic management devices and signage. Proponents must allow a minimum 10 working days for processing from the date of receipt. As a minimum, applications must be submitted with a Traffic Management Plan (TMP) including applicable Traffic Guidance Schemes (TGS). The TMP and TGS must comply with AS 1742.3 and be prepared by a qualified person who holds the Prepare Work Zone Traffic Management Plan SafeWork accreditation (PWZTMP). The TMP is to describe the activities being proposed, their impact on the general area (including public transport passengers, cyclists, pedestrians, motorists and commercial operations), and how these impacts, including identified risks will be addressed. Further information on Applying for a Road Occupancy Licence can be found online at <https://roads-waterways.transport.nsw.gov.au/business-industry/road-occupancy-licence/index.html> and your asset number to be quoted in the online application is: NTH22/00307.

SCHEDULE 2: Reasons For The Determination and 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, subject to the recommended conditions, is generally consistent with the terms of the Concept Approval.
- 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 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.

SCHEDULE 3: Rights of Review and Appeal

Review of Determination

- You have the right to request a review of this determination under the Section 8.2 of the EP&A Act 1979 provided that this determination is not made in respect of designated or crown development. Any application for a review must be submitted on the NSW planning portal, no later than 28 days after the determination.

Rights Of Appeal

- If you are dissatisfied with the determination of Council (including a determination on a review under the EP&A Act 1979) you may appeal to the Land and Environment Court within 6 months after the date on which you receive notice of the determination of the application or review. Otherwise, the right to appeal is exercisable in accordance with the rules of the Land and Environment Court.
- The EP&A Act 1979 does not give a right of appeal against this determination to an objector.

If you are considering exercising your rights of appeal or lodging a request for a review, it is advisable to obtain legal advice regarding the interpretation of your rights in relation to the matter.

SCHEDULE 4: Dictionary

Approved plans and documents means the plans and documents endorsed by the consent authority, a copy of which is included with this notice of determination.

AS means Australian Standard published by Standards Australia International Limited and means the current standard which applies at the time the consent is issued.

Building work means any physical activity involved in the erection of a building.

Certifier means a council or a person that is registered to carry out certification work under the Building and Development Certifiers Act 2018.

Council means NEWCASTLE CITY COUNCIL.

Court means the NSW Land and Environment Court.

EPA means the NSW Environment Protection Authority.

EP&A Act means the Environmental Planning and Assessment Act 1979.

EP&A Regulation means the Environmental Planning and Assessment Regulation 2021.

Subdivision certificate means a certificate that authorises the registration of a plan of subdivision under Part 23 of the Conveyancing Act 1919.

Subdivision work means any physical activity authorised to be carried out in connection with a subdivision under the conditions of a development consent for the subdivision of land.

Subdivision works certificate—a certificate to the effect that subdivision work completed in accordance with specified plans and specifications will comply with the requirements of the EP&A Regulation.

Principal certifier means the certifier appointed as the principal certifier for building work or subdivision work under section 6.6(1) or 6.12(1) of the EP&A Act respectively.

Public road means—

- (a) any road that is opened or dedicated as a public road, whether under the Roads Act, 1993 or any other Act or law, and
- (b) any road that is declared to be a public road for the purposes of the Roads Act, 1993.

Site work means any work that is physically carried out on the land to which the development the subject of this development consent is to be carried out, including but not limited to building work, subdivision work, demolition work, clearing of vegetation or remediation work.