

DETERMINATION AND STATEMENT OF REASONS
HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

DATE OF DETERMINATION	17 October 2023
DATE OF PANEL DECISION	17 October 2023
PANEL MEMBERS	Alison McCabe (Chair), Roberta Ryan and Peta Winney-Baartz
APOLOGIES	Tony McNamara and John Mackenzie
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 28 March 2023, 14 June 2023, 17 July 2023 and 4 October 2023.

MATTER DETERMINED

PPSHCC-137 – Newcastle – DA2022/00538 - 643 Hunter St, Newcastle West - Commercial premises and shop top housing (as described in Schedule 1)

PANEL CONSIDERATION AND DECISION

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

This matter has been considered by the Panel for determination on three (3) previous occasions. The Panel has required clarification over the course of the assessment on matters outlined in our deferral records.

The Panel has considered the supplementary reports addressing the deferral matters.

The Panel last deferred the matter in August 2023 to seek clarification of the Gross Floor Area (GFA) and Floor Space Ratio (FSR) calculations specifically in relation to waste storage and storage areas. A further supplementary report was prepared outlining changes to the plans and GFA calculations and has also been considered by the Panel.

The Panel has reviewed all submissions made to the application.

The proposed development complies with FSR and height of building development standard under the NLEP 2012. It has been the subject of detailed consideration by the Design Review Panel, who have indicated that they are supportive of the architectural approach to the site.

The Panel is satisfied that any view impacts arising from the proposal are not unreasonable and are a function of an area undergoing significant redevelopment in accordance with the policy framework.

Council has indicated that the waste management and servicing functions are acceptable. The Panel does not agree with all of the reasons articulated in the Council report in support of on street waste pick up, particularly in respect to loss of GFA at ground level but accept that the facilities have been accepted by Council and have been considered in the design of the building.

The proposed building is located within 3.5 metres of the common boundary with the Travelodge site. The openings in the southern elevation are from bedroom windows. The north/south alignment of the building and the generally east/west orientation of apartments means that the presentation of the built form at this setback is approximately half the length of the common boundary.

The Panel has given little weight to the schemes prepared by either the applicant or owner of the Travelodge site. There are a variety of options available for the redevelopment of the Travelodge that will appropriately respond to its context, the policy framework, and Design Excellence requirements. The Panel, however, notes that in permitting a reduced setback to the common boundary it is not incumbent upon the Travelodge's site to accommodate the shortfall of ADG setback. The appropriateness of built form relationships and separation will be a matter for subsequent DA's.

The Panel is satisfied that the proposal is an appropriate response to the site and its context and is consistent with the planning framework. Whilst the proposal results in some impacts, they are not unreasonable in the context of an area undergoing transition.

Development application

The Panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979* subject to the conditions at Schedule 2.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel determined to approve the application for the following reasons:

- (i) The proposed development is consistent with the statutory policy framework under NLEP 2012.
- (ii) The development is well designed and appropriately responds to its context.
- (iii) The development will result in additional housing stock close to employment and transport facilities.
- (iv) The provision of the NLEP 2012 and relevant SEPP's have been satisfied.

CONDITIONS

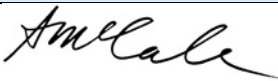
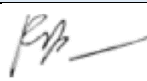

The development application was approved subject to the conditions in Schedule 2.

CONSIDERATION OF COMMUNITY VIEWS

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

- West End character
- Building bulk and scale
- Non-complying setback to southern boundary
- Solar, views and privacy
- Public amenity
- Traffic
- Heritage
- Privacy
- Visual impact

The Panel considers that concerns raised by the community have been adequately addressed in the assessment and supplementary reports considered by the Panel.

PANEL MEMBERS	
 Alison McCabe (Chair)	 Roberta Ryan
 Peta Winney-Baartz	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSHCC-137 – Newcastle – DA2022/00538
2	PROPOSED DEVELOPMENT	Mixed Use Development - Shop top housing, comprising commercial premises (4), carparking (172), podium level, and residential (106) units.
3	STREET ADDRESS	Lot: 1 DP:1166015 643 Hunter Street Newcastle West
4	APPLICANT OWNER	ADW Next Level Seven Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (Planning Systems) 2021; State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Building Sustainability Index BASIX) 2004 State Environmental Planning Policy (Transport and Infrastructure) 2021 State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017; State Environmental Planning Policy (SEPP) No. 65 – Design Quality of Residential Apartment Building; Newcastle Local Environmental Plan 2012; Heritage Act 1977 National Parks and Wildlife Act 1974 Roads Act 1993 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Newcastle Development Control Plan 2012 City of Newcastle's Community Participation Plan 2019 Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2021</i> Coastal zone management plan: Nil The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality The suitability of the site for the development Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Council assessment report: 20 March 2023 Supplementary Council assessment report: 20 May 2023 Supplementary Council assessment report: 14 June 2023 Council addendum 21 June 2023 Supplementary Council assessment report: 17 July 2023 Supplementary Council assessment report: 3 October 2023 Written submissions during public exhibition: nine (9) Late submission made on behalf of adjoining property: one (1) Total number of unique submissions received by way of objection: seven (7)

8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Kick-off Briefing: 13 July 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Alison McCabe (Chair), Peta Winney-Baartz and John Mackenzie ○ <u>Applicant representatives</u>: Sasha Lesiuk, Marcus Graham, Andrew Redwin, Craig Marler, Liam Dwyer and Duncan Miller ○ <u>Council assessment staff</u>: Gareth Simpson, Damian Jaeger, Amy Ryan and Ellise Redriff ○ <u>Department staff</u>: Leanne Harris, Carolyn Hunt, Lisa Foley and Naila Tabssum • Site Inspection: <ul style="list-style-type: none"> ○ Alison McCabe: 13 January 2023 ○ Roberta Ryan: 27 March 2023 ○ Peta Winney-Baartz: 12 January 2023 • Briefing: 2 November 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Alison McCabe (Chair), Juliet Grant, Peta Winney-Baartz and John Mackenzie ○ <u>Council assessment staff</u>: Gareth Simpson and Damian Jaeger ○ <u>Department staff</u>: Carolyn Hunt and Lisa Foley • Final briefing to discuss Council's recommendation: 4 April 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Alison McCabe (Chair), Roberta Ryan and Peta Winney-Baartz ○ <u>Council assessment staff</u>: Holly Hutchens, William Wang and Damian Jaeger ○ <u>Department staff</u>: Leanne Harris and Lisa Foley • Applicant Briefing: 4 April 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Alison McCabe (Chair), Roberta Ryan, Peta Winney-Baartz and John Mackenzie ○ <u>Council assessment staff</u>: Holly Hutchens, William Wang and Damian Jaeger ○ <u>Department staff</u>: Leanne Harris and Lisa Foley ○ <u>Applicant representatives</u>: Duncan Miller, Sasha Lesiuk, Craig Marler, Marcus Graham and Jason Rudd <p><u>Note</u>: Applicant briefing was requested to respond to the recommendation in the Council assessment report</p> • Final briefing to discuss Council's recommendation: 21 June 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Alison McCabe (Chair), Roberta Ryan, Peta Winney-Baartz and John Mackenzie ○ <u>Council assessment staff</u>: Holly Hutchens and Damian Jaeger ○ <u>Department staff</u>: Leanne Harris • Final briefing to discuss Council's recommendation: 24 July 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Alison McCabe (Chair), Roberta Ryan, Peta Winney-Baartz and John Mackenzie ○ <u>Council assessment staff</u>: Holly Hutchens, William Wang, Rajnesh Prakash and Amy Ryan ○ <u>Department staff</u>: Leanne Harris and Lisa Foley • Final briefing to discuss Council's recommendation: 11 October 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Alison McCabe (Chair), Roberta Ryan, Peta Winney-Baartz and John Mackenzie
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		<ul style="list-style-type: none"> ○ <u>Council assessment staff</u>: Holly Hutchens, Elle Durrant ○ <u>Department staff</u>: Leanne Harris and Holly McCann
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council assessment report

SCHEDULE 2

SCHEDULE OF CONDITIONS

Application No:	DA2022/00538
Land:	Lot 1 DP 1166015
Property Address:	643 Hunter Street Newcastle West NSW 2302
Proposed Development:	Mixed Use Development - Shop top housing, comprising commercial premises (4), carparking (171), podium level, and residential (106) units.

SCHEDULE 1

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
Precinct Location Plan	Drawing No 003 Rev c	Stewart Architecture	27.03.2023
Site Plan	Drawing No 005 Rev C	Stewart Architecture	01.05.2023
Shadow Diagrams	Drawing No.006, 007, 008Rev B	Stewart Architecture	09.05.2022
Solar Access Diagram	Drawing No. 009, 010, Rev B	Stewart Architecture	09.05.2022
Planning – GFA	Drawing No.011, Rev H	Stewart Architecture	26.09.2023
Units Captured for Carparking Gen.	Drawing No.012 Rev D	Stewart Architecture	08.08.2023
Ground Floor	Drawing No101 Rev I	Stewart Architecture	07.09.2023
Parking Level 1	Drawing No102 Rev G	Stewart Architecture	07.09.2023
Parking Level 2	Drawing No 103 Rev D	Stewart Architecture	01.05.2023

Parking level 3	Drawing No104 Rev F	Stewart Architecture	10.08.2023
Plan - Podium	Drawing No105 Rev H	Stewart Architecture	07.09.2023
Plan – Typical Lower	Drawing No106 Rev G	Stewart Architecture	07.09.2023
Plan – Typical Upper	Drawing No107 Rev F	Stewart Architecture	07.09.2023
Plan – Penthouse	Drawing No. 111 Rev C	Stewart Architecture	08.08.2023
Roof	Drawing No 112 Rev B	Stewart Architecture	09.05.2022
Streetscape Elevations	Drawing No 200, Rev B	Stewart Architecture	09.05.2022
Elevations – North and East	Drawing No 201, Rev F	Stewart Architecture	16.03.2023
Elevations – South and West	Drawing No 202, Rev C	Stewart Architecture	05.10.2022
Sections	Drawing No 301, Rev C	Stewart Architecture	05.10.2022
Ramp Sections	Drawing No. 321 Rev C	Stewart Architecture	17.02.2023
Materials and finishes	Drawing No. DA 409	Stewart Architecture	09.05.2022
Signage Strategy	Drawing No. DA802 Rev A	Stewart Architecture	24.03.2023
Ground Stormwater Plan	Proj 7330-01 /003	Indesco	24.02.2023
Stormwater Details	Proj 7330-01 /004	Indesco	27.06.2022
Stormwater Management Plan	Proj 7330-01 / 3	Indesco	17.02.2023
Onsite Waste Management Plan	7330-2/	Indesco	27.09.2022
Traffic Impact Assessment	Ref 22106/v.03	TTPP	01.09.2022
Landscaping Plan	011,002,003,004,005,006,007,008,009,010,011,012, Rev A	Context Landscape Architecture	01.04.2022
Wind Assessment	Qualitative Wind Assessment	Cermak PeterKA, Petersen	April 2022
Design Verification Statement	643 Hunter Street	Stewart Architecture	09.05.2022
Design Waiver	643 Hunter Street	Rory Toomer	29. 03. 2022
Heritage Impact Statement	643 Hunter Street	EJE Heritage	May 2022
Access Report	643 Hunter Street	Indesign Access	07.04.2022
BCA Access Report	643 Hunter Street	Steve Watson & Partners	April 2022
BASIX Certificate	1297530M	Evergreen Energy Consultants	11.05.2022
Archaeology Report	4291-Water	Umwelt	08.04.2022
Geotechnical Assessment	NEW18P-0156-AB	Qualtest	25.09.2018

Phase 1 & Contamination Assessment	NEW18P-0156-AA	Qualtest	18.09.2018
Acoustic Report	643 Hunter Street Newcastle	Paradigm 42	06.04.2022

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

2. On-site parking accommodation is to be provided for a minimum of 172 cars comprising:

- a) A maximum of 151 residential car spaces
- b) A minimum of 12 commercial car spaces; and
- c) A minimum of 9 visitor car spaces.

Parking shall 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.

3. This consent permits a maximum gross floor area of 11,434m². Confirmation of this is to be included in documentation for a Construction Certificate application.
4. All proposed dwellings are to be provided with the required individual storage volume via combination of internal and external storage in accordance with the provisions of the Apartment Design Guide. All dwellings which are reliant on storage cages for all, or part of their storage volume are to be allocated specific storage cages in association with their dwelling entitlement. Full details are to be submitted with the required Construction Certificate demonstrating and certifying that all dwellings have their required storage volume and that any associated storage cages are allocated to the respective dwellings on the submitted plans.
5. The car parking and vehicular access 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.
6. 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.
7. Runoff from paved surfaces is to be directed to an underground on-site detention (minimum capacity of 28,000L). Roof water from the proposed new work is to be directed to a rain water tank (minimum capacity of 26,000L) and being reticulated there from to any new toilet cisterns and cold water washing machine taps, with a mains water top up being installed to maintain between 10% and 15% of the tank capacity. Alternatively, an electronically activated mechanical valve device is to be installed to switch any new toilet cisterns and laundry taps to mains water when the tank falls below 10% capacity. The water tank and plumbing is to be installed in accordance with Australian Standard AS 3500, the relevant plumbing regulations and the requirements of the Hunter Water Corporation. Full details are to be included in documentation for a Construction Certificate application.
8. The floor level of all proposed buildings or building additions is to be verified on plans for a Construction Certificate application to be no lower than 2.90m Australian Height Datum. All

parking areas shall be no lower than 2.40m AHD. Full details are to be included in documentation for a Construction Certificate application.

9. 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) Evacuation routes and flood refuges and
- f) Flood preparedness and awareness procedures for residents and visitors
- g) Use of signage and diagrams to identify the designated flood refuge and clearly mark flood evacuation routes to on-site refuge.

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.

10. 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 Indesco (Proj. No. 7330-01, Amendment 3, dated 24/02/2023). Full details are to be included in documentation for a Construction Certificate application.
11. All downpipes discharging to the rainwater tanks are to have pre-storage insect, debris and vermin control (eg. 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 (eg. capped relief access points at the lowest level of stormwater drainage).
12. Erosion and sediment control measures are to be implemented prior to the commencement of works and be maintained during the period of construction in accordance with the details set out on an Erosion and Sediment Control Plan that is to be submitted for approval with the Construction Certificate application. Controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover.
13. An electronic copy of a dilapidation report, prepared by a suitability qualified person, is to be submitted to the Certifying Authority prior to the issue of a Construction Certificate. The dilapidation report is to document and contain a photographic record of the condition of the

adjoining buildings, infrastructure and roads.

14. A commercial vehicular crossing is to be constructed across the road reserve, in accordance with the following criteria:
- a) Constructed in accordance with City of Newcastle's A1300 - Driveway Crossings Standard Design Details.
 - b) The driveway crossing, within the Steel Street road reserve, is to be a maximum of 7.0m wide.
 - c) Letterboxes, landscaping and any other obstructions to visibility are to be kept clear of or limited in height to 1.2m, in the 2.0m by 2.5m splay within the property boundary, each side of the driveway entrance.
 - d) The proposed driveway is to be a minimum of 3.0m clear of the trunk of any tree within the road reserve.
 - e) The proposed driveway is to be a minimum of 750mm clear of the centre of any pole or obstruction within the road reserve and 1.0m clear of any drainage pit.

These works are not approved until consent under Section 138 of the *Roads Act 1993* has been granted by the City of Newcastle. An application under Section 138 must be lodged and consent obtained, or other satisfactory arrangements confirmed in writing from Council, before the issue of a Construction Certificate.

15. The Developer designing and constructing the following works in connection with the proposed development within the Steel Street and Hunter Street public road reserve, adjacent to the site, at no cost to Council and in accordance with Council's guidelines and design specifications:
- a) Implementation streetscape works generally in accordance with City of Newcastle's West End Streetscape Stage 2 (Plan 05-04) concept plan within the frontages of the development to Hunter Street and Steel Street, including (but not limited to):
 - a. Footpath widening and kerb extension on the west side of Steel Street including adjustment to the kerb return at the southwest corner of Hunter St and Steel St.
 - b. Construction of new kerb ramps in the southwest corner of Hunter Street and Steel Street.
 - c. Construction of new angled bicycle ramp in the Hunter Street footpath.
 - d. Construction of a new road median.
 - e. Traffic configuration changes in Steel Street subject to Newcastle City Traffic Committee requirements.
 - b) Replace road shoulder along the full development frontage to Steel Street and Hunter Street in accordance with CN specification A1101.
 - c) Replace kerb and gutter along the full development frontage to Steel Street and Hunter Street in accordance with CN specification A1100. Adjust/reconstruct existing drainage infrastructure as necessary.
 - d) Construct new 7.0m wide (max) commercial-type vehicular crossing to Steel Street in accordance with CN specification A1300.
 - e) Reconstruct footpath along the full development frontage to Hunter Street as full-width concrete foot paving with sandblasted bluestone paver banding in accordance with CN specification A1409.
 - f) Reconstruct footpath along the full development frontage to Steel Street as full-width bluestone paver (600x300x40 tiles) footway in accordance with CN specification A1405.

- g) Plant three (3) new 500 litre street trees in new tree vaults (A3003) with timber tree guards in the Hunter Street footpath along with any necessary realignment or relocation of existing in-ground public utilities.
- h) Plant three (3) new 500 litre street trees in new tree vaults (A3003) with timber tree guards in the Steel Street footpath along with any necessary realignment or relocation of existing in-ground public utilities.
- i) Connect development stormwater to existing kerb inlet pit SW0023504.
- j) Relocation of regulatory parking signage and paid parking kiosk as necessary.
- k) Installation of kerbside Loading Zone in accordance with Newcastle City Traffic Committee requirements.
- l) Construct a new 1.2m x 1.2m wide footpath splay on the ground floor at the corner of Hunter Street and Steel Street to be dedicated as road reserve or public right of way.

Engineering design plans and specifications for the works being undertaken within the public road reserve are required to be prepared by a suitably qualified practising civil engineer with experience and competence in the related field and submitted to Council for approval pursuant to Section 138 of the *Roads Act 1993 (NSW)*. The consent must be obtained, or other satisfactory arrangements confirmed in writing from Council, before the issue of a Construction Certificate.

- 16. 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 0.7m/s). Full details are to be included in documentation for a Construction Certificate application.
- 17. The development shall not fill more than 20% of the flood storage volume over the site during the Probable Maximum Flood (reduced level 4.20m Australian Height Datum). Pre- and post-development flood storage calculations shall be included in documentation for a Construction Certificate application.
- 18. 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.
- 19. 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. 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	\$210,416.96
Open Space and Recreation	\$904206.59
Community Facilities	\$167271.52
Plan Preparation and Administration	\$32001.49
TOTAL	\$1,313,896.56

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.

21. The existing ***Platanus x acerifolia*** street trees, (Tree IDs 70236, 70235, 70234, 70233, 70232) are approved to be removed, subject to arrangements being made for the removal of the street tree by contacting Council's City Greening Services. All tree removal works are to be carried out by Council at the Developer's expense.

22. Ten (10) trees are required to be planted as compensation for the removal of the existing five (5) *Platanus x acerifolia* street trees.

Four (4) trees are to be planted external to the site. A fee, to be determined by contacting Council's City Greening Services, is to be paid to Council for the required compensatory planting and evidence of the payment of the required fee is to be included in the documentation for a Construction Certificate application.

Six (6) replacement trees are to be planted in the Hunter Street and Steel Street road reserves subject to approval pursuant to Section 138 of the Roads Act 1993 (NSW). A tree maintenance bond of \$21,000 is to be paid to Council in the form of a cash bond prior to the issuing of the Construction Certificate application.

23. 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 costing 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.

24. 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.

25. 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.

26. 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 recommendations of the report shall be included on the construction certificate drawings.
27. An Aboriginal Cultural Heritage Assessment (ACHA) is to be prepared prior to the commencement of any ground disturbance works. The ACHA is to be prepared in accordance with:
- *Code of Practice for the Archaeological Investigation of Aboriginal objects in NSW*;
 - *Guide to investigating, assessing, and reporting on Aboriginal cultural heritage in NSW*; and
 - *Aboriginal Cultural Heritage Consultation Requirements for Proponents 2010*.

Should the ACHA determine that Aboriginal objects are likely to be harmed, an Aboriginal Heritage Impact Permit (AHIP) is required to be obtained from Heritage NSW under Part 6 of the [National Parks and Wildlife Act 1974](#) prior to the commencement of any ground disturbance works. The AHIP is to include provision for the completion of Aboriginal archaeological investigations in the form of test excavations and (if required) further salvage activities.

During any excavation work, in the event that any Aboriginal objects are identified within the area of works, works within the immediate vicinity of the Aboriginal object should cease and Heritage NSW should be contacted so that appropriate management strategies can be identified. Aboriginal objects must be managed in accordance with the National Parks and Wildlife Act 1974.

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.

28. The Applicant is to obtain an approved Section 140 excavation permit under the *Heritage Act 1977*, or a variation to the approved s144/2018/006 Excavation Permit, prior to any ground disturbing activities commencing, unless Heritage NSW provides written confirmation that the existing approved s144/2018/006 can apply to the proposed works noting the change of design and passage of time.
29. A Heritage Interpretation Plan is to be prepared by an experienced heritage interpretation practitioner and submitted with the documentation for a Construction Certificate to the written satisfaction of Council's heritage officer. 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.
30. A Heritage Interpretation Plan is to be prepared by an experienced heritage interpretation practitioner and submitted with the documentation for a Construction Certificate to the written satisfaction of Council's heritage officer. 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.

31. 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.
32. 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.
33. Working drawings and specifications of the proposed building are to be submitted to the NSW Mine Subsidence Board for approval prior to an application for a Construction Certificate and any requirements of the Board are to be included in the documentation for a Construction Certificate application.
34. 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.

35. The applicant is to comply with all of Hunter Water's requirements to provide your 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 your Construction Certificate application.
36. A group type mailbox is to be provided at the street frontage in accordance with the requirements of Australia Post, clearly displaying individual unit numbers and the required house number. Full details are to be included in the documentation for a Construction Certificate application.
37. Facilities are to be provided in a screened location within the premises for the storage of

garbage, discarded or returnable packaging or other forms of trade wastes and arrangements are to be made for regular removal and disposal of same. The required garbage facility is to be suitable for the accommodation of City of Newcastle approved wheel type bins or bulk waste containers. Full details are to be included in documentation for a Construction Certificate application.

38. A site wide management plan for the greening of buildings located on private land must be submitted for approval by CN's Urban Design Consultative Panel prior to the issue of any construction certificate. The site wide management plan must include (but is not limited to) the landscaping to upper-level facades, balcony planters, communal rooftops, and inaccessible green roofs. The plan must demonstrate who is responsible for and how the landscape features will be installed, costs and responsibility of ongoing maintenance of landscaping.
39. Prior to a Construction Certificate being issued, the Accredited Certifier must ensure that all living rooms and bedrooms in sole occupancy units must have a minimum finished floor to ceiling height of not less than 2.7 metres.
40. Car parking spaces are created as separate lots in the strata plan, with the exception of visitor car parking spaces which are retained as common property in the strata plan. Visitor parking facilities under no circumstances to be subdivided, leased or controlled by or on behalf of particular unit owners, residents or third parties. Details are to be included in documentation for a Construction Certificate application.
41. Electric vehicle circuitry and electric vehicle charging point requirements.

A detailed electrical plan and specifications for all off-street car parking must be prepared by a suitably qualified and experienced person (such as an electrical engineer), demonstrating the following;

- a) That each off-street car parking space will be provided with electrical circuitry to support the installation of a 'Level 2' electric vehicle charger point. The construction certificate plans are to:
 - i) Identify the power capacity to each car parking space.
 - ii) Identify the EV Distribution Board and EV Load Management System on each level of parking. Locate EV Distribution Board(s) so that no future EV Ready connection will require a cable of more than 50 metres from the parking bay to connect.
 - iii) Identify the conduit system to allow each car space to install an electric vehicle charger point – such as cable trays and/or buried cables underground. This system should allow future installation of cabling to power electric vehicle charger points and allow internet access (run Ethernet cable or install 4G modem).

Note: The installation of a charging point is not required by this clause (a).

- b) A minimum of one 'Level 2' electric charger must be provided and 'Level 2' electric chargers must be provided to not less than 5% of all car parking spaces. The location of all electric vehicle chargers must be shown on the construction certificate plans.
- c) The certifier must be satisfied that the electrical plans and specifications are consistent with (a) and (b) prior to the issue of the construction certificate.

Note: The minimum electric circuitry requirements for 'Level 2' electric vehicle charging points are:

- a) Privately available spaces: 'Level 2' slow – single phase 7kW power; and
- b) Public spaces: 'level 2' fast – three-phase 11-22kW power.

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

42. Certification is to be prepared by a Registered Surveyor and submitted to the Principal Certifier 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.
43. 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.
44. Certification is to be prepared by a Registered Surveyor and submitted to the Principal Certifier 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.
45. No air conditioning units are to be positioned within the facade or balconies of the building.
46. 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.
47. 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.
48. 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.
49. Any asbestos containing material identified during demolition or construction works is to be disposed of off-site at a licenced waste facility and is not to be buried or encapsulated under buildings and/or structures.
50. Prior to construction works commencing, the proponent is to prepare and submit to the PCA and Council a Construction Environmental Management Plan (CEMP) for construction works on the site, which is to be kept on site and made available to authorised Council officers upon request. The CEMP is to include but not be limited to:
 - An asbestos removal control plan to safely manage and remove any asbestos identified

during works.

- A site management strategy, identifying and addressing issues such as environmental health and safety, site security, and traffic management.
- A water management strategy, detailing erosion and sediment control, management of soil stockpiles, control and management of surface water, groundwater and process water.
- A dust management strategy, detailing procedures to minimise dust generation, with reference to control techniques and operational limits under adverse meteorological conditions. This strategy should be cross-referenced with the water management strategy.
- A road management strategy, detailing procedures to ensure that all roads adjacent to and within the proposed application area are kept free and clear from mud and sediment.
- A soil management strategy, detailing measures to be implemented to manage the identification and control and disposal of any acid sulphate soils or soil contamination identified during site works. The soil management strategy must include an unexpected finds protocol/contingency plan in relation to potential contamination.
- A waste minimisation strategy, which aims to avoid production of waste and maximise reuse, recycling or reprocessing of potential waste material.
- A community relations plan, which aims to inform residents and other local stakeholders of the proposed nature and timeframes for demolition and construction activities together with contact details for site management.

51. Prior to commencement of site works, the developer is to submit to the City of Newcastle, for approval, a Construction Traffic Management Plan, addressing traffic control measures to be implemented in the public road reserve during the construction phase.
52. 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.
53. 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' is to be located in accordance with that authority's requirements.
54. Any excavated material to be removed from the site is to be assessed and classified in accordance with the NSW Environment Protection Authority's '*Waste Classification Guidelines Part 1: Classifying Waste*' and be transported and disposed of in accordance with the provisions of the *Protection Of The Environment Operations Act 1997* and the *Protection Of The Environment (Waste) Regulation 2014*.
55. 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*.
56. Documentation demonstrating the compliance with the conditions of the appropriate Resource Recovery Order and Resource Recovery Exemption must be maintained for any material

received at the site and subsequently applied to land under the conditions of the Resource Recovery Order and Exemption. This documentation must be provided to Newcastle City Council officers or the Principal Certifier on request.

57. During construction works, an assessment of acid sulfate soil potential is to be undertaken in the area of excavation. If acid sulfate soils are found to be present, soils are to be treated in accordance with the New South Wales Acid Sulfate Soil Management Advisory Committee's '*Acid Sulfate Soil Manual*'.
58. 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*.
59. Building demolition is to be planned and carried out in accordance with *Australian Standard 2601:2001 - The Demolition of Structures*.
 60. 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 the Council and to the demolisher prior to commencement of work.
 61. The demolition works are to be undertaken in accordance with Australian Standard 2601:2001 - The Demolition of Structures and the following requirements:
 - a) prior to commencement of demolition works a competent person shall determine the presence of hazardous substances impacted by the proposed demolition works in accordance with Section 1.6.1 of AS2601:2001 and where required produce a Hazardous Substances Management Plan
 - b) demolition works shall be conducted in accordance with any required Hazardous Substances Management Plan. A copy of the Plan shall be kept on-site for the duration of the proposed development and a copy is to be held in the possession of the landowner
 - c) 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
 - d) a copy of all waste disposal receipts are to be kept in the possession of the landowner and made available to authorised Council Officers upon request
 - e) seven working day's notice in writing is to be given to 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, and

- f) 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.

62. 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.

63. 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, an application is to be made for the approval to position the container on the adjacent public road in accordance with the Council's adopted Building Waste Container Policy.

64. All demolition material incapable of being re-used in future redevelopment of the site is to be removed from the site and the site being cleared and levelled.

Note: Where reusable building materials are to be stored on site for use in future building works, such materials are to be neatly stacked at least 150 mm above the ground.

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

66. At a minimum, the following measures are to be implemented during the construction phase:

- a) A waste container of at least one cubic metre capacity is to 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) Provision is to be made to prevent windblown 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*.

67. 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.

- 68. 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.
- 69. 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.
- 70. 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.
- 71. 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.

- 72. 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.

- 73. 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 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.
- 74. 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*.
- 75. 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)

- 76. 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.
- 77. 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.
- 78. Building work must be carried out in accordance with the requirements of the Building Code of Australia.
- 79. 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 is to 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.
- 80. 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.
- 81. The work site is to be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- 82. 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.
- 83. The proposed customer/staff parking bays are to be permanently marked out on the pavement surface and being clearly indicated by means of signs and/or pavement markings.
- 84. 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.
- 85. Erosion and sediment control measures are to be implemented prior to the commencement of works and be maintained during the period of construction in accordance with the details set out on the Erosion and Sediment Control Plan submitted with the application, and with the below requirements:
 - a) Control over discharge of stormwater and containment of run-off and pollutants leaving the site is to be undertaken through the installation of erosion control devices such as

catch drains, energy dissipaters, level spreaders and sediment control devices such as hay bale barriers, filter fences, filter dams and sediment basins and controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover; and

- b) Erosion and sediment control measures are to be designed in accordance with the requirements of the *Managing Urban Stormwater: Soils and Construction 4th Edition - Vol. 1* (the 'Blue Book') published by Landcom, 2004.

- 86. All necessary measures are to be undertaken to control dust pollution from the site. These measures are to include, but are not limited to:
 - a) Restricting topsoil removal;
 - b) Regularly and lightly watering dust prone areas (note: prevent excess watering as it can cause damage and erosion);
 - c) Alter or cease construction work during periods of high wind; and
 - d) Erect green or black shade cloth mesh or similar products 1.8m high around the perimeter of the site and around every level of the building under construction.
- 87. All external items of air conditioning plant are to be screened or positioned in such a manner as to not detract from the visual presentation of the building.
- 88. Prior to the issue of any Occupation Certificate or occupation or use of part of the building, the Principal Contractor or Owner-builder must submit to the satisfaction of the Principal Certifier, certification by a suitably qualified and experienced person (such as an electrical engineer) that the electric vehicle charger points and/or electric vehicle circuitry, has been installed in accordance with the construction certificate plans and specifications as required by the appropriate conditions of consent that have been included in the determination.

Reason: To ensure that an acceptable standard of development is provided in relation to electric vehicle parking and charging.

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

- 89. A design verification statement from a qualified designer shall be submitted to the Principal Certifying Authority 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.
- 90. Prior to the issue of any Occupation Certificate, a Final Identification Survey prepared and signed by a Surveyor registered under the Surveying & Spatial Information Act, 2002 must be submitted to the Principal Certifier at the completion of the building work certifying the location of the building and showing offsets in relation to the existing and proposed boundaries of the site and where over easements. Any encroachments of the building (other than approved awnings) including gutters and downpipes over the side boundaries must be removed, or alternatively appropriate easements under Section 88B of the Conveyancing Act, 1919, with terms to the satisfaction of Council, must be lodged with the office of NSW Land Registry Services, and evidence of lodgement provided to the Principal Certifier prior to the issue of any staged or Final Occupation Certificate.
- 91. Details confirming the installation of the public artwork, required as part of this consent, shall

be submitted to the Principal Certifying Authority and Council prior to the issue of any Occupation Certificate.

92. SUBMISSION OF ELECTRONIC CAD MODELS PRIOR TO OCCUPATION CERTIFICATE
- (a) Prior to any Occupation Certificate being issued, an accurate 1:1 electronic CAD model of the completed development must be submitted to and approved by Council for the electronic City Model.
- (b) The data required to be submitted within the surveyed location must include and identify:
- (i) building design above and below ground in accordance with the development consent;
- (ii) all underground services and utilities, underground structures and basements, known archaeological structures and artefacts;
- (iii) a current two points on the site boundary clearly marked to show their Northing and Easting MGA (Map Grid of Australia) coordinates, which must be based on Established Marks registered in the Department of Lands and Property Information's SCIMS Database with a Horizontal Position Equal to or better than Class C. The data is to be submitted as a DGN or DWG file on a Compact Disc. All modelling is to be referenced to the Map Grid of Australia (MGA) spatially located in the Initial Data Extraction file.
- (c) The electronic model must be constructed in accordance with the City's 3D CAD electronic model specification.
93. 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.
94. The heritage interpretation plan is to be fully implemented to the written satisfaction of Council's heritage officer prior to the issue of an occupation certificate.
95. 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.
96. Before the issue of an Occupation Certificate, the applicant must ensure any public infrastructure (including all public footways, foot paving, kerbs, gutters and road pavement) damaged during the works (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concreting vehicles) are to be immediately fully repaired following the damage, to a condition that provides for safe use by pedestrians and vehicles, to the written satisfaction of Council, and at no cost to Council. 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.

Note: If the council is not satisfied, the whole or part of the bond submitted will be used to cover the rectification work.

97. Appropriate acoustic treatment is to be implemented in accordance with the recommendations set out in the report prepared by Paradigm, dated 6/04/2022. 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 Newcastle City 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.

98. A post construction dilapidation report prepared by a suitability qualified person shall be submitted to the Principal Certifier 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 Newcastle City Council and will be made available in any private dispute between neighbours regarding damage arising from construction works.

99. **Parking accommodation is to be provided in the on-site multistorey carpark for a minimum of 172 vehicles comprising 151 spaces (maximum) allocated to residents, 12 commercial/retail, and 9 visitor spaces and such being available for use prior to the issue of any Occupation Certificate (whether interim or final) for the development.**
100. All public footways, foot paving, 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.
101. 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.

102. All works within the road reserve required by this consent are to be completed prior to the issue of an Occupation Certificate.
103. The redundant existing vehicular crossing in Steel Street 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.
104. A copy of the stormwater drainage design plans approved with the Construction Certificate with 'work as executed' levels indicated, shall be submitted to the Principal Certifier and to Newcastle City Council prior to the issue of an Occupation Certificate. The plans shall be prepared by a Practising Professional Engineer or Registered Surveyor experienced in the design of stormwater drainage systems.
105. 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.
106. 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
107. A 1.2m x 1.2m footpath splay is to be provided at the corner of Hunter Street and Steel Street

on the ground floor as public footway and the portion of the land required for road widening is to be transferred to Council as a road reserve. Otherwise, the land can be retained as a public right of access. A detailed survey plan is to be submitted with an accompanying Subdivision Certificate Application for Council certification and such plan is to be registered with the NSW Government Land & Property Information prior to issue of any occupation certificate.

108. The premises are to be identified by the provision of house numbers on the building exterior and mailbox such that they are clearly visible from the road frontage.

The minimum numeral height is to be 75mm.

CONDITIONS TO BE SATISFIED DURING THE OPERATION AND USE THE DEVELOPMENT

109. A minimum of 9 of proposed on-site parking bays are to be made available for the use of casual visitors to the premises as visitor car parking and such spaces under no circumstances to be subdivided, leased or controlled by or on behalf of particular unit owners, residents or third parties or become unbundled car parking.
110. The signs are to meet the criteria contained in Section 3.3.3 Illumination and reflectance of the *Department of Planning's Transport Corridor Outdoor Advertising and Signage (November 2017)*.
111. The driveway crossing, parking areas and stormwater management system are to be properly maintained for the life of the development.
112. The hours of operation or trading of the commercial tenancies to be not more than:

DAY	START	FINISH
Monday	6am	10pm
Tuesday	6am	10pm
Wednesday	6am	10pm
Thursday	6am	10pm
Friday	6am	10pm
Saturday	6am	10pm
Sunday	6am	10pm

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

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

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

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

Should City of Newcastle consider that unreasonable levels of air impurities have been

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

115. 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.
116. 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 Clause 154A of the Environmental Planning and Assessment Regulation 2000.
117. 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 or Steel Street for kerbside collection or remain at kerbside after collection.
118. 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

- ☐ 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 2.40m Australian Height Datum (AHD)
 - b) Flood Hazard Level is 2.90m AHD (Freeboard is 500mm above DFL)
 - c) Maximum Flow Velocity of floodwaters for the Defined Flood Event is 0.10m/s
- ☐ 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 day's notice of the date intended for commencement of building works.
- ☐ A person who is aware or believes that he or she has discovered or located a relic not

identified and considered in the supporting documents for this approval, in any circumstances (including where works are carried out in reliance on an exception under section 139(4)), excavation or disturbance must cease in the affected area(s) and the Heritage Council must be notified in accordance with section 146 of the *Heritage Act 1977*. Depending on the nature of the discovery, additional assessment and approval under the *Heritage Act 1977* may be required prior to the recommencement of excavation in the affected area(s).

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 exception or an excavation permit issued by the Heritage Council of NSW.

- ☐ If any Aboriginal objects are discovered which are 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 notified in accordance with section 89A of the *National Parks and Wildlife Act 1974 (NPW Act)*. Depending on the nature of the discovery, additional assessment and approval under the NPW Act may be required prior to works continuing in the affected area(s). Aboriginal objects in NSW are protected under the NPW Act. Unless the objects are subject to a valid Aboriginal Heritage Impact Permit, work must not recommence until approval to do so has been provided by Heritage NSW.

Note: Heritage NSW can be contacted on 02 9873 8500 or heritagemailbox@environment.nsw.gov.au. An 'Aboriginal object' is any deposit, object or other material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of an area of New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains. It is an offence under the provisions of the *National Parks and Wildlife Act 1974 (NPW Act)* for a person to harm or desecrate an Aboriginal object, with defence from prosecution and certain activities exempt as prescribed under the NPW Act.

- ☐ 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.
- ☐ It is an offence under the provisions of the *Protection of the Environment Operations Act 1997* to act in a manner causing, or likely to cause, harm to the environment. Anyone allowing material to enter a waterway or leaving material where it can be washed off-site may be subject to a penalty infringement notice (i.e. 'on-the-spot fine') or prosecution.
- ☐ Failure to comply with the conditions of consent constitutes a breach of the *Environmental Planning and Assessment Act 1979*, which may be subject to a penalty infringement notice (ie 'on-the-spot fine') or prosecution.
- ☐ 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

- ☐ 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).
- ☐ Retaining walls not clearly noted on the approved plans or outside of the parameters of 'exempt development', as specified in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*, are to be subject to a separate development application. An application in this regard is to be approved prior to any works relating to such a retaining wall taking place.
- ☐ 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*.
- ☐ Any proposed business identification sign or advertising sign is to be designed in accordance with the provisions of Newcastle Development Control Plan 2012 and be the subject of a separate Development Application that is to be approved prior to the sign being erected or placed in position, except when such signage meets 'exempt development' criteria.
- ☐ A Construction Certificate application for this project is to include a list of fire safety measures proposed to be installed in the building and/or on the land and include a separate list of any fire safety measures that already exist at the premises. The lists are to describe the extent, capability and basis of design of each of the measures.
- ☐ 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 Fire and Rescue NSW 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 Section 88 of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021* (NSW) is to be submitted to Newcastle City Council and a copy (together with a copy of the current fire safety schedule) is to be given to the Commissioner of Fire and Rescue NSW. A further copy of the Statement (together with a copy of the current fire safety schedule) is to be prominently displayed in the building.

END OF CONDITIONS

SCHEDULE 2

REASONS FOR THE DETERMINATION & CONSIDERATION OF COMMUNITY VIEWS

The determination decision was reached for the following reasons:

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

REASONS WHY THE CONDITIONS HAVE BEEN IMPOSED

The following conditions are applied to:

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