



# Minutes of Development Applications Committee

21 July 2015



**MINUTES OF THE DEVELOPMENT APPLICATIONS COMMITTEE  
TUESDAY 21 JULY 2015 AT 6.14PM**

**PRESENT:** Lord Mayor, Councillor Nuatali Nelmes (Chair)  
Councillor Declan Clausen  
Councillor David Compton  
Councillor Tim Crakanthorp  
Councillor Therese Doyle  
Councillor Jason Dunn  
Councillor Brad Luke  
Councillor Stephanie Posniak  
Councillor Allan Robinson  
Councillor Andrea Rufo  
Councillor Lisa Tierney  
Councillor Sharon Waterhouse

**IN ATTENDANCE:**

General Manager	Ken Gouldthorp
Director Infrastructure	Frank Cordingley
Director Planning and Regulatory	Peter Chrystal
Manager Council and Legal Services	Frank Giordano
Manager Strategic Planning	Jill Gaynor
Communications Manager	Kate Baartz

**MINUTES:** Meetings Secretary Kerry Sullivan

**WEBCASTING:** Meetings Secretary Amanda Knowles

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**Chair, Cr Nelmes, 15 September 2015**



**MINUTES OF THE DEVELOPMENT APPLICATIONS COMMITTEE**  
**TUESDAY 21 JULY 2015 AT 6.14PM**

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**1 OPENING OF MEETING**

1.1 The meeting was opened at 6.14pm.

**2 MESSAGE OF ACKNOWLEDGEMENT**

2.1 The Lord Mayor read the message of acknowledgment to the Awabakal and Worimi peoples.

**3 PRAYER**

3.1 The Lord Mayor read a prayer and a period of silence was observed in memory of those who served and died so that Council might meet in peace.

**4 APOLOGIES**

**4.1 MOTION**

Moved by Cr Luke, seconded by Cr Doyle

The apology submitted on behalf of Councillor Osborne be received and leave of absence granted.

**Carried**

**5 DECLARATIONS OF PECUNIARY AND NON-PECUNIARY INTERESTS**

**5.1 Councillor Compton**

Councillor Compton brought to the attention of the meeting that he may have a non-pecuniary less than significant interest in the Development Applications Committee process, generally. He indicated that this would be a standing declaration because his company is a selective tenderer for architectural firms that operate in Newcastle.

## 6 DEVELOPMENT APPLICATIONS

**ITEM-6**                      **DA 2014/0545 - 7 CREST ROAD, WALLSEND -  
DEMOLITION OF EXISTING STRUCTURES AND ERECTION  
OF A SIXTEEN ROOM BOARDING AND RETAINING WALL**

**APPLICANT:**                **JW PLANNING PTY LTD**  
**OWNER:**                    **PDMG INVESTMENTS PTY LTD**  
**REPORT BY:**               **PLANNING AND REGULATORY**  
**CONTACT:**                **DIRECTOR PLANNING AND REGULATORY / MANAGER  
DEVELOPMENT AND BUILDING SERVICES**

The application has been referred to the Development Application Committee as the number of objections received exceeds the delegation of the Planning and Regulatory Group.

### PART I

#### PURPOSE

An application has been received seeking consent for the demolition of an existing single storey dwelling, and the subsequent construction of a 16 room boarding house, retaining walls and associated car parking at 7 Crest Road Wallsend.

A copy of the submitted plans for the proposed development is appended to this report (**Attachment A**).

The application has been notified in accordance with Council's Public Notification policy on two occasions.

Seven objection letters and thirty six proforma objection letters were received in response to the original notification and five objection letters were received in response following the second notification. One Public Voice application was submitted in response to the initial notification period and two applications for public voice were made during the second notification period. One application for mediation was made during the initial notification period. Details of the submissions received are summarised at Section 3.0 of Part II of this report and the concerns raised are addressed as part of the Environmental Planning Assessment at Section 4.0.



**Subject Land:** Map 295 – A12 as Gregory's Street Directory, 28<sup>th</sup> Edition.

## Issues

- Whether the proposed development complies with the State Environmental Planning Policy (Affordable Housing) 2009 in terms of the number of buildings, car parking, adequacy of facilities, waste disposal, character, private open space, solar access, occupancy and plan of management;
- Whether the proposed development is compatible with the existing urban character of the area, particularly in relation to dwelling density and building bulk;
- Whether the proposed development is satisfactory in relation to potential traffic and parking impacts associated with the proposed development;
- Whether the proposed development is satisfactory in terms of privacy and overshadowing impacts on adjoining properties; and
- Whether the proposal will lead to an increase in anti-social behaviour and an increase in noise.

## Conclusion

The proposed development has been assessed having regard to the relevant heads of consideration under Section 79C(1) of the *Environmental Planning and Assessment Act 1979* (as amended) NSW and is considered to be acceptable subject to compliance with appropriate conditions

Accordingly, it is recommended that the application be approved on the basis of the amended plans, subject to the nominated conditions of consent.

## RECOMMENDATION

The application to demolish and existing single storey dwelling and the subsequent construction of a 16 room boarding house with capacity for 16 adult lodgers be approved and consent granted, subject to compliance with the conditions set out in the Draft Schedule of Conditions (refer to **Attachment B**).

## Political Donation / Gift Declaration

Under Section 147 of the *Environmental Planning and Assessment Act 1979*, the applicant, and any person related to this Development Application must report any political donation and/or gift to a Councillor and/or any gift to a Council employee within a two year period before the date of this application.

The applicant has answered **NO** to the following question on the application form: Have you, or are you aware of any person having a financial interest in the application, made a 'reportable political donation' or 'gift' to a Councillor or Council employee within a two year period before the date of this application?



## PART II

### 1.0 THE SUBJECT SITE

The site is known as Lot A, DP 360264, 7 Crest Road, Wallsend. The lot is approximately 18m wide and 39m deep with a total area of 711.8m<sup>2</sup>. The site currently contains a single storey dwelling which is proposed to be demolished. The site is surrounded by single residential dwellings and multi housing units which are predominantly single storey in height. The site is located in close proximity to the commercial/retail area of Jesmond and the University of Newcastle.

### 2.0 THE PROPOSAL

The applicant seeks consent to erect a sixteen room boarding house and associated retaining walls and car parking under State Environmental Planning Policy (Affordable Rental Housing) 2009.

In response to concerns raised by Council officers and objectors, the original proposal for a 15 room boarding house was amended as detailed by the applicant below:

- Increase in the number of rooms proposed from 15 to 16.
- Decreased in side and rear setbacks to comply with an R3 Medium Density building envelope.
- Increased rear setback from 3.3m to 4m to allow for increased landscaping.
- Increase car parking onsite relocation bicycle and motorcycle parking.
- Additional privacy mitigation measures.

Building one as proposed contains four boarding rooms on the ground floor, one room noted to be a disable accessible room. The second level of building one contains another five boarding rooms. The nine boarding rooms in building one have access to ensuites. The area directly to the north of building one contains a car park for four vehicles, including one parking space for a person with a disability. There are four motorcycle spaces and six wall mounted bicycle stores.

Building two contains three boarding rooms on the ground level and common room. The second level of building two contains four boarding rooms, shared laundry facilities. The seven boarding rooms within building two have access to ensuites. Rooms 14, 15 and 16 each have a lofted space for a bed.

The various steps in the processing of the application to date are outlined in the Processing Chronology (refer to **Attachment C**).

### 3.0 PUBLIC NOTIFICATION

The application has been publicly notified in accordance with Council's Public Notification policy on two occasions. Forty-three submissions were received in response to the original notification; this included thirty-six proforma letters. Five objection letters were received following the second notification.

The concerns raised by the objectors in respect of the proposed development / current proposal are summarised below. The issues raised in the written submissions have been addressed within specified sections of this report:

- The development is out of character of the neighbourhood and not consistent with the surrounding houses (refer to section 4.1.1).
- The development does not comply with the State Environmental Planning Policy Affordable Rental Housing 2009, in terms of car parking, number of occupants, rooms are not boarding house rooms (refer to section 4.1.1).
- The development will impact on street parking and create additional traffic problems on Crest Road (refer to Section 4.2.2).
- The development will impact on the adjoining property with overshadowing (refer to Section 4.2.2).
- The proposal will lead to impact on privacy for adjoining homes (refer Section 4.2.3).
- The proposal will lead to increase in adverse noise impacts (refer Section 4.2.2).
- The development will lead to an increased social impact and anti-social behaviour. (refer to section 4.2.2).
- Preference for Crest Road to be low density and not medium density (refer to Section 4.2.3).
- The development will lead to adverse drainage and stormwater impacts (refer to Section 4.2.2).
- The development will cause unacceptable waste collection impacts (refer to Section 4.2.2).
- The development setbacks are not compliant (refer to Section 4.1.1).
- The development is of significant bulk and scale, and an overdevelopment of the site (refer to Section 4.1.1).
- Common room will be converted into a boarding room after proposal is given consent (refer to Section 4.1.1).
- The development will have a significant impact during the demolition and construction stage (refer to section 4.2.3).

An application for mediation was received from an objector and mediation took place under the auspices of the Community Justice Centre on 21 August 2014. The mediation resulted in no agreement being reached between the parties.

Public Voice session on 19 May 2015 included the recommendation of further mediation. The applicant organised further mediation with the Community Justice Centre (CJC) however, the CJC confirmed in writing the objectors chose not to attend further mediation.

#### **4.0 ENVIRONMENTAL PLANNING ASSESSMENT**

The application has been assessed having regard to the relevant matters for consideration under the provisions of Section 79C(1) of the *Environmental Planning and Assessment Act 1979*, as detailed hereunder.

#### 4.1 Statutory Considerations [Section 79C(1)(a)(i) and (ii)]

The subject property is included within the R3 medium Density zone under the provisions of the Newcastle Local Environmental Plan, 2012, within which the proposed development is permissible with Council's consent. The proposed development is also consistent with the zone objectives.

##### 4.1.1 State Environmental Planning Polices

##### **State Environmental Planning Policy (Affordable Rental Housing) 2009**

The proposal is subject to the provisions of State Environmental Planning Policy (Affordable Rental Housing) 2009 (the SEPP).

The proposal has been assessed under the provisions of the SEPP and is consistent with the aims and objectives of the SEPP.

Several of the submissions raised the issue of non-compliance with the SEPP and Council's planning controls. The issues raised in this submission have been discussed throughout this report, which indicates the proposal's compliance with the SEPP and general compliance with Council's Development Control Plan. Assessment of the proposal against the relevant controls identified within the SEPP is provided below.

The SEPP prescribes that a word or expression used in this SEPP has the same meaning as it has in the Standard Instrument – Principal Local Environmental Plan unless it is otherwise defined in this Policy. Accordingly, the application has proposed a *boarding house*, which:

'means a building:

- a) *that is wholly or partly let in lodgings, and*
- b) *that provides lodgers with a principal place of residence for three months or more, and*
- c) *that may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and*
- d) *that has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more lodgers, but does not include backpackers' accommodation, a group home, a serviced apartment, seniors housing or hotel or motel accommodation.'*

##### Division 3 Boarding houses

##### Land to which this division applies - Clause 26

The site is zoned R3 Medium Density Residential under the Newcastle Local Environmental Plan 2012. Accordingly, Division 3 – Boarding Houses is relevant in the assessment of this application and applies to the subject site.

### Development to which this division applies - Clause 27 and 28

A boarding house is a use which is permitted on the site with the consent of the Council.

This clause restricts Council from refusing an application for a boarding house if the application complies with the standards relating to these issues. Accordingly, despite any other provisions contained in the NLEP, or Newcastle Development Control Plan 2012 (NDCP 2012) there is no legal mechanism for Council to refuse the application on the basis of the prescribed issues, should the SEPP standards be achieved by the proposal. These SEPP standards are discussed below:

#### Density/Scale

Council is not able to refuse the application if the density and scale when expressed as a floor space ratio (FSR) are not more than:

- a) *the existing maximum floor space ratio for any form of residential accommodation permitted on the land, or*
- b) *if the development is on land within a zone in which no residential accommodation is permitted - the existing maximum floor space ratio for any form of development permitted on the land, or*
- c) *if the development is on land within a zone in which residential flat buildings are permitted and the land does not contain a heritage item that is identified in an environmental planning instrument or an interim heritage order or on the State Heritage Register - the existing maximum floor space ratio for any form of residential accommodation permitted on the land, plus:*
  - i. *0.5:1, if the existing maximum floor space ratio is 2.5:1 or less, or*
  - ii. *20% of the existing maximum floor space ratio, if the existing maximum floor space ratio is greater than 2.5:1.*

The subject site has an identified FSR of 0.9:1 in the NLEP 2012. The site area is 711.8m<sup>2</sup>. The total floor space of the proposed boarding house is 666.14m<sup>2</sup>, resulting in a FSR of 0.69:1. It is noted that the sub clause c) would apply to this site, allowing for a bonus 0.5 FSR to be applicable. The proposal's FSR is therefore less than the total permissible FSR of 1.4:1.

A consent condition is recommended to restrict subdivision of the two separate buildings at a later date.

#### Building Height

Council is not able to refuse the application if its building height is less than the maximum building height permitted under another Environmental Planning Instrument.

The subject site has an identified height limit of 10 metres in the NLEP. The proposed boarding house has a maximum height of 7.536 metres at its highest point, which is below the 10 metre height limit.

### Landscaped Area

Council is not able to refuse the application if the landscape treatment of the front setback area is compatible with the streetscape in which the building is located.

The front area is landscaped, and is generally consistent with the surrounding established development in the area. The building setbacks were amended to comply with an R3 Medium Density zone building envelope. The amended plans and amended landscape plan enable additional area for landscaping this is considered to enhance the amenity of the area.

### Solar Access

Council is not able to refuse the application if the development provides for one or more communal living rooms, and if at least one of those rooms receives a minimum of three hours direct sunlight between 9am and 3pm in mid-winter.

A communal living room with north facing windows is proposed on the ground floor for building two. Buildings one and two contain a north, east and west facing kitchen, lounge and dining room on the ground floor. Accordingly, the proposal complies with this requirement.

### Private Open Space

Council is not able to refuse the application if the following private open space areas are provided (other than the front setback area):

- a) *one area of at least 20 square metres with a minimum dimension of 3 metres is provided for the use of the lodgers,*
- b) *if accommodation is provided on site for a boarding house manager - one area of at least 8 square metres with a minimum dimension of 2.5 metres is provided adjacent to that accommodation.*

The proposal includes a private open space area within the eastern corner of the site. The private open space has direct access from the common room and is adequate in dimensions and area. The proposal provides a number of areas that could be used for private open space including the area in front of building one, and on the southern and eastern side of building one and two there are clothes lines provided within these spaces for use of boarders. Accordingly, the proposal is considered to comply with this requirement.

### Parking

Council is not able to refuse the application if not more than:

- 'a) in the case of development in an accessible area – at least 0.2 parking spaces are provided for each boarding room, and*
- b) in the case of development not in an accessible area – at least 0.4 parking spaces are provided for each boarding room, and*
- c) in the case of any development – not more than one parking space is provided for each person employed in connection with the development and who is a resident on site.'*

The site is located within an accessible area for the purposes of this control. SEPP encourages the use alternate transport, reflected in reduced onsite parking rates.

A review of the application has confirmed that the proposed onsite parking satisfies the SEPP controls with the provision of four vehicle spaces (inclusive of one disabled space), four motor cycle and four bicycle parking spaces.

### Accommodation size

Council is not able to refuse the application if:

*'each boarding room has a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of at least:*

- a) 12 square metres in the case of a boarding room intended to be used by a single lodger, or*
- b) 16 square metres in any other case.'*

All of the rooms are intended for single lodgers. Whilst some rooms in building one may allow for doubles as per the SEPP control, officers have assessed the proposal based on the applicant's design suiting 16 lodgers and a condition of consent is recommended restricting numbers accordingly. The proposed development therefore complies with this development standard.

### Standards for boarding houses - Clause 30

The SEPP also includes minimum standards for boarding houses, and should compliance with these minimum standards not be satisfactorily achieved, consent cannot be granted. These minimum standards are discussed below:

- a) *if a boarding house has five or more boarding rooms, at least one communal living room will be provided.*

*The proposed boarding house contains 16 rooms in two buildings. The proposal provides for a communal living room and complies with this requirement.*

- b) *no boarding room will have a gross floor area (excluding any area used for the purposes of private kitchen or bathroom facilities) of more than 25 square metres.*

*The proposed development does not include any boarding rooms that exceed 25m<sup>2</sup>.*

- c) *no boarding room will be occupied by more than two adult lodgers.*

*It is proposed to accommodate a maximum of 16 adult lodgers within the 16 rooms and an appropriate consent condition has been recommended to ensure compliance with this requirement.*

- d) *adequate bathroom and kitchen facilities will be available within the boarding house for the use of each lodger.*

*All boarding rooms within the two buildings have access to kitchens, bathrooms and laundry facilities thereby complying with this requirement. The proposal also includes common room area and private open space.*

- e) *if the boarding house has capacity to accommodate 20 or more lodgers, a boarding room or on site dwelling will be provided for a boarding house manager.*

*The proposal is for 16 rooms and 16 lodgers only. An appropriate consent condition has been recommended to ensure compliance with this requirement.*

- f) *(Repealed)*

- g) *if the boarding house is on land zoned primarily for commercial purposes, no part of the ground floor of the boarding house that fronts a street will be used for residential purposes unless another environmental planning instrument permits such a use.*

*Not applicable.*

- h) *at least one parking space will be provided for a bicycle, and one will be provided for a motorcycle, for every five boarding rooms.*

*Parking for four motorcycles and four bicycles is proposed. Accordingly, the proposal complies with this requirement. These parking spaces are designed in accordance with Council's standards.*

### Character of the local area - Clause 30A

Clause 30A of the SEPP states:

*'A consent authority must not consent to development to which this Division applies unless it has taken into consideration whether the design of the development is compatible with the character of the local area.'*

In Project Venture Developments v Pittwater Council [2005] NSWLEC191 the NSW Land and Environment Court established planning principles regarding compatibility between a building and its surroundings.

In the judgment, Senior Commissioner Roseth states:

*'There are many dictionary definitions of compatible. The most apposite meaning in an urban design context is capable of existing together in harmony. Compatibility is thus different from sameness. It is generally accepted that buildings can exist together in harmony without having the same density, scale or appearance, though as the difference in these attributes increases, harmony is harder to achieve.'*

The existing development on adjoining sites and the general form of development in the immediate area comprises older style single-storey dwellings and contemporary design multi-housing dwelling units. However, directly north of the site are along Victory Parade there are a number of two storey residential buildings and further along Crest Road and to the south along Chalmers Road there are numerous multi dwelling developments.

This proposal is seeking consent for two x two storey buildings. In terms of character, the applicant has provided the following statements:

**Are the proposal's physical impacts on surrounding development acceptable? The physical impacts include constraints on the development potential of surrounding sites?**

*'The proposed development will not result in a significant physical impact on surrounding development, with the proposal addressing the following key physical impacts:*



*Noise- Noise from the proposal will largely be retained within the site, with the vehicle access point being located generally away from the nearby dwellings, the car parking facilities being provided internally and all plant being away from property boundaries.*

*Overlooking - Overlooking from the proposal onto adjoining allotments is restricted by the location of the proposed building, the type of windows proposed and their locations. Should it be necessary, fixed or sliding louvres can be incorporated onto windows as required.*

*Overshadowing - As indicated in the plans of the proposal, the proposed development will only marginally increase the overshadowing of the adjoining site to the south. The adjoining allotment will still be afforded greater than 3 hours of sunlight on the 21<sup>st</sup> of June.*

*Constraints to future development potential - The proposal will not impact on the ability to develop any adjoining allotment in accordance with the requirements of the Newcastle LEP and DCP.'*

In terms of physical impacts on surrounding development the proposal is considered to blend appropriately with existing developments, and continue to provide a mix of residential types desired for the location. The proposal is within the required development controls for the site, therefore maintaining potential physical impacts.

**Is the proposal's appearance in harmony with the buildings around it and the character of the street?**

*'The proposal's appearance has been designed below the maximum height limit (10m) and Floor Space Ratio (0.9:1) permissible within the site and its context. The proposal is therefore considered to respond to Project Venture Developments v Pittwater Council (2005) NSWLEC 191 (and to which the above case has referred to) which states:*

*23 It should be noted that compatibility between proposed and existing is not always desirable. There are situations where extreme differences in scale and appearances produce great urban design involving landmark buildings. There are situations where the planning controls envisage a change of character, in which case compatibility with the future character is more appropriate than with the existing.*

*The planning controls over the site have envisaged a change in character (based on the height limitation and floor space ratio controls), which have been responded to by this proposal.*

*Furthermore, the proposals compliance with the envelope controls of the DCP ensure it is consistent with the future character envisaged for this area.'*

In terms of character the site is located within a Substantial Growth Precinct identified under NDCP 2012 and Newcastle Urban Strategy. The proposal was considered acceptable with existing built form and context. However further information and minor alterations to the proposal including building setback clarification were required. Accordingly the request for additional information with reference to character of the area was resubmitted and the following statement provided:

*'As per discussions held post receipt of your request for information, the proponent has undertaken significant amendment to the proposal to ensure it is entirely within the confines of the building envelope controls of the DCP.*

*Additional information has also been provided on plans to indicate how the proposal will have no significant overshadowing impact to the residence adjoining to the south.*

*Additional privacy mitigation measures have also been added to windows located in reasonable proximity to the boundary, to reduce the possibility of overlooking impacts from the development.*

*The changes to the proposal ensure that the development is responsive to the existing, and emerging, character of the area and will not adversely impact on the amenity enjoyed within adjoining allotments.'*

In terms of future character the site is located within a Substantial Growth Precinct identified under NDCP 2012. It is envisaged that this precinct will support higher density development such as that proposed. Accordingly the proposed development would be consistent with the both existing context and future desired character of the area. The proposed development is therefore considered acceptable in relation to character.

#### No subdivision of boarding houses - Clause 52

Subdivision of the proposed boarding house is not sought under this application. It is noted that future strata subdivision or community title subdivision of any boarding house is not permitted by the SEPP, including subdivision of the two buildings given the shared facilities.

#### **Newcastle Local Environmental Plan 2012**

##### Land Use Zones - Clause 2.1

The subject property is located within the R3 Medium Density Residential Zone under the NLEP. The proposed development is defined as a 'boarding house', which is permissible with consent under this instrument and is consistent with the zone objectives.

### Height of Buildings - Clause 4.3

This clause is relevant in the assessment of this application as the SEPP's height control is to the NLEP 2012 and it therefore has weight in the assessment process. The NLEP contains a height limit for the development site in clause 4.3 which is 10 metres. The proposal has varying heights from the natural ground level, the maximum height is noted to be 9.5m at the rear of the site.

The NLEP 2012 map identifies this site as having a 10 metre height limit. The proposal complies with this control.

### Floor Space Ratio - Clause 4.4

This clause is relevant in the assessment of this application as the SEPP's FSR control is linked to the NLEP and it therefore has weight in the assessment process. The NLEP contains a floor space ratio (FSR) development standard for the development site, this being 0.9:1. The proposal complies with this control proposing a FSR of 0.69:1.

### Acid Sulfate Soils - Clause 5.13

The site is not identified to be impacted by acid sulfate soils. Council classification of the site is 5.

## **4.2 Merit Considerations**

### **4.2.1 Relevant Strategic Policies**

Council's Affordable Housing Strategy has been considered as part of the assessment, and it is noted that inner and central suburbs of Newcastle are desirable areas for affordable housing due to the proximity to public transport links and support services. It is considered that the proposed boarding house will assist in providing appropriate and secure affordable rental housing in the central suburbs of Newcastle with good access to public transport and services. The site is also within proximity to the University of Newcastle Callaghan Campus.

### **4.2.2 Newcastle Development Control Plan [Section 79C(1)(a)(iii)]**

The following provisions of NDCP 2012 are relevant to the proposal:

#### Boarding Houses and Group Homes - Section 3.06

The section requires boarding houses to be developed in accordance with the requirements of the SEPP. This has been considered in 4.1.1 above.

#### Safety and Security - Section 4.04

The building has been designed with safety and security being a consideration. The application was supported with a management plan. An amended Plan of Management has been submitted following the Public Voice Session. This Amended Plan addressed the requirements of this DCP section. The management plan clearly outlines the maximum people to be housed at the boarding house at any one time is sixteen. The management plan details the complaint mechanism for telephone contacting a Real Estate Agent (both business and after hours numbers). A consent condition is recommended to ensure compliance with this management plan. The application is therefore considered to be in accordance with this section.

#### Social Impact - Section 4.05

The proposed development is likely to have a net positive social impact in that it will provide additional affordable housing accommodation for the future residents of Wallsend/Jesmond.

Several submissions raised concerns about the potential negative social impact of the proposed boarding house including concerns about boarders being 'rehabilitation patients, drug addicts, prisoner release and mental health patients'.

The applicant has submitted a plan of management which has been incorporated into the recommended conditions of consent. A number of other conditions have been recommended to ensure that the proposed facility is managed to minimise any potential impact on adjoining residents.

#### Building Design Criteria Section 7.01

In terms of built form, the proposal has been considered under Section 7.01 Building Design Criteria which provides guidance on this proposal. It is noted that the site is located in a 'substantial growth precinct', has a maximum FSR of 0.9:1 and a height limit of 10m. The proposal complies with these requirements. Any of the existing views from dwellings are not substantially affected. The proposal design is reasonable in sharing of any existing views for neighbouring properties. The proposal also generally complies with the building setback requirements and siting of the proposal with regard to solar access to the proposal and neighbouring properties under the DCP.

#### Traffic, Parking and Access - Section 7.03

A number of objections have raised concerns regarding the suitability of Crest Road to cater for the additional traffic and parking demand generated by the development. Crest Road links through from Newcastle Road and Victory Parade. The road allows for off-street parking on both sides, and vehicle movements simultaneously in either direction.

## Public Transport / Access to Services

Newcastle Buses have stops 150 metres away and routes 226, 230, 231 and 235 provide services at regular intervals. Bus route 231 travels along Victory Parade to the south of the site, providing regular bus services close to the site. The site is 250m from Jesmond Stockland Shopping Centre and has numerous bus services travelling throughout Newcastle and Lake Macquarie City areas.

The University of Newcastle is located 1.2 kilometres from the site and provides further transport options available to the site, including train services at Warrabrook Station. Crest Road has been considered to support any additional traffic resulting from this development.

The required onsite car parking for the development have been provided as per the requirements of SEPP (Affordable Rental Housing) 2009, refer to 4.1.1 of this report. The NDCP states that in the event of any inconsistency between the DCP and the NLEP or any SEPP, the NLEP 2012 and/or SEPP will prevail to the extent of the inconsistency.

As the NDCP is subservient to the requirements of the SEPP in relation to parking, no further consideration of the parking requirements specified by the NDCP is applicable. As discussed above, the proposal complies with the parking requirements contained in the SEPP and accordingly there is no legal mechanism for Council to refuse the application on the basis of parking provision.

## Energy Efficiency - Section 7.05

The application is affected by BASIX requirements. A BASIX Certificate has been submitted with the application. The proposal generally complies with this section.

## Stormwater and Water Efficiency - Section 7.06 and 7.07

A Concept Drainage Plan for the management of stormwater runoff from the site has been submitted in support of the proposed development. The plan has been assessed by Council's Development Officer (Engineering) who advises that the design is satisfactory in terms of the guidelines set out in this section.

A condition regarding stormwater management has been included in the Draft Schedule of Conditions (**Attachment B**).

### Waste Management - Section 7.08

The predicted waste creation has been undertaken in accordance with the Department of Environment, Climate Change and Water guidelines. Having regard to these guidelines, the likely predicted generation would be 60L / occupant of general waste and 20L / occupant for recyclables. The appropriate number of bins to be provided for the proposed boarding house is 4 x 240 litre general waste bins and 2 x 240 litre recycling bin. A recommended consent condition will ensure this provision.

A number of submissions raised concerns about the placement of garbage bins on Crest Road. The site has a frontage approximately eighteen (18) metres, this width of the site is considered satisfy the number of bins required for waste management.

A condition regarding waste management has been included in the Draft Schedule of Conditions (**Attachment B**).

### Public Participation - Section 8.0

The proposal was notified in accordance with the requirements of this section. Issues raised within submissions received are discussed within this report.

The following table outlines occurrence for public participation:

<b>Public Participation</b>	<b>Date</b>
Development notification	29/05/2014 - 13/06/2014
Mediation	21/08/2014
Development Notification	16/01/2015 - 30/01/2015
Public Voice applications (submission detail received)	29/01/2015
Public Voice Meeting	19/05/2015
Further submission from objector via Councillor	25/05/2015
Further submission from objector via Councillor	25/05/2015
Further submission from objector	02/06/2015
Further submission from objector via Councillors	07/06/2015
Mediation - Cancelled by objectors	Cancelation received 10/06/2015

The proposal was put forwarded to a Public Voice Session on 19 May 2015. The objectors speaking at the Public Voice session raised the following concerns:

- *The Road is not predominantly mixed use as the development application states,*

The existing development on adjoining sites and the general form of development in the immediate area comprises older style single-storey dwellings and contemporary design multi-housing dwelling units. However, directly north of the site along Victory Parade, there are a number of two storey residential buildings and further along Crest Road and to the south along Chalmers Road there are numerous multi dwelling developments. Crest Road and the immediate area can be described as a mixed residential character. Accordingly, the site and immediate area is a Substantial Growth Precinct and the Newcastle Urban Strategy explains the meaning of a Substantial Growth precinct:

*'The substantial growth precinct covers the areas which are within a ten minute walk of the larger commercial centres within Newcastle, based on the SAFE criteria and provided for the greatest density of development to facilitate and precinct that apartment buildings (ie. Residential flat buildings) would be the expected form of development to most efficiently respond to the urban design standards that apply.'*

Further details refer to Part 4.1.1 of this report.

- The development should mirror reverse to allow better shadowing and noise reduction for neighbouring properties, and

The applicant has provided additional information regarding 'mirror reversing' the development on the site. The applicant provided the following information:

*The initial concept plan for the site (attached) sought to locate development on the northern side of the allotment. The intent of this siting was to try and encapsulate shadowing within the site, wherever possible, along with seeking to utilise the north facing aspect for solar access benefits to the rooms.*

*Several key concerns were raised by this siting however, namely:*

- *The impact of the buildings bulk on the adjoining villa development to the north;*
- *The need to screen, or substantially limit, north facing window openings to secure privacy to the villa development to the north. The treatment required to any windows along this elevation had the potential to negate the benefits to solar access from the north facing siting; and*
- *The implications of stormwater management, and necessary retaining, on both the feasibility of the proposal and its impact on the adjoining villa development. Most particularly the addition of a 2m retaining wall over and above the existing retaining provided within the boundary of the villas.*

*An initial concept plan for stormwater management which gives an illustration of the required retaining walls that would support the concept plan at that time.*

*On the basis of this analysis it was determined that the best outcome for the site and its context would be to site the boarding house on the southern side of the site, whilst ensuring the proposal is within the building envelope. The key benefits of this siting are:*

- Increased setback of the majority of the boarding rooms from the villa development to the north;*
- Reduced bulk and scale impact to villa development to the north, along with improved visual and acoustic privacy to residents of the villas;*
- Significantly reduced retaining across the entire site, further reducing the impact of the development on the context; and*
- Shadow analysis which confirms that private open space and windows of adjoining development to the south retained by the proposal.*

*On the basis of this analysis it was confirmed that the siting of the building as proposed by this application is the best outcome for the site and development in the immediate context.*

There has been no requirement for the applicant to provide justification for the proposed siting of the building on the site. The applicant has provided the abovementioned comments, concept plans and design processes in response to the objections. The concept plans and comments clearly demonstrate the proposed building having the less environmental impacts for the neighbouring properties and the proposal. Further details refer to Part 4.2.2 of this report.

- The development application had poor environmental design, for example, 16 single phase air conditioners.

The proposal is considered acceptable with regard to solar access and Newcastle Development Control Plan 2012, Section 7.05 Energy Efficiency and Section 7.07 Water Efficiency. BASIX Certificate 542509M proposes sustainable commitments, of which is considered acceptable.

The BASIX certificate and indicative plan notes there will be 15 x 1-phase air-conditioning units. The applicant provided an indicative plan noting the location of air conditioning units for the development with the following:

- three units on the southern elevation,
- seven units on the northern elevation (centre of the site), and
- five units on the eastern elevation.



The proposed number of air-conditioning units on each elevation is considered satisfactorily. The number of units has also been noted within the BASIX certificate and is considered satisfactory. Further details refer to Part 4.2.2 of this report.

#### **4.2.3 Impacts on the Natural and Built Environment [Section 79C(1)(b)]**

##### Privacy, overlooking, and noise impact

In relation to noise impacts, it is considered that the proposal is not likely to create unreasonable impacts other than normally associated with residential development.

The issue of privacy has been resolved via a mixture of opaque glass and the use of highlight windows. Accordingly, the privacy of neighbouring premises is unlikely to be significantly compromised.

##### Overshadowing

The applicant initially submitted a shadow diagram illustrating the likely impact on neighbouring sites.

The shadows cast are considered to be reasonable, with each of the neighbouring allotments achieving the required solar access between 9am-3pm on 21 June.

The applicant provided additional shadow diagrams in the form of a section/elevation diagram indicating the impact at 12:00 pm. The shadow cast to the neighbouring dwelling is considered to impact under the window lines. Reasonable solar access is maintained throughout the day to neighbouring dwellings.

The proposal complies with Council's solar access requirements in its current form.

##### Construction Phase

Concerns have been raised that the proposal will impact on nearby residents during the construction phase. It is acknowledged that there may be some short term noise impact during the construction phase. Construction noise is part of all development proposing building works. A number of conditions are recommended to ensure that any potential impacts are minimised during construction.

A further condition is recommended by Council's Senior Traffic Engineer requiring a construction traffic management plan be submitted to Council. The construction traffic management plan is to ensure the provision for safe, continuous movement of traffic and pedestrians during the construction period.

### Increase in Noise

Objectors have raised concerns about a potential increase in noise given the number of people. The issue of residential noise is not a valid planning concern. A plan of management will ensure that residents are aware of the house rules.

### Too many boarding houses in Jesmond/Wallsend

A number of submissions indicated that a number of other similar developments within close proximity have been approved in the Wallsend/Jesmond area and there is no need for another one. However, the proposed development is permissible within the zone subject to Council approval, and the market dictates the demand for particular development types in particular locations.

#### **4.2.4 Social and Economic Impacts in the Locality [Section 79C(1)(b)]**

The concern raised by some objectors regarding a possible reduction in property values in the vicinity of the site as a result of the proposed development is noted, but this is not a relevant planning consideration. The proposal will not adversely impact on the amenity of the adjoining premises or the neighbourhood generally and accordingly, is not likely to detract from current market values.

The proposal will have a positive short term economic impact by providing construction industry employment. The proposal is likely to have broad positive social impacts in that it will create additional affordable rental housing close to existing amenities and public transport services.

#### **4.2.5 Suitability of the Site for the Development [Section 79C(1)(c)]**

##### a) Land based risks/hazards

The site is located within a Mine Subsidence District. The proposal has been reviewed by the Mines Subsidence Board and is considered acceptable.

##### b) Distance to public transport, services and facilities

The subject site is located within an easy walking distance to bus stops which are on bus routes that provide regular services to commercial areas, education establishments, medical services, and a range of other recreation and community facilities.

#### **4.2.6 Submissions made in accordance with the Act or Regulations [Section 79C(1)(d)]**

It is considered that this report has adequately addressed the various concerns raised in public submissions received in response to the Public Notification.

#### **4.2.7 Public Interest [Section 79C(1)(e)]**

- **Sustainability**

It is considered that this report has adequately addressed the various concerns raised in public submissions received in response to the Public Notification.

- **General**

The proposed development does not raise any significant general public interest issues beyond matters already addressed in this report.

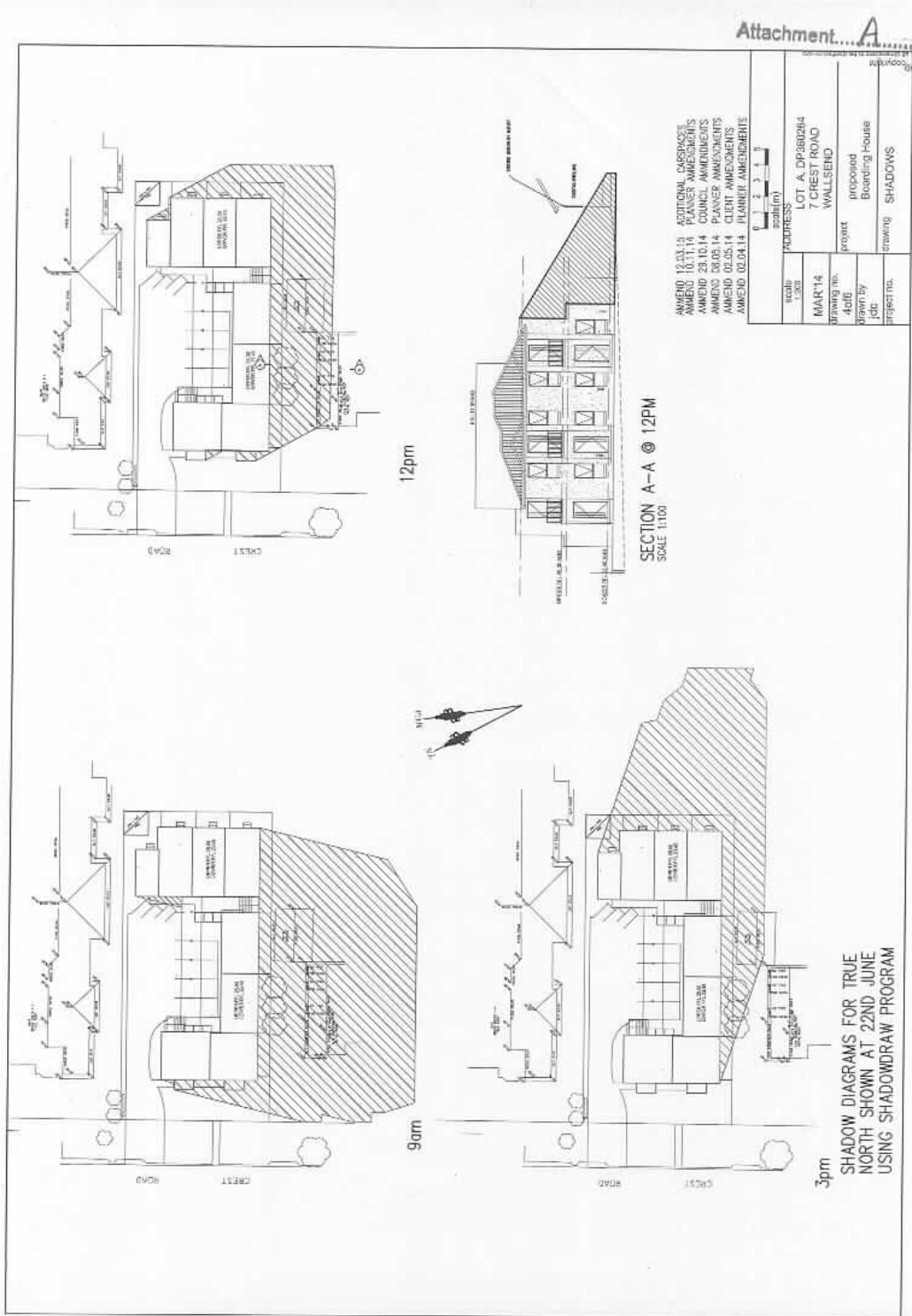
#### **ATTACHMENTS**

**Attachment A:** Plans and elevations of proposed development / as amended - 7 Crest Road Wallsend (DA 2014/0545)

**Attachment B:** Draft Schedule of Conditions - 7 Crest Road Wallsend (DA 2014/0545)

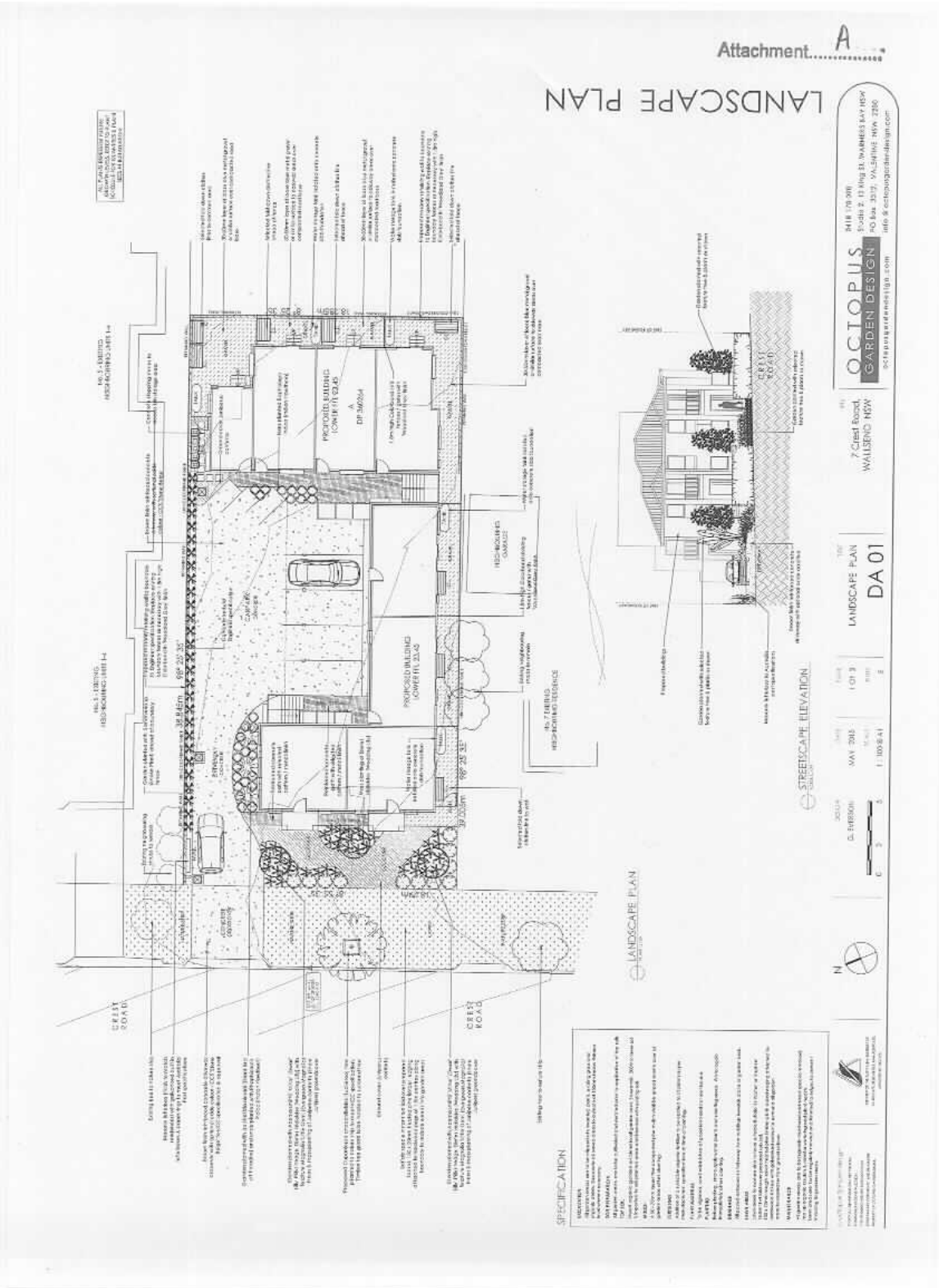
**Attachment C:** Processing Chronology - 7 Crest Road Wallsend (DA 2014/0545)

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**Attachment B**

**DRAFT SCHEDULE OF CONDITIONS**  
**DA 2014/0545 - 7 CREST ROAD, WALLSEND**

**SCHEDULE 1**

**REASONS FOR CONDITIONS**

- 1 The conditions of this consent have been imposed in accordance with Section 80A of the *Environmental Planning and Assessment Act 1979* (NSW). The conditions relate to any matter referred to in Section 79C(1) of relevance to the development the subject of the consent and are imposed to ensure that the development is undertaken in an orderly manner, with acceptable impacts on the natural and built environment.

**APPROVED DOCUMENTATION**

- 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.

Plan No./Supporting Document	Reference/Version	Prepared by	Dated
Site Plan Drawing no. 1 of 6	N/A	Submitted by applicant - JW Planning	12/03/2015
Site Layout Plan Drawing no. 3 of 6	N/A	Submitted by applicant - JW Planning	12/03/2015
Shadows Drawing no. 4 of 6	N/A	Submitted by applicant - JW Planning	12/03/2015
Floor Plans Drawing no. 5 of 6	N/A	Submitted by applicant - JW Planning	12/03/2015
Elevations Drawing no. 6 of 6	N/A	Submitted by applicant - JW Planning	12/03/2015
Statement of Environmental Effects	Ref # 1321409	JW Planning	May 2014
Concept Stormwater and Levels Plan Drawing C02DA	Job Number NL130554 Revision B	Northrop	02/09/2014
Landscape Plan Pages 1 to 2	DA 01 Issue D	Octopus Garden Design	May 2014

Waste Management Plan	N/A	JW Planning	May 2014
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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.

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

- 3 A total monetary contribution of \$10716.37 is to be paid to Council, pursuant to Section 94A of the *Environmental Planning and Assessment Act 1979*, such contribution to be payable prior to the issue of a Construction Certificate in respect of the proposed development.

Note:

- i) This condition is imposed in accordance with the provisions of the *Newcastle City Council S94A Development Contributions Plan 2009* (updated version operational from 13 January 2014). A copy of the plan may be inspected at Council's Customer Enquiry Centre, ground floor of the City Administration Centre, 282 King Street Newcastle 8.30 am to 5.00 pm, excluding public holidays.
- ii) The Newcastle City Council S94A Development Contributions Plan 2009 permits deferred or periodic payment of levies in certain circumstances. A formal modification of this condition will be required to enter into a deferred or periodic payment arrangement. Refer to the s94A Development Contributions Plan 2009.
- iii) The amount of contribution payable under this condition has been calculated on the basis of the current rate as at the date of consent and is based on the most recent quarterly Consumer Price Index (CPI) release made available by the Australian Bureau of Statistics (ABS). The CPI index rate is expected to rise at regular intervals and therefore the actual contribution payable is indexed and recalculated at the CPI rate applicable on the day of payment.

CPI quarterly figures are released by the ABS on a date after the indexation quarter and as a guide, these approximate dates are provided below. Indexation quarters from the ABS are as follows:

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

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



- 4 The car park is to be designed to comply with AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking and AS/NZS 2890.6:2009 - Parking facilities - Off-street parking for people with disabilities. Full details are to be included in documentation for a Construction Certificate application.
- 5 All proposed driveways, parking bays, loading bays and vehicular turning areas are to be constructed with a basecourse of adequate depth to suit design traffic, being sealed with either bitumen seal, asphaltic concrete, concrete or interlocking pavers and being properly maintained. Full details are to be included in documentation for a Construction Certificate application.
- 6 Kerbing or dwarf walls having a minimum height of 100mm are to be constructed along the edge of all garden or lawn areas adjacent to driveways and parking bays sufficient to discourage the encroachment of vehicles thereon. Full details are to be included in documentation for a Construction Certificate application.
- 7 Roof water from the proposed new work is to be directed to the proposed rainwater tank and being reticulated there from to any new toilet cisterns and cold water washing machine taps, with a mains water top up being installed to maintain between 10% and 15% of the tank capacity. Alternatively, an electronically activated mechanical valve device is to be installed to switch any new toilet cisterns and laundry taps to mains water when the tank falls below 10% capacity. The water tank and plumbing is to be installed in accordance with Australian Standard AS 3500, the relevant plumbing regulations and the requirements of the Hunter Water Corporation. Full details are to be included in documentation for a Construction Certificate application.
- 8 Overflows from the roof water tank and any additional discharge controls (if required) are to be directed to Council's drainage system by means of an interallotment drainage line or underground pipe directly to the street gutter. Full details are to be included in documentation for a Construction Certificate application.
- 9 All stormwater runoff from the proposed development being managed in accordance with the requirements of Section 7.06 'Stormwater' of Newcastle Development Control Plan 2012, as indicated on the stormwater management concept plan prepared by Northrop (Job No. NL130554 C02DA, Rev. B, dated 02/09/2014). Full details are to be included in documentation for a Construction Certificate application.
- 10 All new impervious surfaces, including driveways and paved areas are to be drained to the nominated discharge controls, full details are to be included in documentation for a Construction Certificate application.
- 11 All proposed planting and landscape elements indicated on the submitted landscape concept plan or otherwise required under the conditions of this consent are required to be detailed on a comprehensive landscape design plan and specification. The required comprehensive landscape design plan and specifications is to be in accordance with the provisions of Newcastle Development Control Plan 2012 and is to include details of the following:
  - a) cross sections through the site where appropriate
  - b) proposed contours or spot levels

- c) botanical names
- d) quantities and container size of all proposed trees
- e) shrubs and ground cover
- f) details of proposed soil preparation
- g) mulching and staking
- h) treatment of external surfaces and retaining walls where proposed
- i) drainage, location of taps and
- j) appropriate maintenance periods.

The plan is to be prepared by a qualified landscape designer and be included in documentation for a Construction Certificate application.

- 12 The applicant is to comply with all requirements of the Hunter Water Corporation regarding the connection of water supply and sewerage services, including the payment of any required cash contribution towards necessary amplification of service mains in the locality as a result of the increased intensity of land use proposed. A copy of the Corporation's compliance certificate (refer s50 Hunter Water Act 1991) is to be included in documentation for a Construction Certificate application.
- 13 The applicant is to comply with the requirements of the Hunter Water Corporation in respect of any building or structure proposed to be erected over any services or drain under the Corporation's control. Details addressing any requirements of the Hunter Water Corporation are to be included in documentation for a Construction Certificate application.
- 14 Adequate facilities are to be provided within the proposed private courtyard/s, or in another adequately screened location, for the storage of garbage. Full details are to be included in documentation for a Construction Certificate application.
- 15 A group type mailbox is to be provided at the street frontage in accordance with the requirements of Australia Post, clearly displaying individual unit numbers and the required house number. Full details are to be included in the documentation for a Construction Certificate application.
- 16 A separate application must be lodged and consent obtained from Council for all works within the road reserve pursuant to Section 138 *Roads Act 1993 (NSW)*, before the issue of any Construction Certificate.
- 17 All downpipes discharging to the rainwater tanks are to have pre-storage insect, debris and vermin control (e.g. a rainwater head being leaf screened and vermin and insect proof) to minimise the contamination of captured roof water. A first flush device is to be provided for the inlet to the tank and a backflow prevention device is to be installed in the tank overflow outlet before connecting to the stormwater drainage system. If the roof downpipes are charged to the rainwater tank, all pipes are to be chemically welded and the stormwater system is to be designed such that the system is capable of being flushed in the event of pipe blockage (e.g. capped relief access points at the lowest level of stormwater drainage).

- 18 All retaining walls to be designed by a suitably qualified professional engineer with suitable provision made for drainage. Full details of the retaining wall design are to be included in documentation for a Construction Certificate.
- 19 Prior to the release of the Construction Certificate the applicant shall prepare and submit an operational Plan of Management for the boarding house. The operational Plan of Management shall address the following as a minimum:
- a) Maintenance and fire safety in the building;
  - b) Measures to ensure that guest numbers do not exceed those proposed numbers;
  - c) Measures to minimise unreasonable impact to the habitable areas of adjoining premises;
  - d) Proposed staffing arrangements, including location and contact details of the off site manager or caretaker;
  - e) Prominent display of appropriate house rules eg guest behaviour, activities and noise, visitor policy, operating hours of outdoor common areas, use of alcohol and/or drugs;
  - f) Waste minimisation and recycling; and
  - g) Professional cleaning details and vermin control (as a minimum, shared facilities such as kitchens and bathrooms shall be cleaned to a professional standard at least once a week.)
  - h) Safety and security measures for all residents may include but not be limited to such things as: Internal signage indicating the property caretaker or manager and contact number, emergency contact numbers for essential services such as fire, ambulance, police, and utilities such as gas, electricity, plumbing, installation of perimeter lighting, appropriate fencing and secure gates, all residents to have own room keys, keys for security entrance doors be made available to essential services such as fire brigade in case of emergency and suitable provision be provided for residents to ring emergency services in the event of an emergency, i.e. provision of a landline telephone.
  - i) Record keeping requirements eg receipts for tariffs and fees charged
  - j) Arrangements for establishing and managing tenancy agreements
  - k) Residents rights to service providers and advocates
  - l) Power of entry for monitoring purposes
- 20 Fences being constructed in a high quality presentation style of attractive appearance and of sufficient height to afford adequate privacy to residents in accordance with the performance criteria and provisions of Council's adopted Newcastle Development Control Plan, 2005. Full details are to be included in the documentation for a Construction Certificate application.
- 21 All garbage and recycling waste shall be collected by a private waste contractor. Final details are to be submitted with an application for a Construction Certificate.

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

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

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- a) be a standard flushing toilet connected to a public sewer, or
  - b) have an on-site effluent disposal system approved under the *Local Government Act 1993* (NSW), or
  - c) be a temporary chemical closet approved under the *Local Government Act 1993* (NSW).
- 23 A Hazardous Substances Management Plan is to be prepared by a competent person for the building(s) or parts of the building(s) proposed to be demolished in accordance with Australian Standard 2601:2001 - The Demolition of Structures. A copy of the Hazardous Substances Management Plan is to be provided to Council (marked to Attention: Compliance Services) and the demolisher prior to commencement of work.
- 24 The demolition works are to be undertaken in accordance with Australian Standard 2601:2001 - The Demolition of Structures and the following requirements:
- a) demolition works shall be conducted in accordance with the submitted Hazardous Substances Management Plan and a copy of the Hazardous Substances Management Plan shall be kept on-site for the duration of the proposed development
  - b) the removal, handling and disposal of any asbestos material is to be undertaken only by an asbestos removal contractor who holds the appropriate class of Asbestos Licence, issued by the WorkCover Authority of NSW
  - c) a copy of all waste disposal receipts are to be kept on-site for the duration of the proposed development and made available to authorised Council Officers upon request
  - d) seven working days notice in writing is to be given to Council and the owners/occupiers of neighbouring premises prior to the commencement of any demolition works. Such written notice is to include the date demolition will commence and details of the name, address, contact telephone number(s) and licence details (type of licences held and licence numbers) of any asbestos removal contractor and demolition contractor. Notification to owners/occupiers of neighbouring premises shall also include Council's contact telephone number (49742000) and the Workcover Authority of NSW telephone number (49212900) and
  - e) on sites where asbestos materials are to be removed, a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm is to be erected in a prominent position during asbestos removal works.
- 25 The demolisher is to ensure that all services (ie water, telecommunications, gas, electricity, sewerage etc), are disconnected in accordance with the relevant authority's requirements prior to demolition.

- 26 Any waste containers used in association with the proposed demolition are to be located on the site where possible.

Note: Where this is not feasible, application must be made for Council's approval to position the container on the adjacent public road in accordance with Council's adopted Building Waste Container Policy.

- 27 The demolisher is to ensure that all demolition material is kept clear of the public footway and carriageway as well as adjoining premises.

- 28 Any demolition/waste building materials that are not suitable for recycling are to be disposed of at Council's Summerhill Waste Management Facility or other approved site.

- 29 Waste management shall be implemented in accordance with the approved Waste Management Plan. At a minimum, the following measures shall be implemented during the construction phase:

- a) a waste container of at least one cubic metre capacity shall be provided, maintained and regularly serviced from the commencement of operations until the completion of the building for the reception and storage of waste generated by the construction of the building and associated waste
- b) the waste container is to be, at minimum, constructed with a 'star' picket (corners) and weed control mat (sides), or equivalent. The matting is to be securely tied to the pickets
- c) appropriate provision is to be made to prevent wind blown rubbish leaving the site and
- d) footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.

Note: Fines may be issued for pollution/littering offences under the *Protection of the Environment Operations Act 1997* (NSW).

- 30 A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- a) showing the name, address and telephone number of the principal certifying authority for the work
- b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours and
- c) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

- 31 All building work must be carried out in accordance with the provisions of the Building Code of Australia.
- 32 In the case of residential building work for which the *Home Building Act 1989* (NSW) requires there to be a contract of insurance in force in accordance with Part 6 of that Act, such a contract of insurance is to be in force before any building work authorised to be carried out by this consent commences.
- 33 All excavations and backfilling are to be executed safely in accordance with appropriate professional standards and excavations are to be properly guarded and protected to prevent them from being dangerous to life and property.
- 34 If the soil conditions require it, retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil must be provided and adequate provision must be made for drainage.
- 35 All building materials, plant and equipment is to be placed on the site of the development so as to ensure that pedestrian and vehicular access in public places is not restricted and to prevent damage to the road reserve. The storage of building materials on Council reserves including the road reserve is not permitted.
- 36 Certification is to be prepared by a Registered Surveyor and submitted to the Principal Certifying Authority on completion of the retaining wall construction, confirming that finished levels are consistent with the approved levels.
- 37 A vehicular crossing is to be constructed across the public footway at the proposed driveway entrance/exit at no cost to Council, as per the following:
- a) A dwelling type vehicular crossing shall be constructed across the public footway at the proposed driveway entrance/exit at no cost to Council and in accordance with Council's Standard Drawing A1300 (Driveway Crossing Standard Design Details).
  - b) The driveway crossing shall be 4.5 to 5.0 metres wide.
  - c) Letterboxes, landscaping and any other obstructions to visibility should be kept clear of or limited in height to 1.2m in the 2 metre by 2.5 metre splay within the property boundary each side of the driveway entrance.
  - d) Any proposed driveways to be constructed as part of this approval are to be located such that the edge of the driveway is to be no closer than 0.75m to the outer face of any existing or proposed power poles.
- Note: A separate approval from Council must be obtained for all works within the public road reserve pursuant to Section 138 of the Roads Act 1993. For further information contact Council's Works Depot on 4974 6000 to request a Road Opening Approval. A fee will be payable in this regard.
- 38 Any proposed work within the public road reserve, including driveway works, reinstatement of a kerb or installation of drainage, is to be the subject of the separate approval of Council prior to commencement.

Note: A separate approval from Council must be obtained for all works within the public road reserve pursuant to Section 138 of the Roads Act 1993. For further information contact Council's Works Depot on 4974 6000 to request a Road Opening Approval. A fee will be payable in this regard.

- 39 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.
- 40 All car parking and motorcycle bays are to be permanently marked out on the pavement surface.
- 41 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.

- 42 On-site car parking accommodation is to be provided for a minimum of 4 cars, 4 motorbikes and 4 bicycles in accordance with the parking rates prescribed by State Environmental Planning Policy (Affordable Rental Housing) 2009 and such being set out generally in accordance with the details indicated on the submitted plans except as otherwise provided by the conditions of consent.
- 43 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: Council's 'PREVENT POLLUTION' sign can be obtained by presenting your development application receipt at Council's Customer Enquiry Counter at 282 King Street Newcastle.

- 44 Any excavated material to be removed from the site is to be assessed, classified, transported and disposed of in accordance with the NSW Environment Protection Authority (EPA)'Waste Classification Guidelines Part 1: Classifying Waste'.
- 45 Any fill material imported into the site is to be Virgin Excavated Natural Material or material subject to a Resource Recovery Exemption that is permitted to be used as a fill material, in accordance with the provisions of the *Protection of the Environment Operations Act 1997* (NSW) and the *Protection of the Environment (Waste) Regulation 2005* (NSW).
- 46 Any fill material subject to a Resource Recovery Exemption received at the site must be accompanied by documentation demonstrating that material's compliance with the conditions of the exemption, and this documentation must be provided to Council officers or the Principal Certifying Authority on request.

- 47 Erosion and sediment control measures are to be implemented prior to the commencement of works and maintained during the period of demolition and/or construction in accordance with the requirements of Managing Urban Stormwater: Soils and Construction 4<sup>th</sup> Edition - Vol. 1 (the 'Blue Book') published by Landcom, 2004. Controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover.
- 48 Prior to the commencement of work, a 3m wide all weather vehicle access is to be provided from the kerb and gutter to the building under construction, to reduce the potential for soil erosion. Sand shall not be stockpiled on the all weather vehicle access.
- 49 A temporary protective crossing is to be provided over the footway for vehicular traffic before demolition or building operations are commenced. This approval does not permit access to the property over any adjacent private or public land.
- 50 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
  - c) alter or cease construction work during periods of high wind and
  - d) erect green or black shade-cloth mesh or similar products 1.8m high around the perimeter of the site and around every level of the building under construction.
- 51 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).

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

- 52 All commitments listed in the relevant BASIX certificate for the development are to be satisfactorily completed prior to the issue of an Occupation Certificate. Should there be any changes to the specifications of the dwelling that have implications for compliance with the approved certificate, except where restricted or excluded by any other condition of consent, an amended BASIX Certificate can be relied upon as having complied with this condition. A copy of any amended BASIX Certificate is to be provided to Council within fourteen days of receipt.
- 53 All public footways, footpaving, kerbs, gutters and road pavement damaged during the works are to be immediately repaired following the damage, to a satisfactory state that provides for safe use by pedestrians and vehicles. Full restoration of the damage is to be carried out to Council's satisfaction prior to the completion of demolition work or prior to the issue of any occupation certificate in



respect of development involving building work.

- 54 All works within the road reserve required by this consent are to be completed prior to the issue of a Final Occupation Certificate.
- 55 Any redundant existing vehicular crossing is to be removed at no cost to Council. The road reserve and kerb is to be restored to Council's satisfaction, to match the existing infrastructure. These works are to be completed prior to the issuing of a Final Occupation Certificate for the proposed development.
- 56 A Landscape Practical Completion Report is to be submitted to the Principal Certifying Authority prior to the issue of the Final Occupation Certificate. 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 required to be included in documentation for a Construction Certificate application and is to verify that an effective maintenance program has been commenced.

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

- 57 The driveway crossing, parking areas and stormwater management system are to be properly maintained for the life of the development.
- 58 All vehicular movement to and from the site is to be in a forward direction.
- 59 Proposed parking areas, vehicle bays, driveways and turning areas are to be maintained clear of obstruction and be used exclusively for purposes of car parking, loading and unloading, and vehicle access, respectively. Under no circumstances are such areas to be used for the storage of goods or waste materials.
- 60 The boarding house shall have a maximum of one boarder per boarding room (total of 16 boarders).
- 61 The off-site management shall be responsibility for the operation, administration, cleanliness and fire safety of the premises, including compliance with the Plan of Management.
- 62 Contact details of the off-site boarding house manager/caretaker, including a mobile phone number, shall be available to the public by way of signage near the entrance of the boarding house. The contact details shall be kept up to date at all times.
- 63 The proposed boarding house development being operated in accordance with the definition of a 'boarding house' contained in the State Environmental Planning Policy (Affordable Rental Housing) 2009) being:  
'a building:
- a) that is wholly or partly let in lodgings, and

- b) that provides lodgers with a principal place of residence for 3 months or more, and
  - c) that may have shared facilities, such as a communal living room, bathroom, kitchen or laundry, and
  - d) that has rooms, some or all of which may have private kitchen and bathroom facilities, that accommodate one or more ledgers, but does not include backpackers' accommodation, a group home a serviced apartment, seniors housing or hotel or motel accommodation.'
- 64 The boarding house (incorporating two buildings) remaining in single occupation and shall not be subdivided into separate community or strata titles.

### ADVISORY MATTERS

- 65 Retaining walls not clearly noted on the approved plans or outside of the parameters of 'exempt development' as specified in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (NSW) are to be subject to a separate development application. An application in this regard is to be approved prior to any works relating to the retaining wall taking place.
- 66 It is recommended that, prior to commencement of work, the free national community service 'Dial before you Dig' be contacted on 1100 or by fax on 1200 652 077 regarding the location of underground services in order to prevent injury, personal liability and even death. Inquiries should provide the property details and the nearest cross street/road.
- 67 Any necessary alterations to public utility installations are to be at the developer/demolisher's expense and to the requirements of both Council and any other relevant authorities. Council and other service authorities should be contacted for specific requirements prior to the commencement of any works.
- 68 Any approval for fences on side boundaries, common to other private properties, is independent of any consent or agreement which may be required of any adjoining owner under the provisions of the *Dividing Fences Act 1991* (NSW).
- 69 Prior to commencing any construction works, the following provisions of the *Environmental Planning and Assessment Act 1979* (NSW) (the 'Act') are to be complied with:
- a) a Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act
  - b) a Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b) of the Act and
  - c) Council is to be given at least two days notice of the date intended for commencement of building works, in accordance with Section 81A(2)(c) of the Act.

- 70 Prior to the occupation or use of a new building, or occupation or use of an altered portion of, or an extension to an existing building, an Occupation Certificate is to be obtained from the Principal Certifying Authority appointed for the proposed development. An application for an Occupation Certificate must contain the information set out in Clause 149 of the *Environmental Planning and Assessment Regulation 2000* (NSW).
- 71 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.
- 72 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.

**End of conditions**

**Fire Safety Schedule**

Nil

## Attachment C

### **PROCESSING CHRONOLOGY** **DA 2014/0545 - 7 CREST ROAD, WALLSEND**

- 22 May 2014 - Development application lodged with Council.
- 29 May 2014 - Public exhibition (14 days).
- 18 July 2014 - Applicant advised of issues raised in public submissions.
- 21 August 2014 - Mediation meeting held.
- 05 December 2014 - Comments and amended plans received.
- 16 January 2015 - Public exhibition (15 days).
- 13 March 2015 - Amended plans received.
- 19 May 2015 - Public Voice.

#### **MOTION**

Moved by Cr Tierney, seconded by Cr Waterhouse

The application to demolish and existing single storey dwelling and the subsequent construction of a 16 room boarding house with capacity for 16 adult lodgers be approved and consent granted, subject to compliance with the conditions set out in the Draft Schedule of Conditions (refer to **Attachment B**).

#### **For the Motion:**

Lord Mayor, Cr Nelmes and Councillors Clausen, Compton, Crakanthorp, Doyle, Dunn, Luke, Robinson, Rufo, Tierney and Waterhouse.

#### **Against the Motion:**

Nil.

**Carried**

**The meeting concluded at 6.32pm.**

**Council Chambers**

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