

# NOTICE OF DETERMINATION DEVELOPMENT APPLICATION

Section 81 Environmental Planning and Assessment Act 1979



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<b>Application No:</b>	DA2016/01448
<b>Land:</b>	Lot 7 Sec B, DP406915 Lot 6 Sec B DP 1555, Lot 110, DP1023101 and Lot B, DP 406915
<b>Property Address:</b>	7 Wilson Street, 372 Maitland Road and 3 Fitzroy Street Mayfield NSW 2304
<b>Proposed Development:</b>	Staged Development for Demolition of buildings alterations and additions to residential care facility associated car parking and site works.

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## Determination:

The Development Application has been determined by granting of **CONSENT** subject to the conditions specified in the attached Schedule 1.

**Consent to operate from:** 19 May 2017

**Consent to lapse on:** 19 May 2022

## Rights of appeal:

- If you are dissatisfied with the determination of Council (including a determination on a review under section 82A of the Environmental Planning and Assessment 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, if your development application was lodged after 27 February 2011. Otherwise the appeal period is 12 months after the date on which you receive this notice.
- The Environmental Planning and Assessment Act 1979 does not give a right of appeal against this determination to an objector.

## Review of determination:

- You have the right to request a review of this determination under Section 82A of the Environmental Planning and Assessment Act 1979, provided that this determination is not made in respect of integrated development and applications where a regional panel exercised a Council's functions as the consent authority. The determination cannot be reviewed after the time limited for making an appeal to the Land and Environment Court expires or after an appeal to the Land and Environment Court is disposed of by the Land and Environment Court.

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

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**David Paine**  
**SENIOR DEVELOPMENT OFFICER**

19 May 2017  
**Date of Determination**

## SCHEDULE 1

### REASONS FOR CONDITIONS

- 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

- 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
Demolition Plan	A005 Rev: DA01 Project No 2949	Morrison Design Partnership	13/03/16
Construction Staging Plan	A010 Rev: DA02 Project No 2949	Morrison Design Partnership	13/03/16
Site Plan	A050 Project No 2949	Morrison Design Partnership	13/03/17
Site Set out, Fencing and GFA Plan	A060 Project No 2949	Morrison Design Partnership	13/03/16
Site Analysis Plan	A100 Rev: AA01 Project No 2949	Morrison Design Partnership	20/10/16
Ground Floor Plan	A-112 Project No 2949 Rev: DA02	Morrison Design Partnership	13/03/16
First Floor Plan	A122 Rev: G Project No 2949	Morrison Design Partnership	31/09/16
Roof Plan	A130 Rev: DA01 Project No 2949	Morrison Design Partnership	20/10/16
Street Elevation Plan	A200 Rev: DA01 Project No 2949	Morrison Design Partnership	13/03/17
North and East Elevation Plan	A201 Rev: DA01 Project No 2949	Morrison Design Partnership	13/03/17
South and West Elevations	A202 Rev: DA01 Project No 2949	Morrison Design Partnership	13/03/17
Section 1	A30 Project No 2949 Rev: DA01	Morrison Design Partnership	13/03/17
Section 2	A302 Rev: DA01 Project No 2949	Morrison Design Partnership	13/03/17
Statement of Environmental Effects		Minto Planning Services	Oct 2016
Waste Management Plan		Catholic Healthcare	Undated
Tree Assessment Report		Stuart Pittendrigh	Oct 2016
Landscape Plan	LA00-LA01 and	Taylor Brammer	7/10/16

	LA02	Landscape Architect	
Engineering Plans	Project Ref: 202183201 Rev: P1	Bonacci Group	10/10/16
Architectural Design Report	Project No 2949	Morrison Design Partnership	19/10/16
Statement of Compliance Access for People with a Disability	Job No 216175	Accessible Building Solution	27/09/16
Acoustic Report	Rev: A	JHA Acoustic Consultant	05/09/16

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. On-site parking accommodation is to be provided for a minimum of 18 vehicles and such be set out generally in accordance with the minimum parking layout standards indicated in Element 7.03 'Traffic, Parking and Access' of Council's adopted Newcastle Development Control Plan 2012. Full details are to be included in documentation for a Construction Certificate application.
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. All stormwater runoff from the proposed development being managed in accordance with the requirements of Element 7.06 'Stormwater' of Newcastle Development Control Plan 2012, the associated Technical Manual and the latest issue of AS 3500.3 as applicable, as indicated on the Site Stormwater Drainage Plan prepared by Bonacci Group Pty Ltd Consulting Engineers (Project Ref. 20 21832 01, Drg. No. C020, Rev. P3, dated 10/10/16). Full details are to be included in documentation for a Construction Certificate application.
7. 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.
8. 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.

9. Fences are to be 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 Newcastle Development Control Plan 2012. Full details are to be included in the documentation for a Construction Certificate application.
10. 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.
11. Two residential vehicular crossings are to be constructed across the road reserve in Wilson Street, in accordance with the following criteria:
  - a) Constructed in accordance with Council's A1300 - Driveway Crossings Standard Design Details.
  - b) The driveway crossing, within the road reserve, shall be a maximum of 4.5 metres wide.
  - c) Letterboxes, landscaping and any other obstructions to visibility should be kept clear of or limited in height to 1.2 metre, in the 2 metre by 2.5 metre splay within the property boundary each side of the driveway entrance.
  - d) The proposed driveways shall be a minimum of 3 metres clear of the trunk of any tree within the public reserve.
  - e) The proposed driveways shall be a minimum of 750mm clear of the centre of any pole or obstruction within the public reserve and 1 metre clear of any drainage pit.

These works are not approved until consent under Section 138 of the Roads Act 1993 (NSW) has been granted by Council. An application under Section 138 must be applied for and approved before the issue of a Construction Certificate.

12. A separate application must be lodged and consent obtained from Council for all works within the road reserve pursuant to Section 138 of the *Roads Act 1993 (NSW)*, before the issue of a Construction Certificate.
13. Any walls doorways and openings to the existing buildings, which are adjacent to or facing the new building extension, are to be upgraded so as to comply with the requirements of Part C of Volume One of the Building code of Australia. Full details

are to be included in the application for a construction certificate.

14. The building is to be provided with adequate means of access for persons with disabilities, to the extent necessary to comply with the Commonwealth Disability (Access to Premises – Buildings) Standards 2010. Full details are to be included in documentation for a Construction Certificate application.

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

15. Building demolition is to be planned and carried out in accordance with Australian Standard 2601:2001 - The Demolition of Structures.
16. 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.
17. 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.
18. 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.
19. 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.

20. If construction / demolition work is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or involves the need to enclose a public place, a hoarding or fence must be erected between the work site and the public place. If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place. Any such hoarding, fence or awning is to be removed when the work has been completed.
21. A rigid and durable sign is to be erected on any site on which building work, subdivision work or demolition work is being carried out, before the commencement of the work:
  - a) showing the name, address and telephone number of the Principal Certifying Authority for building work and subdivision work, and
  - b) showing the name, address and telephone number of the Principal Contractor for any building work and also including a telephone number on which the Principal Contractor may be contacted at any time for business purposes, and
  - c) stating that unauthorised entry to the work site is prohibited, and
  - d) being erected in a prominent position that can be read easily by anyone in any public road or other public place adjacent to the site.

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

22. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
23. 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.
24. 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.
25. Prior to commencement of site works the developer is to submit to Council for approval a Construction Traffic Management Plan addressing traffic control measures to be utilised in the public road reserve during the construction phase.
26. The Construction Traffic Management Plan is to be prepared by a Roads & Maritime Services accredited person with a Design and Audit Traffic Control Plans Certificate in accordance with Australian Standard 1742.3:2009 - Manual of uniform traffic devices - traffic control for works on roads. The plan is to ensure the provision for safe, continuous movement of traffic and pedestrians within the road reserve.
27. All parking and loading bays are to be permanently marked out on the pavement surface, with loading bays and visitor parking facilities being clearly indicated by signs.
28. The vehicular entrance and exit driveways and the direction of traffic movement within the site are to be clearly indicated by means of reflectorised signs and pavement markings.
29. 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.

30. 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.

31. 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.
32. 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).
33. All public trees that are required to be retained must be physically protected in accordance with the City of Newcastle Urban Forest Technical Manual 'Section 8.0 Protection Measures'.

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

34. The following waste management measures are to be implemented during construction:
- 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
  - 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
  - appropriate provision is to be made to prevent wind blown rubbish leaving the site and
  - 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)

35. If the proposed driveway cannot be constructed in accordance with Council's A374 - Driveway Crossings Standard Design Details and maintain a minimum of 3 metres from the existing street tree, measured from the closest point of the trunk to the

driveway, the street tree shall be removed.

The developer shall contact Council's City Greening Services to arrange for the removal of the tree and to arrange a suitable replacement trees. The replacement street trees will be planted in the verge in front of the property, at least 3 metres from the proposed driveway and any adjoining property. All tree works are at the Developers expense and completed by Council. The tree selection is to be in accordance with "*The City of Newcastle's Street Tree Master Plan*" and confirmed by City Greening Services who can be contacted on 4974 6049 a minimum of 14 days, before the commencement of works on the driveway.

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

36. 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.
37. All works within the road reserve required by this consent are to be completed prior to the issue of a Final Occupation Certificate.
38. Any redundant existing vehicular crossing is to be removed at no cost to Council. The road reserve and kerb being restored to, Council's satisfaction, to match the existing infrastructure. Works are to be completed prior to the issuing of a Final Occupation Certificate for the proposed development.
39. The whole of the land known as Lot 7 Sec B, DP406915 Lot 6 Sec B DP 1555, Lot 110, DP1023101 and Lot B, DP 406915 are to be consolidated into a single title and documentary evidence of the lodgement for registration of a survey plan of consolidation with NSW Government Land & Property Information being submitted to Council prior to the issuing of an Final Occupation Certificate for the proposed development.
40. 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.
41. Appropriate acoustic treatment is to be implemented in accordance with the recommendations set out in the report prepared by JHA Acoustic Consultants, dated 5 September 2016. Written final certification confirming the recommended acoustic treatment relevant to the particular stage has been implemented in accordance with the requirements of the above report is to be submitted to the Principal Certifying Authority and Council prior to the issue of an Occupation Certificate.

Note: The acoustic consultant may need to be involved during the construction process in order to ensure final certification is achieved.

42. A Maintenance Manual for all stormwater management devices on the site is to be prepared in accordance with Council's Stormwater and Water Efficiency for Development Technical Manual (Updated 2013). The Maintenance Manual is to address maintenance issues including routine monitoring and regular maintenance and be kept on site at all times. Establishment and maintenance of the devices in accordance with the Maintenance Manual prepared by the applicant is to be completed prior to occupation of each stage of the development.



43. A restriction as to user being registered against the title of the property, in accordance with section 88E of the Conveyancing Act 1919, limiting the use of any accommodation to the kinds of people given under this Notice of Determination - being residential aged care facility and such being lodged with Council for certification by the General Manager and being registered with the Department of Lands, Land and Property Services prior to issue of any Occupation Certificate or occupation of the premises, it being noted that the instrument is to provide that the restriction is unable to be released, varied or modified without the concurrence of the Newcastle City Council..

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

44. The use and occupation of the premises, including all plant and equipment installed thereon, is not to give rise to any offensive noise, as defined under the *Protection of the Environment Operations Act 1997* (NSW).

Should Council consider offensive noise has emanated from the premises, the owner/occupier of the premises will be required to submit an acoustic assessment prepared by a suitably qualified acoustical consultant recommending appropriate acoustic measures necessary to ensure future compliance with this condition and will be required to implement such measures within a nominated period. Furthermore, written certification from the said consultant confirming the recommended acoustic measures have been satisfactorily implemented will be required to be submitted to Council prior to the expiration of the nominated period.

45. The use and occupation of the premises is not to give rise to the emission of any 'air impurity' as defined under the *Protection of the Environment Operations Act 1997* (NSW), that interferes unreasonably with the amenity of neighbouring premises and/or other sensitive receivers.

Should Council consider that unreasonable levels of air impurities have been emitted from the premises, the owner/occupier will be required to engage a suitably qualified consultant to recommend measures to control emissions of air impurities to an acceptable level and such measures being implemented within a nominated time period. Furthermore, written certification from the suitably qualified consultant will be required to be submitted to Council confirming that air impurity emissions from the premises do not interfere unreasonably with the amenity of neighbouring premises and/or other sensitive receptors before the expiration of the nominated period.

46. The driveway crossing, parking areas and stormwater management system are to be properly maintained for the life of the development.
47. A minimum of 18 of the proposed on-site parking bays are to be made available for the use of casual visitors to the premises and such spaces under no circumstances being subdivided, leased or controlled by or on behalf of particular unit owners or residents.
48. All vehicular movement to and from the site is to be in a forward direction.
49. 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.
50. Any liquid wastes from the premises, other than stormwater are to be either discharged to the sewers of the Hunter Water Corporation in accordance with an approved Trade Waste Agreement or collected and disposed of by a licensed waste transport contractor in accordance with the Department of Environment and Climate Change 'Waste Classification Guidelines Part 1: Classifying Waste'.

## ADVISORY MATTERS

51. A Construction Certificate application for this project is to include a list of fire safety measures proposed to be installed in the building and/or on the land and include a separate list of any fire safety measures that already exist at the premises. The lists must describe the extent, capability and basis of design of each of the measures.
52. Development applications are not assessed against the provisions of the Building Code of Australia. A Section 96 modification under the *Environmental Planning and Assessment Act 1979* (NSW) will be required if design amendments that cause the proposal to be inconsistent with the development consent are necessary to comply with the provisions of the Building Code of Australia.
53. 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.
54. 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.
55. 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).
56. An annual Fire Safety Statement in the form described in Clause 175 of the *Environmental Planning and Assessment Regulation 2000* (NSW) is to be submitted to Council and a copy (together with a copy of the current fire safety schedule) is to be given to the Commissioner of New South Wales Fire Brigades. A further copy of the Statement (together with a copy of the current fire safety schedule) is to be prominently displayed in the building.
57. 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.

A copy of the final Fire Safety Certificate (together with a copy of the current fire safety schedule) is to be given to the Commissioner of NSW Fire Brigades and a further copy of the Certificate (together with a copy of the current fire safety schedule) is to be prominently displayed in the building.

## END OF CONDITIONS