

DRAFT SCHEDULE OF CONDITIONS



Application No: DA2021/01530

Land: Lot 11 DP 1270693
Lot 2 DP 1271240

Property Address: 854 Hunter Street Newcastle West NSW 2302

Proposed Development: Mixed use development, including shop top housing with 352 dwellings, ground floor retail premises, and commercial premises.

SCHEDULE 1

Approved Documentation

1. The development is to be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent.

Plan No / Supporting Document	Reference / Version	Prepared by	Dated
Site Plan / DA.01.01	Project No: S12133 Revision: 1	Bates Smart	03/06/2022
Site Analysis Plan / DA.01.02	Project No: S12133 Revision: 1	Bates Smart	03/06/2022
Level 00 Plan / DA.03.00	Project No: S12133 Revision: 1	Bates Smart	20/04/2022
Level 01 Plan / DA.03.01	Project No: S12133 Revision: 6	Bates Smart	20/04/2022
Level 02 Plan / DA.03.02	Project No: S12133 Revision: 6	Bates Smart	20/04/2022
Level 03 Plan / DA.03.03	Project No: S12133 Revision: 6	Bates Smart	20/04/2022
Level 04 Plan / DA.03.04	Project No: S12133 Revision: 6	Bates Smart	20/04/2022
Level 05 Plan / DA.03.05	Project No: S12133 Revision: 6	Bates Smart	20/04/2022
Level 05 Mezzanine Plan / DA.03.05M	Project No: S12133 Revision: 6	Bates Smart	20/04/2022
Typical Low Rise Plan / DA.03.06	Project No: S12133 Revision: 5	Bates Smart	20/04/2022
Typical Mid Rise Plan / DA.03.16	Project No: S12133 Revision: 1	Bates Smart	03/06/2022
Typical High Rise Plan / DA.03.19	Project No: S12133 Revision: 5	Bates Smart	20/04/2022
Level 23 Plan / DA.03.23	Project No: S12133 Revision: 5	Bates Smart	20/04/2022

Level 24 Plan / DA.03.24	Project No: S12133 Revision: 5	Bates Smart	20/04/2022
Level 25 Plan / DA.03.25	Project No: S12133 Revision: 5	Bates Smart	20/04/2022
Level 26 Plan / DA.03.26	Project No: S12133 Revision: 5	Bates Smart	20/04/2022
Level 27 Plan / DA.03.27	Project No: S12133 Revision: 5	Bates Smart	20/04/2022
Level 28 Plan / DA.03.28	Project No: S12133 Revision: 5	Bates Smart	20/04/2022
Level 29 Plan / DA.03.29	Project No: S12133 Revision: 5	Bates Smart	20/04/2022
Level 30 Plan / DA.03.30	Project No: S12133 Revision: 5	Bates Smart	20/04/2022
Roof Plan / DA.03.31	Project No: S12133 Revision: 3	Bates Smart	20/04/2022
Hunter Street Context Elevation / DA.09.00	Project No: S12133 Revision: 1	Bates Smart	03/06/2022
Hunter Street Elevation / DA.09.01	Project No: S12133 Revision: 5	Bates Smart	12/04/2022
Beresford Lane Elevation / DA.09.02	Project No: S12133 Revision: 4	Bates Smart	12/04/2022
Northern Elevation / DA.09.03	Project No: S12133 Revision: 5	Bates Smart	12/04/2022
Western Elevation – West Tower / DA.09.04	Project No: S12133 Revision: 5	Bates Smart	12/04/2022
Eastern Elevation – East Tower / DA.09.05	Project No: S12133 Revision: 5	Bates Smart	12/04/2022
Western Elevation – East Tower / DA.09.06	Project No: S12133 Revision: 5	Bates Smart	20/04/2022
Eastern Elevation – West Tower / DA.09.07	Project No: S12133 Revision: 4	Bates Smart	20/04/2022
Section AA / DA10.01	Project No: S12133 Revision: 5	Bates Smart	20/04/2022
Section BB / DA10.02	Project No: S12133 Revision: 5	Bates Smart	20/04/2022
Section CC / DA10.03	Project No: S12133 Revision: 5	Bates Smart	20/04/2022
GFA Plans Sheet 1 / DA.22.01	Project No: S12133 Revision: 1	Bates Smart	03/06/2022
GFA Plans Sheet 2 / DA.22.02	Project No: S12133 Revision: 1	Bates Smart	03/06/2022
ADG Compliance Report	854 Hunter Street Newcastle	Bates Smart	08/06/2022
Landscape Plans / LP00, LP32, LP33, LP34, LP35, LP36, LP37, LP38, LP39	Project: 1730 Revision: D	Moir Landscape Architecture	25/03/2022
Erosion and Sediment Control Plan / DA-C02.01	Job: NL151730-01 Revision: 3	Northrop	19/04/2022
Civil Works Plan – Podium Level / DA-C03.01	Job: NL151730-01 Revision: 3	Northrop	19/04/2022

Civil Works Plan – Ground Level / DA-C03.02	Job: NL151730-01 Revision: 4	Northrop	25/04/2022
Civil Details & Stormwater Management Plan / DA-C04.01	Job: NL151730-01 Revision: 2	Northrop	19/04/2022
BASIX Certificate	1024557M	DPI&E	27/10/2021
BCA Assessment Report	Report: 2021/2075 R2.1	Steve Watson & Partners	October 2021
Acid Sulfate Soil Management Plan	Project: 81811.06	Douglas Partners	July 2018
Noise Assessment	Reference: MAC180790-03RP1V1	Muller Acoustic Consulting	September 2021
Social Impact Comment and Crime Prevention Through Environmental Design Assessment	Reference: 631.30290-R01 Version: -v0.1	SLR	October 2021
Preliminary Geotechnical Investigation	Project: 81811.01	Douglas Partners	May 2016
Operational Waste Management Plan	Report: 100068 Revision: I	Elephants Foot Recycling Solutions	06/06/2022
Statement of Heritage Impact	Reference: 12603-SOHI-002 Issue: C	EJE Heritage	September 2021
Traffic and Transport Report	Reference: 631.30290-L01-Council RFI-Traffic-v2.0-20220428	SLR	28/04/2022
Pedestrian Wind Environment Study	Reference: WE353-06F03(REV0)	Windtech	20/04/2022
Vertical Transport Services Concept Report	Rev B	S4Bstudio	31 May 2022

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

- In accordance with the City of Newcastle Section 7.11 Development Contributions Plan 2021-2036 (the Plan), the following monetary contributions shall be paid to the City of Newcastle to cater for the increased demand for transport and social infrastructure resulting from the development:

Description	Contribution (\$)
Transport	\$662,810.55
Open Space and Recreation	\$2,848,239.1
Community Facilities	\$526,902.98
Plan Preparation and Administration	\$100,804.34
TOTAL	\$4,138,756.97

If the contributions are not paid within the financial quarter that this consent is granted, the contributions payable will be adjusted in accordance with the provisions of the Plan and the amount payable will be calculated on the basis of the contribution rates applicable at the time of payment

The contributions shall be paid to the City of Newcastle:

- (i) prior to the issue of the Subdivision Certificate where the development is for subdivision; or
- (ii) prior to the issue of the first Construction Certificate where the development is for building work; or
- (iii) prior to issue of the Subdivision Certificate or first Construction Certificate, whichever occurs first, where the development involves both subdivision and building work; or
- (iv) prior to the works commencing where the development does not require a Construction Certificate or Subdivision Certificate.

3. Roof water from the proposed new work is to be directed to the proposed water tanks (2) with a total minimum capacity of 20,000 litres and being reticulated to landscaping irrigation on the podium level and car park rooftop recreational area, ~~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 designed in accordance with the Plumbing Code of Australia (National Construction Code Volume 3). Full details are to be included in documentation for a Construction Certificate application.
4. 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 stormwater management concept plan prepared by Northrop Consulting Engineers (Job No. NL151730-01, Revision 3, dated 19/04/2022). Full details are to be included in documentation for a Construction Certificate application.
5. Architectural and landscape plans are required to reflect the recommendations of the wind tunnelling report and amended plans and the wind tunnelling report is to be provided to the Certifier prior to issue of any Construction Certificate (excluding any construction certificate for remediation works or demolition).
6. The proposed lighting including car park lighting of the premises is to be designed, positioned, and installed, including appropriate shielding and orientation of the lighting fixture, as to not give rise to obtrusive light, interfere with traffic safety or detract from the amenity of surrounding properties in accordance with Australian Standard AS 4282: 1997 Control of the obtrusive effects of outdoor lighting. CCTV cameras are to be installed around the perimeter of the site at appropriate locations for security and surveillance. Full details are to be included in the documentation for a Construction Certificate application.

~~7. The developer will be required to plant 5 trees as per the latest standard drawings for commercial street tree planting. Full details are to be included in the documentation for a Construction Certificate application.~~

~~Note: The developer is required to arrange a meeting with City Greening prior to the planting of trees to assess the compliance of stock with AS2303-2018, Tree Stock for Landscape Use and the compliance of the planting locations with standard drawing "A3003A."~~

~~8.7.~~ A public art feature is to be designed for the site or surrounding area in consultation with Newcastle City Council. The public artwork is to have a minimum value of 1% of

the capital cost of the development. The final details of all artworks within the site and associated coasting are to be submitted to Council's Public Art Reference Group for written approval prior to the issue of a Construction Certificate, the written approval be obtained prior to the commencement of above-ground works/ground level slabs and the approved artwork(s) be installed prior to the use of the first Occupation Certificate.

This feature is to provide visual interest for pedestrians and interpret or reflect the local setting, landscape setting and/or cultural setting of the Newcastle area. The feature is to be designed to ensure long-term durability and be resistant to vandalism.

~~9.8.~~ All proposed planting and landscape elements indicated on the submitted landscape concept plan or otherwise required by the conditions of this consent are to be detailed on a comprehensive landscape plan and specification. The plan and specification are to be prepared in accordance with the provisions of Newcastle Development Control Plan 2012 and is to include details of the following:

- a) cross sections through the site
- b) proposed contours or spot levels
- c) botanical names
- d) quantities and container size of all proposed trees
- e) shrubs and ground cover
- f) details of proposed soil preparation
- g) mulching and staking
- h) treatment of external surfaces and retaining walls where proposed
- i) drainage, location of taps and
- j) maintenance periods.

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

~~10.9. On-site Parking accommodation is to be provided in the multi-level carpark for a minimum of 697 vehicles comprising 186 allocated to occupants of Stage 3 commercial building, 35 commercial/retail, 440 residential and 36 residential visitor spaces 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 for a minimum of 735 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.~~

~~11.10.~~ Comprehensive engineering design plans and specifications for the works being undertaken in the public road reserve being submitted for approval with the required S138 application, such to be accompanied by the following documentation and additional details:

Road Design Plans

Engineering Plans are to comply with the following requirements –

- a) Plans to be accompanied by a pavement design report prepared and certified by a practising geotechnical engineer.
- b) Kerb and gutter shapes within the public road to be constructed in accordance with Council's *Standard Drawing No. A1200*.
- c) Footways to be generally high level and at 2.5% grade toward the kerb.
- d) A separate linemarking and signposting plan (approved by the Newcastle City Traffic Committee) to be included in the design plans.

Landscape Management Plan

The plan is to show the location of street tree plantings include paving and planting vaults.

Land Management Plan

The required Plan is to nominate existing and proposed surface levels and provide full details of proposed erosion and sediment control measures to be implemented prior to, during and after construction. The Plan is to be prepared in accordance with the Department of Housing's Guidelines – *Managing Urban Stormwater: Soils and Construction*.

Stormwater Drainage Plan

The stormwater drainage design is to incorporate a 1:10 year recurrence interval piped stormwater drainage system, with overland flow up to a 1:100 year recurrence interval event contained within road reserves and/or drainage reserves, and is to comply with the following requirements:

- a) Sub-soil drainage to be located under kerb and gutter and extend at least 500mm below bottom of pavement.
- b) Pits to be located upstream of kerb ramps and kerb returns.
- c) All stormwater pipes in the public road to be rubber ring jointed reinforced concrete.
- d) The proposed development not to increase upstream or downstream flooding for floods over a range of storms from 1:1 to 1:100 year events.

Utilities Layout Plan

A utilities layout plan is to indicate the location of existing mains, associated installations and service conduits together with any proposed utility alterations and installations in particular street lighting.

Set-out Layout Plan

A set-out layout plan is to indicate survey co-ordinates for set out points for kerbs, medians and lane. The Developer is to undertake the following works within Hunter Street adjacent to the site generally in accordance with the City Centre Public Domain technical manual, at no cost to Council and in accordance with Council's guidelines and design specification.

42.11. The development is to be in accordance with the minimum assumptions contained within the Transportation Services Concept Report (Revision B, dated 31 May 2022, prepared by S4B Studio). Full details are to be included in the documentation submitted for a Construction Certificate application.

- ~~43-12.~~ The residential storage cages located on Level 02, Level 04, and Level 05 Mezzanine are to be individually secured and allocated to specific apartments. Each apartment is to be allocated a storage cage of adequate size to be consistent with the following requirements:

Dwelling type	Minimum storage cage volume
1 bedroom	3m ³
2 bedroom	4m ³
3+ bedroom	5m ³

Full details are to be included in the documentation submitted for a Construction Certificate application.

- ~~44-13.~~ A Design Verification Statement from a qualified designer shall be submitted to the Certifying Authority. The statement shall confirm the Construction Certificate plans and specifications achieve or improve the design quality of the development for which consent is granted, having regard to the design quality principles set out in Part 2 of State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development. Full details are to be included in the documentation for the first Construction Certificate for the residential flat development.

Note: 'Qualified Designer' means a person registered as an architect in accordance with the Architects Act 2003. This condition is imposed in accordance with Clauses 143A of the Environmental Planning and Assessment Regulation 2000.

- ~~45-14.~~ In accordance with the terms and conditions of the Competition Waiver Agreement the applicant shall obtain written approval from the Design Excellence Panel prior to the release of any Construction Certificates or tender documentation for the project

- ~~46-15.~~ The applicant is to comply with all of Hunter Water's requirements to provide the development with water supply and sewerage services. A copy of Hunter Water's compliance certificate (*Hunter Water Act 1991* - Section 50) must be submitted with the Construction Certificate application. ~~Facilities are to be provided within the proposed individual private courtyards, or in another screened location, for the storage of garbage. Full details are to be included in documentation for a Construction Certificate application.~~

- ~~47-16.~~ A group type mailbox is to be provided 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.

- ~~48-17.~~ A separate application is to be lodged and consent obtained from the City of Newcastle for all works within the road reserve pursuant to Section 138 of the *Roads Act 1993*. The consent is to be obtained, or other satisfactory arrangements confirmed in writing from the City of Newcastle, before the issue of a Construction Certificate.

- ~~49-18.~~ Any structure on or over the public road reserve, including balconies and awnings, being the subject of a separate consent from Council, under *Section 138 of the Roads Act 1993*, prior to commencement.

- ~~20-19.~~ The car parking and vehicular access are to be designed to comply with the relevant provisions of *AS/NZS 2890 Parking facilities*. Details are to be included in documentation for a Construction Certificate application.

24-20. The swimming pool/spa water recirculation and filtration system installation is to comply with *Australian Standard 1926.3:2010 - Swimming pool safety - Water recirculation systems*. Full details are to be included in the documentation for a Construction Certificate application.

22-21. The construction or erection of swimming pool safety fences and gates and all associated work is to be carried out in accordance with the *Swimming Pools Act 1992* and Regulations. Full details are to be included in the documentation for a Construction Certificate application.

23-22. The floor level of all proposed buildings or building additions is to be verified on plans for a Construction Certificate application:

- a) For retail outlets along Hunter Street, no lower than 3.60m Australian Height Datum; and
- b) For all other parts of the development, no lower than 3.10m Australian Height Datum.

24-23. A flood emergency response plan is to be prepared by a professional engineer, who is experienced in flood management, and the plan is to be put in place prior to occupation of the site for the intended use. The plan is to include an education and awareness component for the workforce, detailed evacuation procedures to interface with the Bureau of Meteorology's flood warning system and the local State Emergency Services plan and provisions for any third parties likely to be involved.

A flood emergency response plan is to describe the following components:

- a) Likely flood behaviour;
- b) Flood warning systems;
- c) Education awareness program;
- d) Evacuation and evasion procedures;
- e) Use of signage and diagrams to identify the designated flood refuge and clearly mark flood evacuation routes to on-site refuge; and
- f) Flood preparedness and awareness procedures for residents and visitors.

Considerations are to include the full range of flood risks, the proposed use of the site, site access constraints and local area evacuation routes to high ground. The plan is to be aimed at self-directed evacuation or evasion to minimise the draw on limited State Emergency Services resources. Details are to be included in documentation for a Construction Certificate application.

25-24. The acoustic performance of all mechanical plant and equipment associated with the building being assessed by an appropriately qualified acoustic consultant is to occur prior to the issue of a Construction Certificate.

26-25. The second storey of the proposed building is to be a flood refuge in a Probable Maximum Flood event and is to be structurally certified by a professional engineer, ensuring that the building is able to withstand the hydraulic loading due to flooding from the Probable Maximum Flood (Flood Level reduced level 4.20m Australian Height Datum, Maximum Flow Velocity of floodwaters 3.0m/s). Full details are to be included in documentation for a Construction Certificate application.

~~27-26.~~ The acoustic performance of all mechanical plant and equipment associated with the building being assessed by an appropriately qualified acoustic consultant prior to the issue of any required Construction Certificate. Appropriate acoustic treatment as recommended by the acoustic consultant being designed prior to the issue of a Construction Certificate.

~~28-27.~~ Prior to the release of the Construction Certificate ~~the applicant shall submit a comprehensive waste management report in accordance with the better practice guide for Waste Management in Multi-unit Dwellings by the Department of Environment and Climate Change June 2008. The report shall address the storage and disposal of commercial and residential waste. The report shall include a list of recommendations, including but not limited to: sound insulated chute and/or additional garbage storage areas that are located in close proximity to the residential units. The proposed waste management is to be carried out in accordance with the Waste Management Plan. The recommendations of the report~~ shall be included on the construction certificate drawings.

~~29-28.~~ A variation to the Aboriginal Heritage Impact Permit (AHIP No. C0003418) is required to be obtained from Heritage NSW under Part 6 of the National Parks and Wildlife Act 1974 prior to the commencement of any ground disturbance works, unless Heritage NSW provides written confirmation that the existing AHIP can apply to the ~~basement~~ excavation works for the residential towers. The AHIP is to include provisions for the completion of Aboriginal archaeological investigation in the form of test excavations and (if required) further salvage activities.

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

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

~~30-29.~~ The Applicant is to obtain an approved Section 140 excavation permit under the *Heritage Act 1977* prior to any ground disturbing activities commencing, unless Heritage NSW provides written confirmation that the existing endorsed s139(4) exception (dated 8 May 2018) can apply to the ~~basement~~ excavation works for the residential towers. This application will need to clearly outline what mitigation measures are proposed to avoid harm to any significant deposits. In the event State significant archaeological remains may be harmed, these remains are to be avoided and protected during these works.

~~31-30.~~ A Heritage Interpretation Plan is to be prepared by an experienced heritage interpretation practitioner and submitted with the documentation for a Construction Certificate. The Interpretation Plan shall be in accordance with the Heritage Council's "Interpreting Heritage Places and Items Guidelines" (2005). The plan must interpret the multiple uses and history of the site, including promotion of the Aboriginal cultural heritage values of the study area, in a way that is engaging, informative and readily accessible to the majority of visitors. The HIP is to include provision of the recommended interpretative devices outlined in the Heritage Management Plan (prepared by Artefact), including reuse of architectural elements, wall features, interpretative panels, artefact displays and in ground inlays. Written approval from Council's Heritage Officer is to be obtained prior to the issue of a Construction Certificate. The Interpretation Plan must be implemented prior to the issue of an Occupation Certificate.

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

~~32-31.~~ The development is to comply with the conditions set out in the approved Aboriginal Heritage Impact Permit (AHIP) C0003418.

~~33-32.~~ The development is to comply with the management measures set out in the Heritage Management Plan (HMP) prepared by Artefact, dated August 2018.

~~34-33.~~ Before any works commence on site, all contractors and subcontractors shall undergo an induction session, delivered by a suitably qualified heritage consultant, highlighting the historical significance of the site and in particular those building elements and archaeology requiring conservation.

~~35-34.~~ A Registered Surveyor's certificate detailing the setting out of the proposed building on the site, including the relationship of the set out building to property boundaries, is to be submitted to the Principal Certifier before construction is commenced.

~~36-35.~~ A survey certificate prepared by a Registered Surveyor is to be submitted to the Principal Certifier upon completion of the floor slab formwork, before concrete is poured, to verify that the siting of the building in relation to adjacent boundaries is in accordance with the development consent.

~~37-36.~~ Certification is to be prepared by a Registered Surveyor and submitted to the Principal Certifying Authority at the stages of construction indicated:

- a) On completion of ground floor construction, confirming that the floor levels are in accordance with the approved levels.
- b) On completion of each subsequent floor level, confirming that the floor levels are in accordance with the approved levels.
- c) When the roof has been completed, confirming that the building does not exceed the approved levels.

~~38-37.~~ 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.

~~39-38.~~ An application is to be made to and approved by the City of Newcastle for the erection of a hoarding or part closure of the footway prior to construction being commenced. Such overhead structure or protective fence is to comply with the *Work Health and Safety Act 2011*, *Work Health and Safety Regulation 2011* and any relevant approved industry code of practice. Notice of intention of commencement is to be given to SafeWork NSW.

~~40-39.~~ Prior to any site works commencing, the Developer preparing a Construction Management Plan (CMP) such to be designed and implemented to manage all environmental aspects associated with the construction works, including off site impacts such as transport to and from the site. Two copies of the CMP are to be provided to the Principal Certifying Authority and the CMP is to be maintained on site during all site works and be made available to Authorised Officers upon request. The CMP is to include but not be limited to:

- a) A site management strategy, identifying and addressing issues such as environmental health and safety, site security, and traffic management.
- b) A soil and water management strategy, detailing erosion and sediment control, management of soil stockpiles, control and management of surface

water and groundwater. Procedures should be included to ensure that all roads adjacent to the site are kept free and clear from mud and sediment.

- c) A dust management strategy, detailing procedures to minimise dust generation, with reference to control techniques and operational limits under adverse meteorological conditions.
- d) A waste minimisation strategy that aims to avoid production of waste and maximise reuse, recycling or reprocessing of potential waste material.
- e) A community relations plan that aims to inform residents and other local stakeholders of the proposed nature and timeframes for construction activities together with contact details for site management.
- f) A noise management strategy detailing measures to minimise the impact of the construction phase on the amenity of the locality, in accordance with Department of Environment and Climate Change Interim Construction Noise Guideline. Noise monitoring during the construction phase should be incorporated into the program.

41.40. Erosion and sediment control measures are to be implemented prior to the commencement of works and maintained during the period of construction in accordance with the requirements of *Managing Urban Stormwater: Soils and Construction 4th 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.

42.41. 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).

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

Each toilet is to:

- a) Be a standard flushing toilet connected to a public sewer, or
- b) Have an on-site effluent disposal system approved under the *Local Government Act 1993*, or
- c) Be a temporary chemical closet approved under the *Local Government Act 1993*.

44.43. A rigid and durable sign is to be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out, before the commencement of the work:

- a) showing the name, address and telephone number of the Principal Certifier for building work and subdivision work, and
- b) showing the name, address and telephone number of the Principal

Contractor, if any, for any building work and 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, and must be removed when the work has been completed.

Note: This does not apply in relation to building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.

~~45-44.~~ Building work must be carried out in accordance with the requirements of the Building Code of Australia.

~~46-45.~~ All excavations and backfilling are to be executed safely and excavations are to be properly guarded and protected to prevent them from being dangerous to life and property.

~~47-46.~~ 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 are to be provided. All building materials, plant and equipment is to be placed on the site of the development, to ensure that pedestrian and vehicular access in public places is not restricted and to prevent damage to the road reserve. The storage of building materials on Council reserves, including the road reserve, is not permitted.

~~48-47.~~ The proposed visitor parking bays are to be clearly indicated by means of signs and/or pavement markings.

~~49-48.~~ 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.

~~50-49.~~ Prior to the commencement of work, a 3.0m wide all-weather vehicle access is to be provided from the kerb and gutter to the building under construction, to reduce the potential for soil erosion. Sand or soil is not to be stockpiled on the all-weather vehicle access.

~~51-50.~~ Where the proposed development involves the destruction or disturbance of any survey monuments, those monuments affected are to be relocated, at no cost to the City of Newcastle, by a Surveyor registered under the *Surveying and Spatial Information Act 2002*.

~~52-51.~~ All public trees that are required to be retained are to be protected in accordance with the City of Newcastle *Urban Forest Technical Manual*, Part B *Public Trees*.

The tree protection fencing is to remain in place and be maintained until all works have been completed, with no waste materials, washouts, equipment or machinery to be

stored within the fenced area.

~~53-52.~~ The following waste management measures are to be implemented during construction:

- 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)

~~54-53.~~ 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.

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

~~55. 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.~~

~~56-54.~~ If the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent is to, at that person's own expense:

- a) Protect and support the adjoining premises from possible damage from the excavation, and
- b) Where necessary, underpin the adjoining premises to prevent any such damage.

The above requirements do not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to the requirements not applying.

~~57-55.~~ Any excavated material to be removed from the site is to be assessed, classified, transported and disposed of in accordance with the Department of Environment and Climate Change's (DECC) 'Waste Classification Guidelines Part 1: Classifying Waste'.

~~58-56.~~ Any fill material imported into the site is to be Virgin Excavated Natural Material or material subject to a Resource Recovery Order that is permitted to be used as a fill material under the conditions of the associated Resource Recovery Exemption, in accordance with the provisions of the Protection of the Environment Operations Act 1997 and the Protection of the Environment (Waste) Regulation 2014.

~~59-57.~~ Documentation verifying compliance with the conditions of a relevant Resource

Recovery Order and Resource Recovery Exemption are to be maintained for any material received at the site and subsequently applied to land under the conditions of the Resource Recovery Order and Resource Recovery Exemption. This documentation is to be provided to City of Newcastle officers or the Principal Certifier on request.

60-58. Pool plant and equipment is to be sited or enclosed in a sound absorbing enclosure to prevent any offensive noise (as defined under the *Protection of the Environment Operations Act 1997*) impacts to adjoining neighbours.

64-59. The swimming pool surrounds and/or paving is to be constructed in a manner so as to ensure water from the pool overflow does not discharge onto neighbouring properties. All backwash/pool waste water is to be piped/drained to the sewer of Hunter Water Corporation in accordance with the requirements of Hunter Water Corporation.

62-60. 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.

63-61. 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.

64-62. 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.

65-63. Provision is to be made on the site for the installation of a 'kiosk' type electricity substation should such be required by the electricity authority and any such 'kiosk' being located in accordance with that authority's requirements.

66-64. The Developer is to undertake the following works within Hunter Street adjacent to the site generally in accordance with the City Centre Public Domain technical manual, at no cost to Council and in accordance with Council's guidelines and design specification:

- a) Kerb and gutter replacement
- b) Full width footway paving
- c) Associated drainage works
- d) Regulatory signage
- e) Street tree planting in gap-graded structural soil vaults
- f) Street Lighting incorporating Council's Smart Poles.
- g) Street furniture - bins, bicycle racks

67-65. Street tree plantings are to be provided in Hunter Street fronting the site generally at 10m spacings in accordance with Council's standards and soil specifications. The trees are to be advanced specimens in a minimum 300 litre pot size planted in tree

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vaults with tree grates and guards generally in accordance with Council's 'City Centre Technical Manual'. The required plantings are to be undertaken in consultation with Council, with the trees certified by the supplier to comply with the current NATSPEC guideline with respect to root development, height, trunk diameter, branch structure and balance (refer to Specifying Trees, Construction Information Systems Australia PL, Clark, R 2003). The street tree planting vaults are to be linearly connected by tree pits to maximise soil volume (structural soil) and allow for drainage, soil moisture and root control barriers. The design and construction of the planting vaults are to be undertaken at no cost to Council and under Council's direction.

The separate approval from Council is to be obtained for all works within the public road reserve, pursuant to Section 138 of the Roads Act 1993, prior to commencement of those works.

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

~~68-66.~~ All commitments listed in the relevant BASIX certificate for:

- a) BASIX development,
- b) BASIX optional development, if the development application was accompanied by a BASIX certificate.

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 the Newcastle City Council with Occupation Certificate documentation.

~~69-67.~~ Appropriate acoustic treatment is to be implemented in accordance with the recommendations set out in the report prepared by Muller Acoustic Consulting, September 2021. Written final certification confirming the recommended acoustic treatment has been implemented in accordance with the requirements of the above report is to be submitted to the Principal Certifier and Council prior to the issue of an Occupation Certificate.

~~70-68.~~ Prior to the issuing of an Occupation Certificate the following documentation is to be submitted to Principal Certifier and Council; Site Audit Statement in accordance with the NSW Site Auditor Scheme (site audit form) in relation to determine land use suitability (commercial and residential use).

~~74-69.~~ A design verification statement from a qualified designer shall be submitted to the Principal Certifier prior to the issue of an Interim or Final Occupation Certificate, whichever occurs first. The statement shall confirm the development has been constructed in accordance with the quality principles set out in Part 2 of State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development. Note: 'Qualified Designer' means a person registered as an architect in accordance with the Architects Act 2003. This condition is imposed in accordance with Clauses 154A of the Environmental Planning and Assessment Regulation 2000.

~~72-70.~~ Details confirming the installation of the public artwork, required as part of this consent, shall be submitted to the Principal Certifier and Council prior to the issue of the Occupation Certificate.

~~73-71.~~ All public footways, footpaving, kerbs, gutters and road pavement damaged during

the works are to be immediately repaired following the damage, to a condition that provides for safe use by pedestrians and vehicles. Full restoration of the damage is to be carried out to City of Newcastle'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.

~~74-72.~~ All works within the road reserve required by this consent are to be completed prior to the issue of an Occupation Certificate.

~~75-73.~~ Any redundant existing vehicular crossing is to be removed at no cost to the City of Newcastle. The road reserve and kerb is to be restored to the City of Newcastle's satisfaction. Works are to be completed prior to the issuing of an Occupation Certificate for the proposed development.

~~76-74.~~ A post construction dilapidation report prepared by a suitability qualified person shall be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate, to ascertain if any structural damage has occurred to the adjoining buildings, infrastructure and roads. The reports shall be forwarded to Council and will be made available in any private dispute between neighbours regarding damage arising from construction works.

~~77-75.~~ All works within the public road reserve required by this consent are to be completed prior to the issue of any Occupation Certificate (whether interim or final, whichever occurs first) for the proposed development.

~~78-76.~~ A restriction shall be created on the title of the land which shall provide for the continued use of carparking spaces within the multi level carpark by the occupants and visitors of the Stage 4. The necessary survey plan and accompanying instrument under Section 88B of the Conveyancing Act 1919 is to be registered with Property NSW prior to the issuing of any Occupation Certificate (whether interim or final) for the development. The instrument is to provide that the restriction is unable to be relinquished, varied or modified without the concurrence of the City of Newcastle.

~~79-77.~~ A detailed Green Travel Plan in accordance with Element 7.03 'Traffic, Parking and Access' of Newcastle Development Control Plan 2012 is to be submitted to and approved by Council prior to the issue of any Occupation Certificate (whether interim or final) for Stage 4 (retail/commercial/residential mixed use) buildings. The Green Travel Plan shall encourage use of alternative modes of transport and include Public Transport Routes and Bicycle Network Plans. The Green Travel Plan is to be prepared and made available to the new residents and commercial/retail premises tenants. The Public Transport and Bicycle Network Plans are to be installed in common areas of the proposed buildings prior to the issue of final Occupation Certificates.

~~80-78.~~ ~~Parking~~ Parking accommodation is to be provided in the multi-level carpark for a minimum of 697 vehicles comprising 186 allocated to occupants of Stage 3 commercial building, 35 commercial/retail, 440 residential and 36 residential visitor spaces and such being available for use prior to the issue of any Occupation Certificate (whether interim or final) for the development. ~~accommodation is to be provided in the multi-level carpark for a maximum of 735 vehicles comprising 35 commercial, 440 residential and 36 residential visitor spaces and such being available for use prior to the issue of any Occupation Certificate (whether interim or final) for the development.~~

~~81-79.~~ Appropriate arrangements being made for the collection of garbage (recyclable and non-recyclable) from within the development and such arrangements being in place prior to the occupation of the premise the subject of this development application. Under no circumstances are garbage bins to be presented to Hunter Street for kerbside collection.

~~82-80.~~ The water management measures as indicated on the submitted plans and

Statement of Environmental Effects and/or as modified under the terms of this consent are to be implemented and the nominated fixtures and appliances are to be installed and operational prior to issue of an Occupation Certificate.

~~83-81.~~ Written certification from an appropriately qualified acoustic consultant being submitted to the Principal Certifier prior to issue of an Occupation Certificate confirming that noise from all mechanical plant and equipment achieves the required acoustic attenuation to comply with the conditions of consent and the requirements of the Protection of the Environment Operations Act 1997.

~~84-82.~~ Prior to the release of the Occupation Certificate for this site, the Applicant must write to City of Newcastle and demonstrate they have satisfied the requirements for lodging all final archaeological excavation reports required under any and all s.140 applications under the *Heritage Act 1977* which have been approved by the Heritage Council of NSW for this site.

~~85-83.~~ A Landscape Practical Completion Report is to be submitted to the Principal Certifier prior to the issue of an 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.

~~86-84.~~ The premises are to be identified by the provision of house and street numbers on the building exterior and mailbox, respectively, such that they are clearly visible from the road frontage.

The minimum numeral heights are to be:

- a) Exterior of the building = 75mm and
- b) Group mailbox - street number = 150mm
house number = 50mm

CONDITIONS TO BE SATISFIED DURING THE OPERATION AND USE THE DEVELOPMENT

~~87-85.~~ Goods deliveries to the premises and waste collection from the premises being restricted to between 7am to 6pm.

~~88-86.~~ The noise control recommendations in the Noise Impact Assessment prepared by Muller Acoustic Consulting Pty Ltd (Report No. 180790-03RP1V1) dated September 2021 are to be implemented in the ongoing operation except as otherwise required by the conditions of this consent or subsequent Liquor Licensing requirement.

~~89-87.~~ The use of the outdoor recreational podium associated with the residential towers being restricted to 7:00am to 10:00pm Monday to Sunday. No persons are permitted on the outdoor recreational podium associated with the residential towers outside of these times.

~~90-88.~~ No music or amplified sound other than the emergency PA announcements is to be played through speakers in the outdoor recreational podium associated with the residential towers.

~~91-89.~~ 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.

92-90. 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.

93-91. Waste management (recyclable and non-recyclable) is to be collected from the storage areas, as identified on the approved plans, and returned immediately to the refuse storage areas. Under no circumstances are garbage bins to be presented to Hunter Street for kerbside collection or remain at kerbside after collection.

94-92. The hours of operation or trading of the premises are to be not more than from:

DAY	START	FINISH
Monday	7am	6pm
Tuesday	7am	6pm
Wednesday	7am	6pm
Thursday	7am	6pm
Friday	7am	6pm
Saturday	7am	6pm
Sunday	7am	6pm

unless a separate application to vary the hours of operation or trading has been submitted to and approved by Council

95-93. In the event of any future subdivision, the residential storage cages located on Level 02, Level 04, and Level 05 Mezzanine are to be allocated as follows:

Each apartment is to be allocated a storage cage of adequate size to be consistent with the following requirements:

Dwelling type	Minimum storage cage volume
1 bedroom	3m ³
2 bedroom	4m ³
3+ bedroom	5m ³

ADVISORY MATTERS

- The applicant must ensure that if unexpected archaeological deposits or relics not identified and considered in the supporting documents for this approval are discovered, work must cease in the affected area(s) and the Heritage Council of NSW must be notified. Additional assessment and approval may be required prior to works continuing in the affected area(s) based on the nature of the discovery.

Note: Heritage NSW can be contacted on 02 9873 8500 or heritagemailbox@environment.nsw.gov.au. A 'relic' is any deposit, object or material evidence that relates to the settlement of New South Wales, not being Aboriginal settlement, and is of State or local significance. It is an offence under the provisions of the Heritage Act 1977 (NSW) for a person to disturb or excavate any land upon which the person has discovered a relic except in accordance with a gazetted exemption or an excavation permit issued by the Heritage Council of NSW.

- Should any Aboriginal objects be uncovered by the work which is not covered by a valid Aboriginal Heritage Impact Permit, excavation or disturbance of the area is to stop immediately and Heritage NSW is to be informed in accordance with the National Parks and Wildlife Act 1974. Works affecting Aboriginal objects on the site must not continue until Heritage NSW has been informed and the appropriate approvals are in place. Aboriginal objects must be managed in accordance with the National Parks and Wildlife Act 1974.
- 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.
- It is recommended that, prior to commencement of work, the free national community service 'Dial before you Dig' be contacted on 1100 or by fax on 1200 652 077 regarding the location of underground services in order to prevent injury, personal liability and even death. Inquiries should provide the property details and the nearest cross street/road.
- Any necessary alterations to public utility installations are to be at the developer/demolisher's expense and to the requirements of the City of Newcastle and any other relevant authorities. City of Newcastle and other service authorities should be contacted for specific requirements prior to the commencement of any works.
- Any approval for fences on side boundaries, common to other private properties, is independent of any consent or agreement which may be required from any adjoining owner under the provisions of the Dividing Fences Act 1991.
- Prior to commencing any building works, the following provisions of Division 6.2 of the Environmental Planning and Assessment Act 1979 are to be complied with:
 - a) A Construction Certificate is to be obtained; and
 - b) A Principal Certifier is to be appointed for the building works and Newcastle City Council is to be notified of the appointment; and
 - c) Newcastle City Council is to be given at least two days notice of the date intended for commencement of building works.
- 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 Certifier appointed for the proposed development. An application for an Occupation Certificate must contain the information set out in Section 37 of the Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021 (NSW).

- It is an offence under the provisions of the Protection of the Environment Operations Act 1997 to act in a manner causing, or likely to cause, harm to the environment. Anyone allowing material to enter a waterway or leaving material where it can be washed off-site may be subject to a penalty infringement notice (ie '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.
- An annual Fire Safety Statement in the form described in Clause 175 of the Environmental Planning and Assessment Regulation 2000 is to be submitted to the City of Newcastle and a copy (together with a copy of the current fire safety schedule) is to be given to the Commissioner of New South Wales Fire Brigades. A further copy of the Statement (together with a copy of the current fire safety schedule) is to be prominently displayed in the building.
- 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.
- Approval from Dept. of Primary Industries (DPI - previously known as NSW Office of Water) under the Water Management Act 2000 for a Groundwater Licence to be attained prior to the commencement of any extraction of groundwater. A copy of the Groundwater Licence will need to be provided to Council.
- Groundwater shall not be allowed to be discharged into adjoining roads stormwater system, sewerage system etc. without the controlling authority's approval and/or owner's consent/s. Approval from the controlling authority and any requirements of the approving authority is to be complied with prior to the commencement of any extraction of groundwater.
- The owner of the premises on which a swimming pool/spa is situated is to ensure that the pool details are entered into the State Swimming Pool Register. The register is accessible at www.swimmingpoolregister.nsw.gov.au.
- For the purpose of applying the provisions of the National Construction Code for class 1, 2, 3, 4, 9a (health care) and 9c (aged care) buildings, it is advised that the proposed building is located in a Flood Hazard Area and the:
 - a) Defined Flood Level (DFL) is 2.70m Australian Height Datum (AHD)
 - b) Flood Hazard Level is 3.10m AHD (Freeboard is 500mm above DFL)
 - c) Maximum Flow Velocity of floodwaters for the Defined Flood Event is 0.9m/s

END OF CONDITIONS

SCHEDULE 2 – Transport Sydney Trains



Attachment A

- A1.** *If required by Sydney Trains, prior to the commencement of works or at any time during the excavation and construction period deemed necessary by Sydney Trains, a joint inspection of the rail infrastructure and property in the vicinity of the project is to be carried out by representatives from Sydney Trains and the Applicant. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The submission of a detailed dilapidation report will be required within 10 days following the undertaking of the inspection, unless otherwise notified by Sydney Trains.*
- A2.** *If required by Sydney Trains, prior to the issue of the Occupation Certificate, or at any time during the excavation and construction period deemed necessary by Sydney Trains, a joint inspection of the rail infrastructure and property in the vicinity of the project is to be carried out by representatives from Sydney Trains and the Applicant. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The Principal Certifying Authority is not to issue the final Occupation Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.*
- A3.** *The Applicant shall prepare an acoustic assessment demonstrating how the proposed development will comply with the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads-Interim Guidelines". The Applicant must incorporate in the development all the measures recommended in the report. A copy of the report is to be provided to the Principal Certifying Authority and Council prior to the issuing of a Construction Certificate. The Principal Certifying Authority must ensure that the recommendations of the acoustic assessment are incorporated in the construction drawings and documentation prior to the issuing of the relevant Construction Certificate.*
- A4.** *Prior to the issue of an Occupation Certificate (whether an interim or final Occupation Certificate), a report must be prepared and submitted to the Certifying Authority, Council and Sydney Trains certifying that the completed development meets the requirements of State Environmental Planning Policy (Infrastructure) 2007 and with the Department of Planning and Infrastructure's Development Assessment Guideline titled "Development Near Rail Corridors and Busy Roads - Interim Guidelines" as set down in the subject condition of this consent. Such a report must include external and internal noise levels to ensure that the external noise levels during the test are representative of the typical maximum*

Sydney Trains is a NSW Government agency
Level Three - East, 36-46 George Street, Burwood NSW 2134 - PO Box 459 Burwood NSW 1805
Email: DA_sydneytrains@transport.nsw.gov.au
www.transport.nsw.gov.au/sydneytrains ABN 38 284 779 682



levels that may occur at this development, and that internal noise levels meet the required dB(A) levels. Where it is found that internal noise levels are greater than the required dB(A) level, necessary corrective measures must be carried out to ensure that internal noise levels are compliant with the requirements of this consent.

- A5.** Prior to the issue of a Construction Certificate the Applicant is to engage an Electrolysis Expert to prepare a report on the Electrolysis Risk to the development from stray currents. The Applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the Principal Certifying Authority with the application for a Construction Certificate. The Principal Certifying Authority must ensure that the recommendations of the electrolysis report are incorporated in the construction drawings and documentation prior to the issuing of the relevant Construction Certificate.
- A6.** The Applicant shall provide a Geotechnical Engineering report to Sydney Trains for review by Sydney Trains' Geotechnical section prior to the commencement of works. The report shall demonstrate that the development has no negative impact on the rail corridor or the integrity of the infrastructure through its loading and ground deformation and shall contain structural design details/analysis for review by Sydney Trains. The report shall include the potential impact of demolition and excavation, and demolition- and excavation-induced vibration in rail facilities, and loadings imposed on Sydney Trains Facilities by the development.
- A7.** If required, prior to the commencement of works, the applicant is to prepare and provide to Sydney Trains for review and endorsement a Hydrologic Assessment report demonstrating that the dewatering during construction will not have any adverse settlement impacts on the rail corridor. No works are to commence until this report has been endorsed by Sydney Trains.
- A8.** Prior to the issuing of a Construction Certificate, the following rail specific items are to be submitted to Sydney Trains for review, comment and written endorsement:
- Machinery to be used during excavation/construction.
 - Demolition, excavation and construction methodology and staging
 - If required by Sydney Trains, an FE analysis which assesses the different stages of loading-unloading of the site and its effect on the rock mass surrounding the rail corridor.

The Principal Certifying Authority is not to issue the Construction Certificate until it has received written confirmation from Sydney Trains that this condition has been complied with.

- A9.** *If required by Sydney Trains, a monitoring plan (including instrumentation and the monitoring regime during excavation and construction phases) is to be submitted to Sydney Trains for review and endorsement prior to the issuing of a Construction Certificate. The Principal Certifying Authority is not to issue a Construction Certificate until written confirmation has been received from Sydney Trains advising of the need to undertake the track monitoring plan, and if required, that it has been endorsed.*
- A10.** *Given the possible likelihood of objects being dropped or thrown onto the rail corridor from balconies, windows, and other external features (e.g., roof terraces and external fire escapes) that are within 20 metres of, and face, the rail corridor, the development must have measures installed, to the satisfaction of Sydney Trains (e.g., awning windows, louvres, enclosed balconies, window restrictors etc.) which prevent the throwing of objects onto the rail corridor. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.*
- A11.** *The design, installation and use of lights, signs, and reflective materials, whether permanent or temporary, which are (or from which reflected light might be) visible from the rail corridor must limit glare and reflectivity to the satisfaction of the rail operator. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.*
- A12.** *If required by Sydney Trains, prior to the issue of a Construction Certificate a Risk Assessment/Management Plan and detailed Safe Work Method Statements (SWMS) for the proposed works are to be submitted to Sydney Trains for review and comment on the impacts on rail corridor. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.*
- A13.** *No metal ladders, tapes, and plant, machinery, or conductive material are to be used within 6 horizontal metres of any live electrical equipment. This applies to the train pantographs and catenary, contact and pull-off wires of the adjacent tracks, and to any aerial power supplies within or adjacent to the rail corridor.*
- A14.** *Prior to the issuing of a Construction Certificate the Applicant must submit to Sydney Trains a plan showing all craneage and other aerial operations for the development and must comply with all Sydney Trains' requirements. If required by Sydney Trains, the Applicant must amend the plan showing all craneage and other aerial operations to comply with all Sydney Trains' requirements. The Principal Certifying Authority is not*

to issue the Construction Certificate until written confirmation has been received from the Sydney Trains confirming that this condition has been satisfied.

- A15.** *During all stages of the development the Applicant must take extreme care to prevent any form of pollution (including dust) entering the rail corridor. Any form of pollution that arises as a consequence of the development activities shall remain the full responsibility of the Applicant.*
- A16.** *Excess soil is not allowed to enter, be spread, or stockpiled within the rail corridor (and its easements) and must be adequately managed/disposed of.*
- A17.** *The Applicant must ensure that all drainage from the development is adequately disposed of and managed and not allowed to be discharged into the rail corridor unless prior written approval has been obtained from Sydney Trains.*
- A18.** *No work is permitted within the rail corridor or any easements which benefit Sydney Trains/TAHE (Transport Asset Holding Entity), at any time, unless the prior approval of, or an Agreement with, Sydney Trains/TAHE (Transport Asset Holding Entity) has been obtained by the Applicant. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.*
- A19.** *No rock anchors, rock bolts, ground anchors or rock ties, piles, foundations, rock pillars, transfer structures, basement walls, slabs, columns, beams, cut rock faces, are to be installed into TAHE (Transport Asset Holding Entity)/Sydney Trains property or easements. The Principal Certifying Authority is not to issue the Construction Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.*
- A20.** *No scaffolding is to be used facing the rail corridor unless prior written approval has been obtained from Sydney Trains. To obtain approval the Applicant will be required to submit details of the scaffolding, the means of erecting and securing this scaffolding, the material to be used, and the type of screening to be installed to prevent objects falling onto the rail corridor. Unless agreed to by Sydney Trains in writing, scaffolding shall not be erected without isolation and protection panels.*
- A21.** *Sydney Trains advises there are High Voltage Aerial Transmission Line in nearby the proposed works. All works within 6 metres of the nearest transmission line conductor must comply with:*
- *ISSC 20 – Guideline for the Management of Activities within Electricity Easements and Close to Electricity Infrastructure.*

- *The Safe Approach Distances (SADs) in the Sydney Trains Document titled "SMS-06-GD-0268 – Working Around Electrical Equipment".*
- *"WorkCover Code of Practice – Work near Overhead Power Lines (The Code)"*

A22. *Sydney Trains or Transport for NSW (TfNSW), and persons authorised by those entities for the purpose of this condition, must be permitted to inspect the site of the development and all structures to enable it to consider whether those structures have been or are being constructed and maintained in accordance with the approved plans and the requirements of this consent, on giving reasonable notice to the principal contractor for the development or the owner or occupier of the part of the site to which access is sought.*

A23. *Prior to the issuing of an Occupation Certificate the Applicant is to submit as-built drawings to Sydney Trains and Council. The as-built drawings are to be endorsed by a Registered Surveyor confirming that there has been no encroachment into TAHE (Transport Asset Holding Entity) property or easements, unless agreed to by TAHE (Transport Asset Holding Entity). The Principal Certifying Authority is not to issue the final Occupation Certificate until written confirmation has been received from Sydney Trains confirming that this condition has been satisfied.*

A24. *If required, prior to the issue of a Construction Certificate the Applicant is to contact Sydney Trains External Interface Management team to determine the need for public liability insurance cover. If insurance cover is deemed necessary, this insurance must be for a sum as determined by Sydney Trains and shall not contain any exclusion in relation to works on or near the rail corridor and rail infrastructure, and must be maintained for the duration specified by Sydney Trains. The Applicant is to contact Sydney Trains External Interface Management team to obtain the level of insurance required for this particular proposal. Prior to issuing the Construction Certificate the Principal Certifying Authority must witness written proof of this insurance in conjunction with Sydney Trains' written advice to the Applicant on the level of insurance required.*

A25. *If required, prior to the issue of a Construction Certificate the Applicant is to contact Sydney Trains External Interface Management team to determine the need for the lodgement of a Bond or Bank Guarantee for the duration of the works. The Bond/Bank Guarantee shall be for the sum determined by Sydney Trains. Prior to issuing the Construction Certificate the Principal Certifying Authority must witness written advice from Sydney Trains confirming the lodgement of this Bond/Bank Guarantee.*

A26. *Where a condition of consent requires Sydney Trains or Transport for*



NSW endorsement the Principal Certifying Authority is not to issue a Construction Certificate or Occupancy Certificate, as the case may be, until written confirmation has been received from those entities that the particular condition has been complied with. The issuing of staged Construction Certificates dealing with specific works and compliance conditions can be issued subject to written agreement from those entities to which the relevant conditions applies.

- A27.** *The Applicant must ensure that at all times they have a representative (which has been notified to Sydney Trains in writing), who:*
- *oversees the carrying out of the Applicant's obligations under the conditions of this consent and in accordance with correspondence issued by Sydney Trains;*
 - *acts as the authorised representative of the Applicant; and*
 - *is available (or has a delegate notified in writing to Sydney Trains that is available) on a 7 day a week basis to liaise with the representative of Sydney Trains, as notified to the Applicant.*
- A28.** *Without in any way limiting the operation of any other condition of this consent, the Applicant must, during demolition, excavation and construction works, consult in good faith with Sydney Trains in relation to the carrying out of the development works and must respond or provide documentation as soon as practicable to any queries raised by Sydney Trains in relation to the works.*
- A29.** *Where a condition of consent requires consultation with Sydney Trains, the Applicant shall forward all requests and/or documentation to the relevant Sydney Trains External Interface Management team. In this instance the relevant interface team is North Interface and they can be contacted via email on North_Interface@transport.nsw.gov.au.*
- A30.** *Copies of any certificates, drawings, approvals/certification or documents endorsed by, given to or issued by Sydney Trains or TAHE (Transport Asset Holding Entity) must be submitted to Council for its records prior to the issuing of the applicable Construction Certificate or Occupation Certificate.*

SCHEDULE 3 – Transport for NSW

Transport for NSW



20 June 2022

File No: NTH22/00089/03
Your Ref: DA2021/01530

Chief Executive Officer
City of Newcastle
PO Box 489
NEWCASTLE NSW 2300

Attention: Holly Hutchens

HUNTER STREET (MR464): DA 2021/01530, DESCRIPTION OF DA, LOT: 2 DP: 1271240, 854 HUNTER STREET NEWCASTLE

In addition to the Transport for NSW (TfNSW) response letter dated 25 May 2022 and email dated 07 June 2022, please find below Addendum A relating requested conditions of consent regarding the protection of TfNSW infrastructure and light rail operations.

Addendum A

The subject DA has also been referred to TfNSW for comment in accordance with Clause 85 of the State Environmental Planning Policy (Infrastructure) 2007 (now Section 2.97 of the State Environmental Planning Policy (Transport and Infrastructure) 2021). TfNSW is the rail authority for the rail corridors of the Newcastle Light Rail (NLR) for purpose of the ISEPP. If the consent authority determines to grant consent to the subject DA, the conditions as listed below are requested to be imposed to ensure that the proposed development is undertaken in a safe manner and will not have an adverse effect on rail safety.

Requested Conditions of Consent for DA2021/01530 Protection of TfNSW Infrastructure and Light Rail Operations

General

- The applicant must comply with all the operator of Newcastle Light Rail (NLR) policies, rules and procedures when working in and about the NLR corridor and the requirements of *T HR CI 12090 ST Airspace and External Developments version 1.0* and *Development Near Rail Corridors and Busy Roads- Interim Guidelines*;
- Activities of the applicant must not affect and/or restrict NLR construction and/or operations without prior written agreement between the applicant, Transport for NSW (TfNSW) and/or its contractor/ operator, and it is a condition precedent that such written agreement must be obtained no later than two (2) months prior to the activity. Any requests for agreement are to include as a minimum the proposed duration, location, scope of works, and other information as required by the TfNSW and/or its contractor/operator;

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- The applicant must apply to TfNSW and/or the NLR operator for any required network shutdowns four (4) months prior to each individual required network shutdown event. Each request for network shutdown must include as a minimum the proposed shutdown dates, duration, location, scope of works, and other information as required by the TfNSW and/or the NLR operator. TfNSW and/or the NLR operator may grant or refuse a request for network shutdown at its discretion;
- The applicant shall provide safe and unimpeded access for NLR patrons traversing to and from the NLR stops at all times;
- All works/regulatory signage associated with the proposed development are to be at no cost to TfNSW;
- TfNSW, and persons authorised by it for this purpose, are entitled to inspect the site of the approved development and all structures to enable it to consider whether those structures on that site have been or are being constructed and maintained in accordance with these conditions of consent, on giving reasonable notice to the principal contractor for the approved development or the owner or occupier of the part of the site to which access is sought;
- The applicant must hold current public liability insurance cover of minimum AUD\$ 250 million, unless otherwise advised by TfNSW, for the entire period of the construction programme. This insurance shall not contain any exclusion in relation to works on or near the rail corridor, rail infrastructure. Prior to issuing the first Construction Certificate the Certifier must witness written proof of this insurance in conjunction with TfNSW's written advice to the applicant on the level of insurance required; and
- All TfNSW and/or the NLR operator's costs associated with review of plans, designs and legal must be borne by the applicant.

Prior to issue of Construction Certificate

- Prior to the issue of the relevant Construction Certificate, if required, the applicant shall undertake services search to establish the existence and location of any rail services. Persons performing the service search shall use equipment that will not have an impact on rail services and signalling. In the event rail services are identified within the subject development site or within close proximity to the development site, the applicant must discuss with TfNSW as to whether these services could be affected by the works proposed or if they are to be relocated or incorporated within the site.
- Prior to the issue of the relevant Construction Certificate, the final acoustic assessment is to be submitted to the PCA demonstrating how the proposed development will comply with the Department of Planning's document titled "*Development near Rail Corridors and Busy Roads-Interim Guidelines*". All recommendations of the acoustic assessment are to be incorporated in the construction documentation.
- Prior to the issue of the relevant Construction Certificate, the applicant is to engage an Electrolysis Consultant to prepare a report on the Electrolysis Risk to the development from stray currents. The applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the PCA with the application for the relevant Construction Certificate.
- Prior to the issue of the relevant Construction Certificate, the applicant shall design lighting, signs and surfaces with reflective materials, whether permanent or temporary, which are (or from which reflected light might be) visible from the rail corridor limiting glare and reflectivity to the satisfaction of TfNSW and the NLR Operator.

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- Prior to the commencement of works on site, if required by TfNSW, an interface agreement between the Applicant, the NLR, (and if nominated by TfNSW any other relevant TfNSW Contractor) must be executed. The interface agreement will include, but is not limited to:
 - Pre and post construction dilapidation reports;
 - The need for track possessions;
 - Review of the machinery to be used during excavation, ground penetration and construction works;
 - The need for track monitoring;
 - Design and installation of lights, signs and reflective material;
 - Access by representatives of TfNSW, the NLR Operator and any other relevant TfNSW Contractor nominated by TfNSW to the site of the approved Development and all structures on that site;
 - Endorsement of Risk Assessment/Management Plan and Safe Work Method Statements (**SWMS**);
 - Endorsement of plans regarding proposed craneage and other aerial operations;
 - Erection of scaffolding/hoarding;
 - The rules and procedures of the NLR Operator and any other relevant TfNSW Contractor nominated by TfNSW;
 - NLR Operator's recovery of costs from the Applicant for costs incurred by these parties in relation the Development (e.g. review of designs, shutdown /power outages costs including alternative transport, customer communications, loss of revenue etc) risk assessments and configuration change processes; and
 - Alteration of rail assets such as the overhead wiring along the track and associated hoarding demarcation system, if undertaken by the Applicant.
- Prior to the commencement of any works, if required by TfNSW, a Deed Poll will need to be accepted by NLR Contractors and signed by the Applicant. The Deed Poll will include, but is not limited to:
 - Work Health and Safety provisions including the need for Safe Method Work statements;
 - NLR requirements including site works access approval and access permit to work;
 - NLR Contractor compliance requirements;
 - Indemnities and releases;
 - Insurance requirements and conditions;
 - NLR Contractors recovery of costs from the Applicant for costs incurred in relation to the Development (e.g. review of designs, provision of information);
 - The need to enter into an interface deed or similar with the NLR Operator when the NLR project is handed over to the Operator;
 - Attendance and participation in the construction works risk assessment of construction activities to be performed in, above, about, and/or below the NLR Corridor;

During Construction

- No construction work zone is permitted on NLR corridor, without prior approval of TfNSW.

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- No metal ladders, tapes and plant/machinery, or conductive material are to be used within six horizontal metres of any live electrical equipment unless a physical barrier such as a hoarding or structure provides separation;
- During all stages of the development extreme care shall be taken to prevent any form of pollution entering the light rail corridor. Any form of pollution that arises as a consequence of the development activities shall remain the full responsibility of the applicant;
- The applicant must mitigate all noise and vibration to the extent possible and provide vibration monitoring equipment and provide the results to TfNSW and/or its light rail operator at intervals required by TfNSW, and immediately implement corrective actions in the event that the noise or vibration exceeds acceptable limits;
- Rainwater from the roof must not be projected and/or falling into the rail corridor/assets and must be piped down the face of the building which faces the rail corridor. Given the site's location next to the rail property, drainage from the development must be adequately disposed of/managed and not allowed to be discharged into the corridor unless prior approval has been obtained from TfNSW and the NLR Operator (or the delegated authority); and
- No scaffolding is to be used within six horizontal metres of the rail corridor unless prior written approval has been obtained from the NLR Operator and TfNSW and a physical barrier such as a hoarding or structure provides separation. To obtain approval the applicant will be required to submit details of the scaffolding, the means of erecting and securing this scaffolding, the material to be used, and the type of screening to be installed to prevent objects falling onto the rail corridor.

Prior to issue of Occupation Certificate

- The final dilapidation survey shall be undertaken via a joint inspection with representatives from TfNSW, the NLR Operator and the applicant. The dilapidation survey will be undertaken on the rail infrastructure and property in the vicinity of the project. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The submission of a detailed dilapidation report to TfNSW and the NLR Operator will be required unless otherwise notified by TfNSW. The final occupation certificate shall not be issued until written confirmation has been received from TfNSW confirming their satisfaction with the dilapidation survey and/or rectification of any damage; and
- Prior to the issue of the Occupation Certificate, if required by TfNSW, the applicant shall demonstrate that lights, signs and reflective materials, whether permanent or temporary, which are (or from which reflected light might be) visible from the rail corridor were installed limiting glare and reflectivity to the satisfaction of TfNSW and the NLR Operator.

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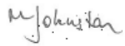
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On Council's determination of this matter, please forward a copy of the Notice of Determination to TfNSW for our records. Should you require further information please contact Kate Leonard, Development Services Case Officer, on 1300 207 783 or 0428 260 461 or by emailing development.north@transport.nsw.gov.au.

Yours sincerely



Marg Johnston
Team Leader Development Services
North Region | Community & Place
Regional & Outer Metropolitan

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SCHEDULE 4

REASONS FOR THE DETERMINATION & CONSIDERATION OF COMMUNITY VIEWS

The determination decision was reached for the following reasons:

- The proposed development, subject to the recommended conditions, is consistent with the objectives of the applicable environmental planning instruments, being; *Newcastle Local Environmental Plan 2012* (NLEP) and applicable State Environmental Planning Policies.
- The proposed development is, subject to the recommended conditions, consistent with the objectives of the Newcastle Development Control Plan 2012 (NDCP).
- The proposed development is considered to be of an appropriate scale and form for the site and the character of the locality.
- The proposed development has appropriate management and mitigation of impacts through conditions of consent.
- The proposed development, subject to the recommended conditions, will not result in unacceptable adverse impacts upon the natural or built environments.
- The proposed development is a suitable and planned use of the site and its approval is within the public interest.
- The proposed development standard variation made under Clause 4.6 of the *Newcastle Local Environmental Plan 2012* has considered and accepted. The proposed building height variation is considered acceptable in the particular circumstances of this case.
- The proposed development standard variation made under Clause 4.6 of the *Newcastle Local Environmental Plan 2012* has considered and accepted. The proposed building separation variation is considered acceptable in the particular circumstances of this case.

REASONS WHY THE CONDITIONS HAVE BEEN IMPOSED

The following conditions are applied to:

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