**Annexure A – Conditions of Consent**

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| **Application No:** | MA2022/00286 (DA2019/00711) |
| **Land:** | Lot 1171 DP 858465  Lot 1181 DP 596950  Lot 1 DP 741514  Lot 100 DP 612505  Lot 99 DP 1134475 |
| **Property Address:** | 1 National Park Street Newcastle West NSW 2302  17 National Park Street Newcastle West NSW 2302  19 National Park Street Newcastle West NSW 2302  484 King Street Newcastle West NSW 2302 |
| **Proposed Development:** | Mix Use Development - Shop top housing, commercial premises, car parking, associated demolition, landscaping, and site works. |

**SCHEDULE 1**

**APPROVED DOCUMENTATION CONDITIONS**

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.

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| --- | --- | --- | --- |
| **Plan No / Supporting Document** | **Reference / Version** | **Prepared by** | **Dated** |
| Site Plan | DA-A1-002 – Rev G | CKDS Architecture/Marchese partners | 14/10/2022 |
| Demolition Plan | DA-A1-006 – Rev E | CKDS Architecture/Marchese partners | 14/10/2022 |
| Building Separation & Setback Plan | DA-A1- 007 & DA-A1- 008– Rev F | CKDS Architecture/Marchese partners | 14/10/2022 |
| Floor Plan – Ground | CCA2-001 – Rev K2 | CKDS Architecture/Marchese partners | 30/11/2022 |
| Floor Plan – Ground Mezzanine | DA-A2-002 – Rev L | CKDS Architecture/Marchese partners | 28/11/2022 |
| Floor Plan – Level 01 | DA-A2-003 – Rev L | CKDS Architecture/Marchese partners | 28//11/2022 |
| Floor Plan – Level 02 | DA-A2-004 – Rev L | CKDS Architecture/Marchese partners | 28/11/2022 |
| Floor Plan – Level 03 | DA-A2-005 – Rev L | CKDS Architecture/Marchese partners | 28/10/2022 |
| Floor Plan – Level 04 | DA-A2-006 – Rev K | CKDS Architecture/Marchese partners | 14/10/2022 |
| Floor Plan – Level 05 | DA-A2-007 – Rev K | CKDS Architecture/Marchese partners | 14/10/2022 |
| Floor Plan – Level 06 | DA-A2-008 – Rev K | CKDS Architecture/Marchese partners | 14/10/2022 |
| Floor Plan – Level 07 | DA-A2-009 – Rev J | CKDS Architecture/Marchese partners | 14/10/2022 |
| Floor Plan – Level 08 | DA-A2-010 – Rev J | CKDS Architecture/Marchese partners | 14/10/2022 |
| Floor Pan – Level 09 | DA-A2-011 – Rev K | CKDS Architecture/Marchese partners | 14/10/2022 |
| Floor Plan – Level 10 | DA-A2-012 – Rev J | CKDS Architecture/Marchese partners | 14/10/2022 |
| Floor Plan – Level 11 | DA-A2-013 – Rev J | CKDS Architecture/Marchese partners | 14/10/2022 |
| Floor Plan – Level 12 | DA-A2-014 – Rev J | CKDS Architecture/Marchese partners | 14/10/2022 |
| Floor Plan – Level 13 | DA-A2-015 – Rev J | CKDS Architecture/Marchese partners | 14/10/2022 |
| Floor Plan – Level 14 | DA-A2-016 – Rev J | CKDS Architecture/Marchese partners | 14/10/2022 |
| Floor Plan – Level 15 | DA-A2-017 – Rev J | CKDS Architecture/Marchese partners | 14/10/2022 |
| Floor Plan – Level 16 | DA-A2-018 – Rev J | CKDS Architecture/Marchese partners | 14/10/2022 |
| Floor Plan – Level 17 | DA-A2-019 – Rev J | CKDS Architecture/Marchese partners | 14/10/2022 |
| Floor Plan - Level 18 | DA-A2-020 – Rev J | CKDS Architecture/Marchese partners | 14/10/2022 |
| Floor Plan - Level 19 | DA-A2-021 – Rev K | CKDS Architecture/Marchese partners | 14/10/2022 |
| Floor Plan - Level 20 | DA-A2-022 – Rev K | CKDS Architecture/Marchese partners | 14/10/2022 |
| Floor Plan – Level 21 | DA-A2-023 – Rev K | CKDS Architecture/Marchese partners | 14/10/2022 |
| Floor Plan – Level Roof | DA-A2-024 – Rev K | CKDS Architecture/Marchese partners | 14/10/2022 |
| Floor Plan – Roof-Lift Overrun | DA-A2-025 – Rev J | CKDS Architecture/Marchese partners | 14/10/2022 |
| South, West, East, North, Elevation | DA-A3-001, DA- A3-002, DA-A3-003,  DA-A3-004 – Rev K | CKDS Architecture/Marchese partners | 14/10/2022 |
| South Elevation – North Tower & North Elevation – South Tower | DA-A3-005 & DA-A3-006 – Rev K, | CKDS Architecture/Marchese partners | 14/10/2022 |
| Materiality - Elevations | DA- A3-013 & DA- A3-014- Rev E | CKDS Architecture/Marchese partners | 14/10/2022 |
| Materiality - Elevations | DA- A3-014- Rev E | CKDS Architecture/Marchese partners | 14/10/2022 |
| Materiality - Elevations | DA- A3 015- & DA-A3-016 Rev A | CKDS Architecture/Marchese partners | 14/10/2022 |
| Materiality – Elevations formliner | DA-A3-017 & DA-A3-018– Rev E | CKDS Architecture/Marchese partners | 14/10/2022 |
| Materiality – plaza section/ elevations | DA-A3-019 – Rev E | CKDS Architecture/Marchese partners | 14/10/2022 |
| Materiality – Podium | DA-A3-020 & DA-A3-0210, DA-A3-022 – Rev E | CKDS Architecture/Marchese partners | 14/10/2022 |
| Materiality - Tower | DA-A3- 023 & DA-A3-024 –Rev E  DA-A3 – 025 – Rev E | CKDS Architecture/Marchese partners | 14/10/2022 |
| Window Schedule | DA-AXX-001, DA-AXX-002, DA-AXX-003 Rev H | CKDS Architecture/Marchese partners | 14/10/2022 |
| Section Plans | DA-A4-001 – Rev J  DA-A4-002 – Rev J  DA-A4-003 – Rev J  DA-A4-004 – Rev A | CKDS Architecture/Marchese partners | 14/10/2022 |
| Landscaping Plan | L101 – Rev C, L102 – C, L103 – Rev A, L104 – Rev A, L105 – Rev A, L106 – Rev A, L201 – Rev A, L301 – Rev A, L302 – Rev A. | Xeriscapes | 04/10/2022 |
| Stormwater Management Plans | C04.01 – Job No. 21243 | Wallace Infrastructure Design Pty Ltd | 10/11/2022 |
| Concept Soil and Water Management Plan | Job No NL180910 Version 1.1 | Northrop Consulting Engineers | 05/06/2019 |
| Waste Management Plan | Report No. SO100084 Rev I | Elephants Foot Recycling Solutions | 16/08/2022 |
| Waste Management Service Letter |  | Veolia Environmental Services | 12/06/2019 |
| Traffic Impact Addendum 1 | Ref No. 18/063 | Intersect Traffic | 11/08/2022 |
| Basix Certificate | 998995M\_03 | Evergreen Energy Consultants | 17/08/2022 |
| Crime Prevention through Environmental Design - CPTED | 1-19 National Park Street & 484 King Street Newcastle West | KDC Planning Development Property | 06/06/2019 |
| SEPP 65 Design Verification Statement | Job No 18046 | Marchese partners & CKDS Architecture | 16/08/2022 |
| Remedial Action Plan | NEW19P-0228-ACV1 | Qualtest Pty Ltd | 30/08/2019 |
| Supplementary Contamination Assessment | NEW18P-0228-AD | Qualtest Pty Ltd | 3/06/2020 |
| Noise Impact Assessment | 1-19 National Park Street and 484 King Street Newcastle west | Muller Acoustic Consulting | 05/06/2019 |
| BCA Compliance Capability Assessment | Ref 116502-1a/mk | Matthew Kemp | 09/08/2022 |

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.

WORKS NOT APPROVED

1.A Development consent has not been granted to the following elements of the proposal (marked in red on the approved plans):

* 1. Level 19 of the North Tower
  2. Staging Plan
  3. Stratum Subdivision

Works not approved are to be excluded from the documentation submitted for a Construction Certificate application.

*Condition inserted 6/12/2022*

ADMINSTRATIVE CONDITIONS

1. The General Terms of Approval from state authorities must be complies with prior to, during, and at the completion of the development. The General Terms of Approval are:

* Subsidence Advisory NSW dated 29 September 2022.

A copy of the General Terms of Approval is attached to this determination notice at Schedule 2.

1. A total monetary contribution of $2,198,656.73 is to be paid to the City of Newcastle (CN), pursuant to Section 7.12 of the Environmental Planning and Assessment Act 1979, such contribution to be payable prior to the issue of the first occupation certificate in respect of the proposed development.

The payment deferral arrangements enabling payment prior to the issue of the first occupation certificate applies from the 8th July 2020 to the 25 September 2020, when the COVID-19 prescribed period ends. The payment deferral arrangements cease to apply if a construction certificate has not been issued for the development by 25 September 2022.

Note:

1. This condition is imposed in accordance with the provisions of the City of Newcastle’s Section 7.12 Newcastle Local Infrastructure Contributions Plan 2019.
2. The City of Newcastle’s Section 7.12 Newcastle Local Infrastructure Contributions Plan 2019 permits deferred or periodic payment of levies in certain circumstances. A formal modification of this condition will be required to enter into a deferred or periodic payment arrangement.
3. Certifiers are required to obtain documentation from City of Newcastle confirming the payment of infrastructure contributions prior to the issuing of an occupation certificate.
4. The amount of contribution payable under this condition has been calculated on the basis of the current rate as at the date of consent and is based on the most recent quarterly Consumer Price Index (CPI) release made available by the Australian Bureau of Statistics (ABS). The CPI index rate is expected to rise at regular intervals and therefore the actual contribution payable is indexed and recalculated at the CPI rate applicable on the day of payment.

CPI quarterly figures are released by the ABS on a date after the indexation quarter and, as a guide, these approximate dates are as follows:

Indexation quarters Approximate release date

September Late October

December Late January

March Late April

June Late July

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

*Condition Amended 6/12/2022*

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

ENGINEERING

1. Prior to the issue of any construction certificate the following parking provisions must be accommodated on-site:
2. A maximum of 275 on-site car parking spaces must be provided and allocated as follows:
3. maximum of 137 resident car parking spaces must be allocated to Southern Tower Residential Units
4. maximum of 92 resident car parking spaces must be allocated to Northern Tower Residential Units
5. 26 commercial car parking spaces
6. 20 residential visitor car parking spaces
7. A minimum of 15 commercial car parking spaces must be shared as residential visitor parking during off-peak retail/commercial business hours.
8. At least 3 car parking spaces shall be designed as disabled parking and could be distributed between residential, visitor and commercial use.
9. At least 1 visitor parking space must be designed as a carwash bay.
10. A minimum of 226 secured bicycle parking must be provided and allocated as follows:
11. 117 bicycle parking spaces must be allocated to Southern Tower Residential Units
12. 82 bicycle parking spaces must be allocated to Northern Tower Residential Units
13. minimum 27 bicycle parking spaces must be allocated for residential visitors and Commercial Units
14. A minimum of 12 motorbike parking spaces must be provided
15. A loading zone area that can accommodate at minimum a medium rigid vehicle (MRV).

All parking spaces are to 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 DCP 2012 and Australian Standards AS2890 series.

Note: The parking layout shall be generally as indicated in the approved architectural plans.

*Condition Amended 6/12/2022*

4A Design Refinement Condition

Prior to the issue of any construction certificate for development, the following design elements must be demonstrated, and any required redesign changes must be made on the architectural plans:

1. All proposed circular columns (structural piers) locations on the ground floor right of carriageway area is to be confirmed accurately on the plans taking into consideration the following elements:
2. All existing driveways, car parking area and car parking entries for the adjoining Hunter Street properties (689 – 707 Hunter St sites) accessing the right of carriageway must be accurately surveyed and marked on the plans
3. The proposed circular columns must be designed and located in positions that ensures that all driveway, and car parking access and any direct pedestrian access or disabled access for all the existing 689 - 707 Hunter St properties along the right of carriageway is retained and/or enhanced.
4. Ground floor right of carriageway and access to proposed loading zone to be designed at minimum for medium rigid vehicles (MRV). Turning templates are to be designed to demonstrate that the turning of MRV is compliant with AS2890.2 and safe turning can be done without impacting on adjoining 689 – 707 Hunter Street properties. Any changes required to the building design and associated right of carriageway must demonstrated on the plans to ensure MRV can access the site.
5. Adequate end user facilities including showers, change rooms, toilets and lockers must be designed for proposed commercial units in accordance with Newcastle City Council DCP 7.06 Traffic, Parking and Access.

*Condition inserted 6/12/2022*

4B Electric Car Charging

|  |  |
| --- | --- |
| EV Provisions for Car parking  (Generally, 5% of residential and bicycle parking spaces) | Prior to the issue of the relevant construction certificate, the following must be demonstrated to the satisfaction of the certifying authority and must be designed in accordance with Element 7.03 ‘Traffic, Parking and Access’ of Council’s adopted Newcastle DCP 2012:   1. The car park must provide an EV Ready Connections to at least 13 car spaces. Provisions are to be provided for at for least 11 electric bicycle and scooter charging stations. 2. EV Distribution Board(s) shall be of sufficient size to allow for any future EV connections to all car parks and potential bicycle and scotters. 3. Locate EV Distribution board(s) so that no future EV Ready Connection will require a cable of more than 50m from the parking bay to connect. 4. Each EV Ready Connection is served from a cable tray and a dedicated spare electrical circuit provided in an EV Distribution Board to enable easy future installation of cabling from an EV charger to the EV Distribution Board and a circuit breaker to feed the circuit. 5. EV Load Management System is to be capable of:    * Reading real time current and energy from the electric vehicle chargers under management;    * Determining, based on known installation parameters and real time data, the appropriate behaviour of each EV charger to minimise building peak power demand whilst ensuring electric vehicles connected are full recharged;    * Scale to include additional chargers as they are added to the site over time. 6. The above EV electrical design is to be done by an appropriately qualified and licenced electrician and is to be done to the relevant Australian Standards and BCA requirements. |

*Condition inserted 6/12/2022*

1. A loading/unloading area with capacity to accommodate the largest delivery/service vehicles likely to use the premises, is to be provided in a position which does not cause obstruction to the vehicular access driveway or parking area. Full details are to be included in documentation for a Construction Certificate application.

*Condition amended 6/12/2022*

1. 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.
2. 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.

1. A commercial vehicular crossing is to be constructed across the road reserve, in accordance with the following criteria:
   1. Constructed in accordance with Council’s A1300 – Driveway Crossings Standard Design Details.
   2. The driveway crossing, within the road reserve, shall be a maximum of 7 metres wide.
   3. Letterboxes, landscaping and any other obstructions to visibility should be kept clear of or limited in height to 1.2 metre, in the 2 metre by 2.5 metre splay within the property boundary each side of the driveway entrance.
   4. The proposed driveway shall be a minimum of 3 metres clear of the trunk of any tree within the public reserve.
   5. The proposed driveway shall be a minimum of 750mm clear of the centre of any pole or obstruction within the public reserve and 1 metre clear of any drainage pit.

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

1. Suitable traffic and safety management device in the form of give way to pedestrian sign, line markings for safety and traffic movements, mirrors and safety and speed signs are to be installed in an appropriate location within the site. Opposing traffic flows on the car park ramps and the right of carriageway are to be separated by provision of appropriate safety barrier. such device to be constructed in accordance with AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking. Full details are to be included in documentation for a Construction Certificate application.

*Condition amended 6/12/2022*

1. Letterboxes, landscaping and any other obstructions to visibility are to be kept clear of or limited in height to 1.2m in the 2 metre by 2.5 metre splay within the property boundary each side of the driveway entrance in accordance with AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking. Full details are to be included in documentation for a Construction Certificate application.
2. 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 Plans prepared by Wallace Infrastructure Design Pty Ltd (Project No. 21243 Dwg No C04.01, Rev 0, dated 10 Nov 2022). A Spel type or similar pit insert is to be installed in the stormwater pit within the site proposed at National Park St property boundary located within the right of carriageway. Full datils are to be included in documentation a Construction Certificate application.

*Condition amended 6/12/2022*

1. All onsite stormwater detention or water quality treatment systems are to be individually identified and sign posted in accordance with Council’s Stormwater and Water Efficiency for Development Technical Manual (Updated 2013). Full details are to be included in documentation for a Construction Certificate application.

FLOODING

1. The ground floor level of all proposed buildings is to be verified on plans for a Construction Certificate application to be as indicated on the approved architectural plans, Job No. 18022, Dwg CCA2-001. The finished floor levels are to be certified by a registered Surveyor prior to the placement of the floor material and a copy of the Surveyor’s Certificate is to be forwarded to the Principal Certifying Authority.

*Condition Amended 6/12/2022*

1. The whole of the proposed structure below the flood hazard level (3.0m Australian Height Datum) is to be constructed in materials and finishes that are resistant to damage from floodwaters/tidal waters. Any new machinery or equipment, electrical circuitry or fitting, storage unit or similar items likely to be damaged by floodwaters/tidal waters being installed above the said height or alternatively being of materials and functional capability resistant to the effects of floodwaters/tidal waters. Full details are to be included in documentation for a Construction Certificate application.
2. An onsite flood refuge is to be provided within the building to safely accommodate the expected number of site users in the ground floor area during a flash flood event.

The minimum onsite flood refuge level in the building is the level of the local catchment Probable Maximum Flood (PMF) event (4.2m Australian Height Datum). The building structure must be designed to withstand the force of a PMF event. The building must be designed to ensure safe access is available to the flood refuge areas from the ground floor areas. Allowance needs to be made for power outage and lift failure. Full details are to be included in documentation for a Construction Certificate application.

1. Onsite flood storage areas are to be provided for large flood events up to the PMF, designed to allow floodwaters to enter and leave without flow restrictions. Full details are to be provided in documentation for a Construction Certificate application.

PLANNING

1. 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.
2. 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.
3. 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.
4. Prior to the release of a 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.
5. A wind tunnelling report is to be prepared by an appropriate qualified and experience engineer. This report is to be prepared in accordance with AS1170.2 and should consider the impact on the building, the environment and pedestrian movements surrounding the development. Architectural and landscape plans will need to reflect the recommendations of the wind tunnelling report and amended plans and the wind tunnelling report is to be provided to the Principal Certifier prior to issue of a Construction Certificate (excluding any construction certificate for remediation works or demolition). A copy of the wind tunnelling report is to be provided to Council.
6. The person having the benefit of the consent, must notify any contractors and persons involved in undertaking subsurface disturbance works, that it is an offence under Section 86 of the National Parks and Wildlife Act 1974 to harm or desecrate an Aboriginal object unless that harm or desecration is subject of an approved Aboriginal Heritage Impact Permit (AHIP).

During construction works should any Aboriginal relics be discovered then all excavations or disturbance to the area shall cease immediately and the NSW Biodiversity Conservation Division (BCD), shall be informed in accordance with Section 89A of the National Parks and Wildlife Act 1974.

Note: All necessary approvals from the NSW Biodiversity Conservation Division (BCD) shall be obtained and a copy provided to Council prior to works recommencing.

*Condition Amended 6/12/2022*

1. 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.

1. In accordance with the terms and conditions of the Competition Waiver Agreement (Dated 13 March 2019) the applicant shall present or submit to the Design Excellence Panel prior to the release of a Construction Certificates or tender documentation for the project.

*Condition Amended 6/12/2022*

1. A security gate is to be included on the Level 04 communal open space terrace, restricting access to the pathway directly adjacently to the balcony area and habitable rooms of Apartment N - 0401.

LANDSCAPING

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

a) cross sections through the site where appropriate

b) proposed contours or spot levels

c) botanical names

d) quantities and container size of all proposed trees

e) shrubs and ground cover f) details of proposed soil preparation

f) details of proposed soil preparation

g) mulching and staking

h) treatment of external surfaces and retaining walls where proposed

i) drainage, location of taps and

j) appropriate maintenance periods.

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

ASSETS & PUBLIC DOMAIN

1. The proposed awnings are to be designed in a manner that is consistent with Element 7.10 ‘Street Awnings and Balconies’ of the Newcastle Development Control Plan. Under awning lighting is to be provided to the area's Lighting category in accordance with AS1158. The design of the awning should allow for street tree planting and/or retention of existing trees. Full details are to be included in documentation for a Construction Certificate application.
2. The Developer designing and constructing the public domain works within King Street and National Park Street public road reserves, at no cost to Council, and in accordance with the City Centre Public Domain Technical Manual, Newcastle West Public Domain Plan, guidelines and design specifications. The public domain works must be done in consultation with Council and is to include:
   1. Full width foot paving as per Council City Centre Technical Manual on King St extending to the adjoining Verve development and National Park St extending to Hunter St
   2. Road pavement and road asphalting of National Park St and King St in accordance with Newcastle West Drainage Study and Kerb and gutter replacement over the full site frontages to King and National Park Streets.
3. Note: Heritage Sandstone kerb and gutter to be protected and reused onsite
4. New driveway crossing and removal of redundant driveways
5. Provision of new street furniture including bins, seats and bicycle rings etc and any public artworks within the road reserve
6. Provision of footpath extension, pedestrian crossing and streetscape works at the intersection of National Park St and Hunter St generally as per Newcastle West Public Domain Plan
7. Stormwater discharge connections from the development site and associated road drainage works
8. New Street trees as per Council City Centre Technical Manual including any required tree volts for planting (note: existing street trees are to be retained unless approved by this DA)
9. Street Lighting upgrade in accordance with AS1158 and to Smart City requirements (includes provision of Smart City poles)
10. Upgrade of existing bus stops to DDA and current Council requirements including provision of bus shelters and associated seating
11. Installation of any parking signs and mandatory signs (note: any changes will require NCTC approval)

Public domain works are to be designed to ensure there will be no adverse flood impacts.

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.

*Condition Amended 6/12/2022*

OTHER APPROVALS

1. The applicant is to comply with all requirements of the Hunter Water Corporation regarding the connection of water supply and sewerage services, including the payment of any required cash contribution towards necessary amplification of service mains in the locality as a result of the increased intensity of land use proposed. A copy of the Corporation’s compliance certificate (refer s50 Hunter Water Act 1991) is to be included in documentation for a Construction Certificate application.

29.A The development must be amended to include the following design amendments:

* 1. Removal of proposed Level 19 on the northern tower.
  2. Provision of additional landscaping
  3. A reduction in the structural columns locate in the ground floor commercial area.

The above details are submitted to and approved by Council's Manager Regulatory, Planning and Assessment (in consultation with CN's Urban Design Consultative Group) prior to issue of a Construction Certificate. Full details are to be included in the documentation submitted for a Construction Certificate application.

1. 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.
2. A separate application must be lodged and consent obtained from Council for all works within the road reserve pursuant to Section 138 of the Roads Act 1993 (NSW), before the issue of a Construction Certificate.

Note: A separate Section 138 Type 2 (specifically for awning) application will be required for the awnings associated with the approved development.

1. A public art feature shall be designed for the site in consultation with City of Newcastle. The public artwork is to have a minimum value of 1% ($732,885.58) 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 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.

*Condition Amended 6/12/2022*

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

BUILDING AND SITE REQUIREMENTS

1. 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.

1. All building work must be carried out in accordance with the provisions of the National Construction Code.
2. 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:
   1. Be a standard flushing toilet connected to a public sewer, or
   2. Have an on-site effluent disposal system approved under the Local Government Act 1993 (NSW), or
   3. Be a temporary chemical closet approved under the Local Government Act 1993 (NSW).
3. Waste management shall be implemented in accordance with the approved Waste Management Plan. At a minimum, the following measures shall be implemented during the construction phase:
   1. 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
   2. 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
   3. Appropriate provision is to be made to prevent windblown rubbish leaving the site and
   4. 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).

1. A rigid and durable sign is to be erected on any site on which building work, subdivision work or demolition work is being carried out, before the commencement of the work:
   1. showing the name, address and telephone number of the Principal Certifying Authority for building work and subdivision work, and
   2. showing the name, address and telephone number of the Principal Contractor for any building work and also including a telephone number on which the Principal Contractor may be contacted at any time for business purposes, and
   3. stating that unauthorised entry to the work site is prohibited, and
   4. being erected in a prominent position that can be read easily by anyone in any public road or other public place adjacent to the site. Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
2. 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.
3. If the soil conditions require it, retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil must be provided and adequate provision must be made for drainage.
4. All building materials, plant and equipment is to be placed on the site of the development so as to ensure that pedestrian and vehicular access in public places is not restricted and to prevent damage to the road reserve. The storage of building materials on Council reserves including the road reserve is not permitted.
5. Council’s ‘PREVENT POLLUTION’ sign is to be erected and maintained in a conspicuous location on or adjacent to the property boundary so it is clearly visible to the public or at other locations on the site as otherwise directed by Council for the duration of demolition and construction work. Note: Council’s ‘PREVENT POLLUTION’ sign can be obtained by presenting your development application receipt at Council’s Customer Enquiry Counter at 282 King Street Newcastle.
6. 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:
   1. 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
   2. 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.
7. Prior to the commencement of work, all weather vehicle access is to be provided from the kerb and gutter to the building under construction, to reduce the potential for soil erosion. Sand shall not be stockpiled on the all-weather vehicle access.
8. All necessary measures are to be undertaken to control dust pollution from the site. These measures must include, but not are limited to:
   1. Restricting topsoil removal
   2. Regularly and lightly watering dust prone areas (note: prevent excess watering as it can cause damage and erosion
   3. Alter or cease construction work during periods of high wind and erect green or black shadecloth mesh or similar products 1.8m high around the perimeter of the site and around every level of the building under construction.

DEMOLITION AND EARTHWORKS

1. Building demolition is to be planned and carried out in accordance with Australian Standard 2601:2001 - The Demolition of Structures.
2. A Hazardous Substances Management Plan is to be prepared by a competent person for the building(s) or parts of the building(s) proposed to be demolished in accordance with Australian Standard 2601:2001 - The Demolition of Structures. A copy of the Hazardous Substances Management Plan is to be provided to Council (marked to Attention: Compliance Services) and the demolisher prior to commencement of work.

The demolition works are to be undertaken in accordance with Australian Standard 2601:2001 - The Demolition of Structures and the following requirements:

* 1. Demolition works shall be conducted in accordance with the submitted Hazardous Substances Management Plan and a copy of the Hazardous Substances Management Plan shall be kept on-site for the duration of the proposed development
  2. 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
  3. A copy of all waste disposal receipts are to be kept on-site for the duration of the proposed development and made available to authorised Council Officers upon request
  4. Seven working days' notice in writing is to be given to Council and the owners/occupiers of neighbouring premises prior to the commencement of any demolition works. Such written notice is to include the date demolition will commence and details of the name, address, contact telephone number(s) and licence details (type of licences held and licence numbers) of any asbestos removal contractor and demolition contractor. Notification to owners/occupiers of neighbouring premises shall also include Council’s contact telephone number (49742000) and the Workcover Authority of NSW telephone number (49212900) and,
  5. 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.

1. 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.
2. Any waste containers used in association with the proposed demolition are to be located on the site where possible.

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

1. The demolisher is to ensure that all demolition material is kept clear of the public footway and carriageway as well as adjoining premises.
2. 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.
3. 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:
   1. Protect and support the adjoining premises from possible damage from the excavation, and
   2. 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.

1. 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’.
2. 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.
3. 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.

PLANNING

1. 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.
2. 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.
3. Certification is to be prepared by a Registered Surveyor and submitted to the Principal Certifier at the stages of construction indicated:
   1. On completion of ground floor construction, confirming that the floor levels are in accordance with the approved levels.
   2. On completion of each subsequent floor level, confirming that the floor levels are in accordance with the approved levels.
   3. When the roof has been completed, confirming that the building does not exceed the approved levels.
4. 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.

ENVIRONMENTAL HEALTH

1. The premises are to be constructed, including the installation of all equipment, fixtures and fittings, in accordance with the requirements of *Australian Standard 4674:2004 - Design, construction and fit-out of food premises.*

ENGINEERING

1. 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.
2. 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.
3. 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 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:
   1. A site management strategy, identifying and addressing issues such as environmental health and safety, site security, and traffic management.
   2. 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.
   3. A dust management strategy, detailing procedures to minimise dust generation, with particular reference to control techniques and operational limits under adverse meteorological conditions.
   4. A waste minimisation strategy that aims to avoid production of waste and maximise reuse, recycling or reprocessing of potential waste material.
   5. A community relations plan that aims to inform local residents and other local stakeholders of the proposed nature and timeframes for construction activities together with contact details for site management.
   6. A noise management strategy detailing measures to minimise the impact of the construction phase on the amenity of the locality, in accordance with Australian Standard AS 2436, 1981 'Guide to Noise control on Construction, Maintenance and Demolition Sites'. Noise monitoring during the construction phase should be incorporated into the program.
   7. A site management strategy for dealing with any identifying potential for Acid Sulphate Soils (ASS) to be encountered and measures and techniques to be followed in the event that ASS are encountered.
4. Prior to commencement of site works the developer must submit to the written satisfaction of City of Newcastle a Construction Traffic Management Plan addressing traffic control measures to be utilised in the public road reserve during the construction phase.

Note: 1. The plan will be required to be referred to the Roads & Traffic Authority for separate approval.

Note: 2. The required plan is to ensure the provision for safe, continuous movement of traffic and pedestrians within the road reserve. The plan is to be prepared in accordance with Australian Standard 1742.3 – 2002.

1. Prior to commencement of site works for each respective stage of development the developer is to submit to the written satisfaction of City of Newcastle a Construction Parking Management Plan (CPMP) addressing the parking of construction vehicles and the transportation of construction personnel to the site. The CPMP is to detail a common location for the parking of construction vehicles outside of the Newcastle CBD area and utilise shuttle buses and for the transportation of construction personnel and their equipment to the site.
2. The Contractor making provision for safe, continuous movement of traffic and pedestrians in public roads and erecting traffic warning signs conforming to the Roads and Traffic Authority’s General Specifications (RTA Spec. Part G10 “Control of Traffic” and RTA Spec. 3355). Traffic control is to be carried out only by flagmen with certification that they have been trained in accordance with Australian Standard 1742.3 - 2002.

CAR PARKING

1. ~~On-site car parking accommodation is to be provided for a minimum of 248~~~~vehicles (includes minimum of 39 residential visitor parking, 15 retail, 10 office and 2 disabled spaces), 12 motorbike spaces and 226 bicycle parking (Class 2) and such being set out generally in accordance with the details indicated on the submitted plans except as otherwise provided by the conditions of consent.~~

*Condition deleted and moved OC stage.*

1. All parking bays are to be permanently marked out on the pavement surface.
2. The proposed visitor parking bays are to be clearly indicated by means of signs and/or pavement markings and shall remain as common property under any future strata scheme.
3. 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.

OTHER APPROVALS

1. 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.

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

ENGINEERING

Prior to the issue of an occupation certificate, the following parking provisions must be accommodated on-site:

1. A maximum of 275 on-site car parking spaces must be provided and allocated as follows:
2. maximum of 137 resident car parking spaces must be allocated Southern Tower Residential Units
3. maximum of 92 resident car parking spaces must be allocated to Northern Tower Residential Units
4. 26 commercial car parking spaces
5. 20 residential visitor car parking spaces
6. A minimum of 15 commercial car parking spaces must be shared as residential visitor parking during off-peak retail/commercial business hours.
7. At least 3 car parking spaces shall be designed as disabled parking and could be distributed between residential, visitor and commercial use.
8. At least 1 visitor parking space must be designed as a carwash bay.
9. A minimum of 226 secured bicycle parking must be provided and allocated as follows:
10. 117 bicycle parking spaces must be allocated to Southern Tower Residential Units
11. 82 bicycle parking spaces must be allocated to Northern Tower Residential Units
12. minimum 27 bicycle parking spaces must be allocated for residential visitors and Commercial Units
13. A minimum of 12 motorbike parking spaces must be provided at stage 1
14. A loading zone area that can accommodate at minimum a medium rigid vehicle (MRV).

Condition Amended 7/12/2022

1. All public footways, footpaving, kerbs, gutters and road pavement damaged during the works are to be immediately repaired following the damage, to a satisfactory state that provides for safe use by pedestrians and vehicles. Full restoration of the damage is to be carried out to Council’s satisfaction prior to the completion of demolition work or prior to the issue of an occupation certificate in respect of development involving building work.
2. All works within the road reserve required by this consent are to be completed prior to the issue of an Occupation Certificate.
3. Any redundant existing vehicular crossing is to be removed at no cost to Council. The road reserve and kerb being restored to, Council’s satisfaction, to match the existing infrastructure. Works are to be completed prior to the issuing of an Occupation Certificate for the proposed development.
4. 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 Certifying Authority and to The City of Newcastle 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.
5. A Green Travel Plan for the development is to be prepared and implemented prior to the occupation of the development. The Green Travel Plan must be prepared and is to be in accordance with Element 7.03 ‘Traffic, Parking and Access’ of Council’s adopted Newcastle Development Control Plan 2012.
6. A post construction dilapidation report prepared by a suitability qualified person is to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate, to ascertain whether any physical damage, caused by the construction work, has occurred to the adjoining buildings, infrastructure and roads. The report is also to be forwarded to the City of Newcastle and will be made available in any private dispute between neighbours regarding damage arising from construction works.

LANDSCAPING

1. A Landscape Practical Completion Report is to be submitted to the Principal Certifying Authority prior to the issue of the Final Occupation Certificate. The report is to verify that all landscape works have been carried out in accordance with the comprehensive landscape design plan and specifications that were required to be included in documentation for a Construction Certificate application and is to verify that an effective maintenance program has been commenced.

PLANNING

1. All commitments listed in the relevant BASIX certificate for the development are to be satisfactorily completed prior to the issue of an Occupation Certificate. Should there be any changes to the specifications of the dwelling that have implications for compliance with the approved certificate, except where restricted or excluded by any other condition of consent, an amended BASIX Certificate can be relied upon as having complied with this condition. A copy of any amended BASIX Certificate is to be provided to Council within fourteen days of receipt.
2. The whole of the land Lot 1171 DP 858465, Lot 1181 DP 596950, Lot 1 DP 74151, Lot 100 DP 612505, Lot 99 DP 1134475 (1 National Park Street 17 National Park Street,

19 National Park Street 484 King Street)is to be consolidated into a single title and documentary evidence of the lodgement for registration of a survey plan of consolidation with NSW Government Land & Property Information being submitted to Council prior to the issuing of an Occupation Certificate for the proposed development.

1. The appropriate notation is to be made on a survey plan and accompanying instrument under Section 88B of the Conveyancing Act setting out the terms of the right of carriageway and easement for services, easement to drain water, easement for repairs and any other required easement over the existing right of carriageway and such being lodged with Council for certification by the General Manager and being registered with NSW Government Land & Property Information prior the issuing of any Occupation Certificate for the proposed development.
2. 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 National Park Street or King Street for kerbside collection.
3. 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 shall be:
   1. Exterior of the building = 75mm and
   2. Group mailbox - street number = 150mm / house number = 50mm
4. 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.

1. 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 the Occupation Certificate.

ENVIRONMENTAL HEALTH

1. Appropriate acoustic treatment is to be implemented in accordance with the recommendations set out in the report prepared by Muller Acoustic Consulting, dated 5 June 2019. 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 Certifying Authority and Council prior to the issue of an Occupation Certificate.

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

1. Following completion of the remediation works, a validation report being prepared by a suitably qualified consultant in accordance with the relevant Environment Protection Authority Guidelines and submitted to the Principle Certifying Authority and Council prior to the issuing of Occupation Certificate.
2. Prior to the issuing of an Occupation Certificate the following documentation is to be submitted to Principle Certifying Authority 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).
3. A long-term Site Management Plan is to be prepared and approved by the Site Auditor to address remaining site contamination risks and to be provided to the Principle Certifying Authority and Council prior to the issuing of Occupation Certificate.
4. Prior to issue of an Occupation Certificate, the food business is to notify the relevant enforcement agencies, under the *Food Act 2003* and (for licensed food businesses) under the *Food Regulation 2010*. Notification is to be provided to the City of Newcastle and the NSW Food Authority.

Note: To arrange notification of the food business with the City of Newcastle, go to www.newcastle.gov.au <http://www.newcastle.gov.au> and download a copy of the ‘*Council Food Business Notification Form*’ or contact City of Newcastle’s Environmental Health Services on (02) 4974 2525. To notify with the NSW Food Authority go to www.foodnotify.nsw.gov.au <http://www.foodnotify.nsw.gov.au> and follow the instructions.

1. Prior to issue of an Occupation Certificate, the food business is to notify the relevant enforcement agencies, under the *Food Act 2003* and (for licensed food businesses) under the *Food Regulation 2010*. Notification is to be provided to the City of Newcastle and the NSW Food Authority.

Note: To arrange notification of the food business with the City of Newcastle, go to www.newcastle.gov.au <http://www.newcastle.gov.au> and download a copy of the ‘*Council Food Business Notification Form*’ or contact City of Newcastle’s Environmental Health Services on (02) 4974 2525. To notify with the NSW Food Authority go to www.foodnotify.nsw.gov.au <http://www.foodnotify.nsw.gov.au> and follow the instructions.

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

ENVIRONMENTAL HEALTH

1. 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.
2. 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.

ENGINEERING

1. The driveway crossing, parking areas and stormwater management system are to be properly maintained for the life of the development.

1. A total of 275 car parking spaces (including minimum of 20 residential visitor parking, 26 commercial parking), 12 motorbike spaces and 226 bicycle parking are to be provided. The 15 commercial parking spaces on the Ground Floor parking area are to be used as visitor spaces after business hours, and such spaces under no circumstances being subdivided, leased or controlled by or on behalf of particular unit owners or residents.

*Condition Amended 6/12/2022*

1. 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.

PLANNING

1. Waste management (recyclable and non-recyclable) is to be collected from the storage areas, as identified on the approved plans, serviced from National Park Street and returned immediately to the refuse storage areas.  Under no circumstances are garbage bins to be presented to National Park Street for kerbside collection or remain at kerbside after collection.
2. The hours of operation or trading of the premises are to be not more than from:

|  |  |  |  |
| --- | --- | --- | --- |
| **DAY** | **START** |  | **FINISH** |
| Monday | 6am |  | 6pm |
| Tuesday | 6am |  | 6pm |
| Wednesday | 6am |  | 6pm |
| Thursday | 6am |  | 6pm |
| Friday | 6am |  | 6pm |
| Saturday | 6am |  | 6pm |
| Sunday | 6am |  | 6pm |

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

**ADVISORY MATTERS**

 A separate development application is to be submitted to and approved by the City of Newcastle in respect of any specific proposed use of the three retail/commercial premises prior to occupation approved as part of this mixed use 'shop top housing' development.

 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 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.

 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.

 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 Council is to be notified of the appointment; and

c) Council is to be given at least two days notice of the date intended for commencement of building works.

 It is an offence under the provisions of the *Protection of the Environment Operations Act 1997* (NSW) to act in a manner causing, or likely to cause, harm to the environment. Anyone allowing material to enter a waterway or leaving material where it can be washed off-site may be subject to a penalty infringement notice (‘on-the-spot fine’) or prosecution.

 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 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.

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 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 form the controlling authority and any requirements of the approving authority is to be complied with prior to the commencement of any extraction of groundwater.

 Temporary ground anchors are to be designed and installed along the road reserve and adjoining properties to protect the existing properties. The design of the temporary ground anchors is to be carried out by qualified and practicing structural and geotechnical engineers. Any proposed ground anchors impacting the Road Reserve will require approval from the relevant Roads Authority for installation of the temporary ground anchors prior to the start of any bulk excavation works. The temporary ground anchors are to be destressed and any timber is to be removed from the road reserve to the satisfaction and requirements of the relevant Roads Authority.

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

**END OF CONDITIONS**

**SCHEDULE 2 –** Amended 6/12/2022

**SUBSIDENCE ADVISORY NSW GENERAL TERMS OF APPROVAL**

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