

DATE OF DETERMINATION	12 May 2023
DATE OF PANEL DECISION	11 May 2023
PANEL MEMBERS	Alison McCabe (Chair), Juliet Grant, Peta Winney-Baartz and John Mackenzie
APOLOGIES	Tony McNamara and Roberta Ryan
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 28 April 2023.

MATTER DETERMINED

PPSHCC-147 – Newcastle – MA2022/00286 at 1, 17 and 19 National Park Street and 484 King St, Newcastle West – modification application (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 was previously considered by the Panel in December 2022 when the application was deferred for further information and amended plans.

The additional information related to additional detail to understand the changes from the approved plans, and to ensure landscape and design excellence outcomes were being maintained. The Panel also required a plan detailing the reduction to the height of the northern tower as recommended in the Council report.

A further package of information and amended plans has been submitted and considered by Council, and the Urban Design Review Panel. A supplementary report was received on 28 April 2023 and the Panel had the benefit of a further briefing by Council on 3 May 2023. Arising from the Panel's deliberation a further memo was provided addressing carparking, height and amenity issues. A revised set of conditions were also provided.

The original application benefited from additional height because of the design excellence outcomes. The approved height to the southern tower required a clause 4.6 written request to the height of building standard. The approved development complied with the FSR. The current proposal seeks to further increase the height of the northern tower by 4.12m, and the southern tower by 1.62m. The proposed FSR remains compliant with the standards but results in an additional 131.9 sq metres of GFA.

The proposal seeks to increase the on-site carparking when compared against the original approval by 53 spaces, notwithstanding that the number of units have only increased by one unit – the mix of units has changed. The additional capacity has been accommodated with the envelope as approved and does not generate significant additional height to the podium. The Panel notes that the podium is slightly higher as a result of an increased floor to ceiling on the ground level. The additional parking capacity has been able to be accommodated through a redesign of the carpark circulation and introduction of tandem spaces.

The Panel understands Council's current parking policy is more generous than the one that was in place at the time of the determination of the original approval and the application has been considered under this policy. Notwithstanding this, the application still contains 32 spaces more than Council's current DCP for residential parking and the additional spaces have been included in the FSR calculations.

The modification has resulted in some issues in respect to:

- Privacy between units
- Accessibility
- Location of AC units on balconies

There are poorer outcomes when compared to the original approval and therefore conditions have been proposed to:

- Maintain privacy
- Ensure access and maintain silver standard accessibility
- Ensure AC units are not located on balconies

The Panel is satisfied the intent of the original approval to maintain a height differentiation between the northern and southern towers is achieved.

While the proposed height exceeds both the approved and the height of building standard, the Panel notes that the FSR remains compliant and the additional height does not result in adverse impacts to the surrounding area.

The amended plans and landscape plans have addressed the Panel's concerns regarding landscape outcomes and the interrelationship with the public domain.

The Panel is satisfied that the proposed development is substantially the same development and that the impacts arising from the proposal are reasonable and can be mitigated.

The design outcomes are acceptable and conditions have been included to address remaining issues in respect to privacy, accessibility, location of AC and EV charging points.

The Panel is satisfied that the proposal could be approved.

Development application

The Panel determined to approve the development application pursuant to section 4.55 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 maintains the design and landscape outcomes that were essential and fundamental to the original approval, subject to conditions.
- (ii) The proposed modifications are considered to result in substantially the same development.
- (iii) Privacy, accessibility and amenity are acceptable, subject to conditions.

CONDITIONS





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

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition. The Panel notes that issues of concern included:

- Stormwater management
- Construction management plan
- Structural column
- Character and zone
- The public interest

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

PANEL MEMBERS	
 Alison McCabe (Chair)	 Juliet Grant
 Peta Winney-Baartz	 John Mackenzie

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSHCC-147 – Newcastle – MA2022/00286
2	PROPOSED DEVELOPMENT	Section 4.56 Modification to a Development Application for a mixed used development comprising demolition, retail, commercial, public spaces, residential apartments, associated parking, staging, and stratum subdivision.
3	STREET ADDRESS	Lot 1171 in DP 858465; Lot 1181 in DP 596950; Lot 99 DP1134475; Lot 1 in DP 741514; and Lot 100 in DP 612505. 1, 17, 19 National Park Street and 434 King Street Newcastle West
4	APPLICANT OWNER	GWH Build Developments Pty Ltd EXP No 1 National Park Street 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 for consideration of development on land within the coastal environment area. Environmental Planning Policy (Resilience and Hazards) 2021 for consideration of whether the land is contaminated, an if contaminated, suitable or the purpose of development. State Environmental Planning Policy No.65 – Design Quality of Residential Apartment Development in relation to the advice of an urban design review panel has been satisfied. State Environmental Planning Policy (Transport and Infrastructure) 2021 in relation to development likely to affect an electricity transmission or distribution network State Environmental Planning Policy (Transport and Infrastructure) 2021 in relation to traffic generating development. State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 Newcastle Local Environmental Plan 2012 (NLEP 2012) Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Newcastle Development Control Plan 2012 Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2000</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: 7 December 2022 Supplementary Council assessment report: 28 April 2023 Addendum report on UDRP comments: 2 May 2023 Addendum Council assessment report: 9 May 2023 – two documents

		<ul style="list-style-type: none"> • Written submissions during public exhibition: two
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Site inspection (for original DA): 25 February 2020 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Alison McCabe (Chair), Juliet Grant and Sandra Hutton ○ <u>Council assessment staff</u>: Ian Clark and Priscilla Emmett • Briefing: 2 November 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Alison McCabe (Chair), Juliet Grant, Sandra Hutton, Peta Winney-Baartz and John Mackenzie ○ <u>Applicant representatives</u>: Stuart Campbell, Joel Chamberlain, Juergen Weigl, Loughlin Jordan, George Araujo, Wade Morris and Sam Coles ○ <u>Council assessment staff</u>: William Toose and Damian Jaeger ○ <u>Department staff</u>: Carolyn Hunt and Lisa Foley • Final briefing to discuss Council's recommendation: 14 December 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>: Holly Hutchens, Rajnesh Prakash, Amy Ryan and Priscilla Emmett ○ <u>Department staff</u>: Leanne Harris and Lisa Foley • Applicant Briefing: 14 December 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>: Holly Hutchens, Rajnesh Prakash, Amy Ryan and Priscilla Emmett ○ <u>Department staff</u>: Leanne Harris and Lisa Foley ○ <u>Applicant representatives</u>: Sam Coles, Loughlin Jordan, Wade Morris, Jonathan Craig, George Araujo and Stuart Campbell <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: 3 May 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Alison McCabe (Chair), Peta Winney-Baartz and John Mackenzie ○ <u>Council assessment staff</u>: Holly Hutchens, Rajnesh Prakash, William Toose and Amy Ryan ○ <u>Department staff</u>: Lisa Foley
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council assessment report

SCHEDULE 2

Annexure A – Conditions of Consent

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, site works and staged construction.

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.

Plan No / Supporting Document	Reference / Version	Prepared by	Dated
Site Plan	DA-A1-002 – Rev M	CKDS Architecture/Marchese partners	18/04/2023
Demolition Plan	DA-A1-006 – Rev K	CKDS Architecture/Marchese partners	18/04/2023
Building Separation & Setback Plan	DA-A1- 007, DA-A1- 008, DA-A1-009– Rev L	CKDS Architecture/Marchese partners	18/04/2023

Floor Plan – Ground	CCA2-001 – Rev R	CKDS Architecture/Marchese partners	18/04/2023
Floor Plan – Ground Mezzanine	DA-A2-002 – Rev R	CKDS Architecture/Marchese partners	18/04/2023
Floor Plan – Level 01	DA-A2-003 – Rev R	CKDS Architecture/Marchese partners	18/04/2023
Floor Plan – Level 02	DA-A2-004 – Rev R	CKDS Architecture/Marchese partners	18/04/2023
Floor Plan – Level 03	DA-A2-005 – Rev R	CKDS Architecture/Marchese partners	18/04/2023
Floor Plan – Level 04	DA-A2-006 – Rev Q	CKDS Architecture/Marchese partners	18/04/2023
Floor Plan – Level 05	DA-A2-007 – Rev Q	CKDS Architecture/Marchese partners	18/04/2023
Floor Plan – Level 06	DA-A2-008 – Rev Q	CKDS Architecture/Marchese partners	18/04/2023
Floor Plan – Level 07	DA-A2-009 – Rev P	CKDS Architecture/Marchese partners	18/04/2023
Floor Plan – Level 08	DA-A2-010 – Rev Q	CKDS Architecture/Marchese partners	18/04/2023
Floor Pan – Level 09	DA-A2-011 – Rev Q	CKDS Architecture/Marchese partners	18/04/2023
Floor Plan – Level 10	DA-A2-012 – Rev P	CKDS Architecture/Marchese partners	18/04/2023
Floor Plan – Level 11	DA-A2-013 – Rev P	CKDS Architecture/Marchese partners	18/04/2023
Floor Plan – Level 12	DA-A2-014 – Rev P	CKDS Architecture/Marchese partners	18/04/2023
Floor Plan – Level 13	DA-A2-015 – Rev P	CKDS Architecture/Marchese partners	18/04/2023
Floor Plan – Level 14	DA-A2-016 – Rev P	CKDS Architecture/Marchese partners	18/04/2023

Floor Plan – Level 15	DA-A2-017 – Rev P	CKDS Architecture/Marchese partners	18/04/2023
Floor Plan – Level 16	DA-A2-018 – Rev P	CKDS Architecture/Marchese partners	18/04/2023
Floor Plan – Level 17	DA-A2-019 – Rev P	CKDS Architecture/Marchese partners	18/04/2023
Floor Plan - Level 18	DA-A2-020 – Rev Q	CKDS Architecture/Marchese partners	18/04/2023
Floor Plan - Level 19	DA-A2-021 – Rev Q	CKDS Architecture/Marchese partners	18/04/2023
Floor Plan - Level 20	DA-A2-022 – Rev Q	CKDS Architecture/Marchese partners	18/04/2023
Floor Plan – Level 21	DA-A2-023 – Rev Q	CKDS Architecture/Marchese partners	18/04/2023
Floor Plan – Level Roof	DA-A2-024 – Rev Q	CKDS Architecture/Marchese partners	18/04/2023
Floor Plan – Roof-Lift Overrun	DA-A2-025 – Rev D	CKDS Architecture/Marchese partners	18/04/2023
South, West, East, North, Elevation – North Tower	DA-A3-001, DA- A3-002, DA-A3-003, DA-A3-004 – Rev Q	CKDS Architecture/Marchese partners	18/04/2023
South Elevation – North Tower & North Elevation – South Tower	DA-A3-005 & DA-A3-006 – Rev Q,	CKDS Architecture/Marchese partners	18/04/2023
Materiality - Elevations	DA- A3-010 & DA- A3- 011- Rev H	CKDS Architecture/Marchese partners	18/04/2023
Materiality – Tower Blades and Breaks	DA- A3-012- Rev K	CKDS Architecture/Marchese partners	18/04/2023
Materiality - Elevations	DA- A3 013, DA-A3-014, DA-A3-015 & DA-A3-016, Rev K & Rev F & Rev G	CKDS Architecture/Marchese partners	18/04/2023

Materiality – Elevations formliner	DA-A3-017 & DA-A3-018– Rev K	CKDS Architecture/Marchese partners	18/04/2023
Materiality – plaza section/ elevations	DA-A3-019 – Rev K	CKDS Architecture/Marchese partners	18/04/2023
Materiality – Podium	DA-A3-020 & DA-A3-021, DA-A3-022 – Rev K	CKDS Architecture/Marchese partners	18/04/2023
Materiality - Tower	DA-A3-023, DA-A3-024 – Rev K & DA-A3 – 025 – Rev K	CKDS Architecture/Marchese partners	18/04/2023
Window Schedule	DA-XX-001, DA-XX-002, DA-XX-003, DA-XX-004 & DA-XX-004 Rev Q	CKDS Architecture/Marchese partners	18/04/2023
Section Plans	DA-A4-001 – Rev P DA-A4-002 – Rev P DA-A4-003 – Rev P DA-A4-004 – Rev P	CKDS Architecture/Marchese partners	18/04/2023
Views – Sheet 1 & Sheet 2	DA-A9-001 & DA-A9-001– Rev L	CKDS Architecture/Marchese partners	18/04/2023
Construction Management Plan	One Apartments – Staging Description	GWH	Nil
Landscaping Plan	L101 – Rev H, L102 – Rev H, L103 – Rev E, L104 – Rev E, L105 – Rev D, L106 – Rev C, L201 – Rev B, L301 – Rev B, L302 – Rev A.	Xeriscapes	April 2023
Amended Staging Document	Nil	CKDS Marchese	27 April 2023
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 2	Ref No. 18/063	Intersect Traffic	17/02/2023
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	28/02/2023
SEPP 65 Design Quality Report	Job No 18046	Marchese partners & CKDS Architecture	28/02/2023
Waste Compliance Letter	1 National Park Street	Elephants Foot Consulting	28/02/2023
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):

- a) Stratum Subdivision

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

Condition inserted

ADMINISTRATIVE CONDITIONS

2. 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.

3. 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. In this instance such contribution is payable prior to the issue of the first construction certificate.**

Note:

- i. This condition is imposed in accordance with the provisions of the City of Newcastle's Section 7.12 Newcastle Local Infrastructure Contributions Plan 2019.
- ii. 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.
- iii. Certifiers are required to obtain documentation from City of Newcastle confirming the payment of infrastructure contributions prior to the issuing of an occupation certificate.
- iv. 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.

4. Staged Construction Certificates

- (a) The works may be carried out in stages with the relevant conditions being satisfied prior to the issue of Construction Certificate for each stage as follows:

Stage	Works
Stage 1 (Construction Certificate 1) – Construction of the carpark levels (GF-L3), ground floor commercial tenancies, level 1 commercial tenancy, podium residential units, level 4 common amenities including pool, south tower residential units (level 4, eastern 1-bedroom units are excluded), south tower rooftop common area.	
Stage 2 (Construction Certificate 2) – Construction of the north tower residential units, level 4 eastern 1-bedroom units, north tower rooftop communal open space area, and associated public realm improvements.	

Condition inserted.

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

ENGINEERING

5. Prior to the issue of any construction certificate for the relevant stage 1 and stage 2, the following parking provisions must be accommodated on-site:
- a) A maximum of 301 on-site car parking spaces must be provided and allocated as follows:
 - i. maximum of 169 resident car parking spaces must be allocated to Southern Tower Residential Units
 - ii. maximum of 88 resident car parking spaces must be allocated to Northern Tower Residential Units
 - iii. 25 commercial car parking spaces, out of which at least 14 spaces shall be used as visitor spaces outside business hours)
 - iv. 19 residential visitor car parking spaces
 - v. A minimum of 14 commercial car parking spaces must be shared as residential visitor parking during off-peak retail/commercial business hours.
 - vi. A minimum of 2 disabled parking, which can be shared between residential visitor and commercial use.
 - vii. At least 1 visitor parking space must be designed as a carwash bay.
 - viii. Out of the 44 Tandem car parking spaces, 12 Tandem car parking spaces shall be allocated to 3-bedroom residential units and 32 tandem parking spaces shall be allocated to 2-bedroom residential units.
 - b) A minimum of 241 secured bicycle parking must be provided and allocated as follows:
 - i. 117 bicycle parking spaces must be allocated to Southern Tower Residential Units
 - ii. 77 bicycle parking spaces must be allocated to Northern Tower Residential Units
 - iii. A minimum of 27 bicycle parking spaces must be allocated for Commercial Units (at least 11 bicycle spaces to be designed with charging points)
 - iv. A minimum of 10 visitor bicycle parking spaces
 - c) A minimum of 15 motorbike parking spaces
 - d) A loading facility area that can accommodate at minimum a heavy rigid vehicle (HRV).

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. Design Refinement Condition Stage 1

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:

- a) 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:
 - i) 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
 - ii) 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.

- b) Ground floor right of carriageway and vehicular access areas must be designed at minimum for heavy rigid vehicles (HRV), generally as indicated on the plan prepared by GWH Ref Project No. A21027 dated 20/04/2023 and safe manoeuvring can be designed for HRV without impacting on adjoining 689 – 707 Hunter Street properties and to ensure that HRV can enter and exit the site in a forward direction. The proposed Ground Floor Level roller gate and visitor parking areas and Mezzanine Level storage areas above the turning areas will be required to be design refined to ensure that HRV turning area and provision of 4.5m height clearances is provided in accordance with AS/NZS 2890.2.
 - i) The associated right of carriageway area must be modified to allow for HRV turning and access to be appropriately managed.
 - ii) The storage area on the Mezzanine Level must be relocated to an appropriate location.
- c) The ground floor commercial and visitor bicycle parking and associated areas must be designed to address the following elements:
 - i. A minimum of two shower cubicles with additional toilets, change rooms facility and secured lockers must be designed, generally in accordance with Council DCP 7.03 Traffic, Parking and Access. Two commercial parking spaces is recommended to be removed to allow for the additional end user facility, with the additional area being used to appropriately design the additional bicycle parking and end user facilities.
 - ii. At minimum, the design must accommodate for 27 commercial and 10 visitor bicycle parking spaces and include at least 11 charging points for bicycles.

Condition inserted.

7. Electric Car Charging

<p>EV Provisions for Car parking (Generally, 5% of residential and bicycle parking spaces)</p>	<p>Prior to the issue of Stage 1 and Stage 2 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:</p> <ol style="list-style-type: none"> (a) The car park must provide an EV Ready Connections to at least 15 car spaces. Provisions are to be provided for at for least 11 electric bicycle and scooter charging stations. (b) EV Distribution Board(s) shall be of sufficient size to allow for any future EV connections to all car parking bays and potential bicycle and scooters. (c) Locate EV Distribution board(s) so that no future EV Ready Connection for any car parking space within the site will require a cable of more than 50m from the parking bay to connect. (d) 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. (e) EV Load Management System is to be capable of: <ul style="list-style-type: none"> • 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.
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	(f) 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.
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Condition inserted.

8. A loading/unloading area with capacity to accommodate the largest delivery/service vehicles being a heavy rigid vehicle (HRV) 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 Stage 1 Construction Certificate application.

Condition amended.

9. The car parking and vehicular access is to be designed to comply with AS/NZS 2890 series documents. Full details are to be included in documentation for Stage 1 Construction Certificate application.

Condition amended.

10. 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, asphaltic concrete, concrete or interlocking pavers and being properly maintained. Full details are to be included in documentation for Stage 1 Construction Certificate application.

Condition amended.

11. A commercial vehicular crossing is to be constructed across the road reserve, in accordance with the following criteria:

- a. Constructed in accordance with Council's A1300 – Driveway Crossings Standard Design Details.
- b. The driveway crossing, within the road reserve, shall be a maximum of 7 metres wide.
- c. Letterboxes, landscaping and any other obstructions to visibility should be kept clear of or limited in height to 1.2 metre, in the 2 metre by 2.5 metre splay within the property boundary each side of the driveway entrance.
- d. The proposed driveway shall be a minimum of 3 metres clear of the trunk of any tree within the public reserve.
- e. 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 Stage 1 Construction Certificate.

Condition amended.

12. Suitable traffic and safety management device in the form of give way signs, line markings for safety and traffic movements within the right of carriageway, vehicular access and parking areas, mirrors, speed limit and safety signs etc. are to be installed at appropriate locations within the site. Opposing traffic flows on the car park access areas, ramps and the right of carriageway are to be separated by provision of appropriate traffic safety barrier or line markings and such devices to be constructed in accordance with AS/NZS 2890 series documents. Full details are to be included in documentation for Stage 1 Construction

Certificate application.
Condition amended.

13. 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 Stage 1 Construction Certificate application.
Condition amended.
14. 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's C1.01 - C05.03, Rev 0, dated 16 Dec 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 details are to be included in documentation Stage 1 and Stage 2 Construction Certificate application.
Condition amended.
15. 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 Stage 1 Construction Certificate application.
Condition amended.

FLOODING

16. The ground floor level of the proposed building is to be verified on plans for Stage 1 Construction Certificate application and is to be as indicated on the approved architectural plans. 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.
17. 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 Stage 1 Construction Certificate application.
Condition amended.
18. 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 Stage 1 Construction Certificate application.
Condition amended.
19. 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 Stage 1 Construction Certificate application.
Condition amended.

20. An appropriate flood emergency response plan is to be prepared by independent consulting engineers, experienced in flood management and put in place by the applicant prior to occupation of this site for the intended use. Such plan is to be effectively updated and maintained by the occupiers; to include an education and awareness component for the workforce and detailed evacuation procedures to interface with the Bureau of Meteorology's flood warning system and the local State Emergency Services plan (where appropriate) and to include 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

Considerations should include the full range of flood risks, the proposed use of the site, site access constraints and local area evacuation routes to high ground. As much as possible, the plan is to be aimed at self-directed evacuation or evasion to minimise the draw on limited State Emergency Services resources. Full details are to be included in documentation for the Stage 1 and Stage 2 Construction Certificate application.

Condition amended.

PLANNING

21. Adaptable Apartments are to be identified on plans – those apartments (20% nominated silver) must be amended to minimise reconstruction works required to adapt apartments, especially to wet areas, kitchens, and balconies. The above details are submitted to and approved by Council's Executive Manager Planning, Transport and Regulation (in consultation with CN's Urban Design Consultative Group) prior to issue of Stage 1 & 2 Construction Certificate.

Condition inserted.

22. Floor to ceiling height - Prior to a Construction Certificate for Stage 1 and Stage 2 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.

Condition inserted.

23. Design Refinement Condition:

The plans are to be amended to include the following for approval by Executive Manager Planning, Transport and Regulation and Council's Urban Design Review Panel prior to the issue of Stage 1 Construction Certificate.

(a) Acoustic

A glazing schedule must be submitted for review by, which demonstrates the environmental and acoustic performance.

(b) Materials

A physical material sample board which specifies all proposed materials, finishes, and colours, keyed to each building elevation must be submitted and approved.

(c) Natural Ventilation

Natural ventilation details are to be confirmed and reviewed by the UDRP Panel for final approval. In this regard the proposal is to ensure that the fixed glazed panels located in the winter garden include operable windows. This is to ensure the units provide natural

ventilation.

(d) Air conditioning units

Air condition units are to be removed from the plans, no air conditioning units are to be installed on balconies, façade, or terraces. Details are to be provided to the Panel for final review and approval. Any associated air conditioning plant infrastructure is to be located within the car parking area of the Ground Floor and Level 03. No proposed storage areas, or EOT are to be impacted by the required plant equipment. No additional plant infrastructure is to be located on the rooftop.

(e) Privacy

Design amendments to include details of additional privacy screens to balconies for review and final approval by the UDRP Panel the following units will require further review:

- Unit 2K Level 4: Details of privacy screening is to address privacy between the podium and Unit 2K POS.
- Unit 2L Level 4: Screening is to be provided which ensures privacy between podium balconies.
- Unit 2M Level 4: Screening is to be provided between the podium balconies.
- Unit 3A Level 5: Details of privacy screening to the south end of the balcony adjoining the neighbouring POS is to be provided.
- Unit 2P Level 5: Screening is to be provided between the podium balconies.
- Unit 2Q Level 5: Screening is to be provided between the podium balconies.
- Unit 2T Level 6: Details of privacy screening between the balcony and communal open space area are to be provided.
- Unit 1J Level 6: Details of privacy screening between the POS and to the north facing living room is to be provided.
- Unit 1K Level 6: Details of privacy screening is to be provided.
- Unit 3G Level 21: The unit has access onto the neighbouring balcony, plans are to be amended to restrict entry.

(f) Finished Floor Levels

Finished floor levels are to be provided for internal living areas and balconies. Finished floor levels on balconies must provide 20% of units to achieve silver level requirements under the Liveable Housing Design Guidelines.

Condition inserted.

24. DESIGN MODIFICATION – ENCROACHING COMPONENTS OF BUILDINGS – PRIOR TO CONSTRUCTION CERTIFICATE.

(a) The CAD file for the Construction Certificate drawings must be provided to the registered surveyor engaged for the project in DWG or other preferred format, as well as in PDF format.

(b) The registered surveyor shall overlay and position the relevant linework from the above file in relation to the surveyed boundaries for the site, determined to sufficient accuracy for the COMMENCEMENT OF WORKS.

(c) The registered surveyor shall liaise with the project architect to advise where encroachments occur so these may be rectified, and the plans resubmitted to the surveyor for checking and certification.

(d) No steps, landings, footings, columns, or embellishments are to encroach over boundaries or easement sites unless written approval has been first obtained from Council's Director Planning and Environment. Written approval for encroachment upon easement sites must be first obtained from the registered proprietor(s) or authority benefiting from the easement.

(e) When the buildings have been sufficiently modified to fit wholly within the existing and future boundaries of the site, other than encroachments first approved in writing by Council's Manager Regulatory, Planning and Assessment, the registered surveyor shall provide written certification confirming the above.

(f) The written certification by the registered surveyor, and any approvals by Council's Director Planning and Environment-must be provided to the Principal Certifier prior to the issue of Stage 1 and Stage 2 Construction Certificate and a copy provided to Council.

Condition inserted.

25. 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 Stage 1 and Stage 2 Construction Certificate application.

Condition amended.

26. 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 Stage 1 and Stage 2 Construction Certificate application.
27. The acoustic performance of all acoustic glazing, 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 Stage 1 and Stage 2 Construction Certificate.
Condition amended.
28. Prior to the release of Stage 1 and Stage 2 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.
Condition amended.
29. 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 Stage 1 and Stage 2 Construction Certificate (excluding any construction certificate for remediation works or demolition). A copy of the wind tunnelling report is to be provided to Council.
Condition amended.
30. 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.

31. 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 Stage 1 Construction Certificate and Stage 2 Construction Certificate.

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.

Condition amended.

32. 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 the Stage 1 and Stage 2 Construction Certificate or tender documentation for the project.

Condition amended.

33. SITE WIDE MANAGEMENT CONDITION

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 Group, 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.

Condition inserted.

34. Signage Strategy - A separate development application is to be submitted seeking approval of a signage strategy for the separate buildings across the site. The signage strategy development application must include information and scale drawings of the location, type, construction, materials, and total number of signs appropriate for the building.

Condition inserted.

LANDSCAPING

35. 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 Stage 1 and Stage 2 Construction Certificate application.

Condition amended.

36. LANDSCAPE IN PRIVATE OWNERSHIP AT GROUND LEVEL – DESIGN

Detailed landscape design of all privately owned land at ground level along National Park Street and King Street frontages is to be prepared by a suitably qualified landscape designer/architect generally in accordance with the provisions of Newcastle Development Control Plan 2012 and industry standards. Such a plan must be designed to ensure that the internal landscape and associated design (including lighting features and any public art) is collaborated with the streetscape (road) public domain works and the design shall include plans and details drawn to scale. The National Park St Central Courtyard landscaped areas and adjoining streetscape design shall consider and also reflect the features of the adjoining development Courtyard along National Park St frontage of 711 Hunter St, Newcastle West (Spotlight development). The design shall be consulted with 711 Hunter St, Newcastle West applicants, and their landscape architect. The detailed landscape design must be approved by Council's Executive Manager Planning, Transport & Regulation (in consultation with CN's Urban Design Consultative Group) prior to issue of Stage 1 Construction Certificate. Note: The overall intent of this condition is to have a coordinated landscape approach to National Park St and the Courtyards providing an opportunity to form a unique feature for both the developments.

Condition inserted.

37. MAINTENANCE OF PRIVATE GROUND LEVEL PUBLICLY ACCESSIBLE AREAS

(a) A landscape maintenance plan for all privately owned, ground level publicly accessible areas must be submitted for approval by Council's Manager Regulatory, Planning and Assessment prior to the issue of any construction certificate for above ground works.

(b) The Owner is required to register on Title of a Positive Covenant, pertaining to the landscape maintenance plan, prior to the issue of any occupation certificate for Stage 2.

Condition inserted.

ASSETS & PUBLIC DOMAIN

38. 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 Stage 1 and Stage 2 Construction Certificate application.

Condition amended.

39. 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:

- a) 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
- b) Road pavement and road asphaltting 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.
- c) Note: Heritage Sandstone kerb and gutter to be protected and reused onsite
- d) New driveway crossing and removal of redundant driveways
- e) Provision of new street furniture including bins, seats and bicycle rings etc and any public artworks within the road reserve
- f) Provision of footpath extensions, pedestrian crossing and streetscape works at the intersection of National Park St and Hunter St generally as per Newcastle West Public Domain Plan (including provision of cycleways)
- g) Stormwater discharge connections from the development site and associated road

drainage upgrade works on Nation Park St to Hunter St

- h) New Street trees as per Council City Centre Technical Manual including any required tree volts for planting (note: street trees to be at least 400 litre pot size)
- i) Street Lighting upgrade in accordance with AS1158 and to Smart City requirements (includes provision of Smart City poles). Full lighting design must be prepared and submitted for review and approval.
- j) Upgrade of existing bus stops to DDA and current Council requirements including provision of bus shelters and associated seating
- k) Installation of any parking signs and mandatory signs (note: any changes will require NCTC approval)
- l) Streetscape features as per the final approved landscape design as specified within the DA consent conditions.

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 Stage 1 Construction Certificate.

Note: any staging of the Section 138 Roads Act works must be consulted and confirmed with the Section 138 Roads Act application. A bond maybe applicable to secure the Roads Act and associated streetscape works.

Condition amended.

OTHER APPROVALS

40. 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 Stage 1 and Stage 2 Construction Certificate application.

Condition amended.

41. 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 Stage 1 and Stage 2 Construction Certificate application.

Condition amended.

42. 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.

43. 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 Stage 2 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.

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

BUILDING AND SITE REQUIREMENTS

44. 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.

45. All building work must be carried out in accordance with the provisions of the National Construction Code.

46. 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 (NSW), or
- c. Be a temporary chemical closet approved under the Local Government Act 1993 (NSW).

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

- a. A waste container of at least one cubic metre capacity shall be provided, maintained and regularly serviced from the commencement of operations until the completion of the building for the reception and storage of waste generated by the construction of the building and associated waste
- b. The waste container is to be, at minimum, constructed with a 'star' picket (corners) and weed control mat (sides), or equivalent. The matting is to be securely tied to the pickets
- c. Appropriate provision is to be made to prevent 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 (NSW).

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

- a. showing the name, address and telephone number of the Principal Certifying Authority for building work and subdivision work, and
- b. showing the name, address and telephone number of the Principal Contractor for any building work and also including a telephone number on which the Principal Contractor may

be contacted at any time for business purposes, and

- c. stating that unauthorised entry to the work site is prohibited, and
 - d. being erected in a prominent position that can be read easily by anyone in any public road or other public place adjacent to the site. Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
49. 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.
50. 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.
51. 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.
52. 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.
53. 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.
54. 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.
55. All necessary measures are to be undertaken to control dust pollution from the site. These measures must include, but not are limited to:
- a. Restricting topsoil removal
 - b. Regularly and lightly watering dust prone areas (note: prevent excess watering as it can cause damage and erosion)

- c. Alter or cease construction work during periods of high wind and 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.

DEMOLITION AND EARTHWORKS

- 56. Building demolition is to be planned and carried out in accordance with Australian Standard 2601:2001 - The Demolition of Structures.
- 57. 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:

- a. Demolition works shall be conducted in accordance with the submitted Hazardous Substances Management Plan and a copy of the Hazardous Substances Management Plan shall be kept on-site for the duration of the proposed development
 - b. The removal, handling and disposal of any asbestos material is to be undertaken only by an asbestos removal contractor who holds the appropriate class of Asbestos Licence, issued by the WorkCover Authority of NSW
 - c. A copy of all waste disposal receipts are to be kept on-site for the duration of the proposed development and made available to authorised Council Officers upon request
 - d. Seven working days' notice in writing is to be given to Council and the owners/occupiers of neighbouring premises prior to the commencement of any demolition works. Such written notice is to include the date demolition will commence and details of the name, address, contact telephone number(s) and licence details (type of licences held and licence numbers) of any asbestos removal contractor and demolition contractor. Notification to owners/occupiers of neighbouring premises shall also include Council's contact telephone number (49742000) and the Workcover Authority of NSW telephone number (49212900) and,
 - e. On sites where asbestos materials are to be removed, a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm is to be erected in a prominent position during asbestos removal works.
- 58. 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.
 - 59. 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.
- 60. The demolisher is to ensure that all demolition material is kept clear of the public footway and carriageway as well as adjoining premises.
 - 61. 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.

62. 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:
- Protect and support the adjoining premises from possible damage from the excavation, and
 - 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.

63. 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'.
64. 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.
65. 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

66. 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 for Stage 1 and Stage 2. *Condition amended.*
67. Building Height

The height of the building must not exceed the following RLs (AHD) to the top of the buildings and (where relevant) to the top of the building parapets:

- North Tower Building
 - Top of lift overrun: RL69.750
 - Top of rooftop frame (roof): RL68.20
 - Top slab level: RL65.2
 - Podium Level: Top of slab level: RL17.575 (under pool and blab of walkway).
- South Tower Building
 - Top of lift overrun: RL80.20
 - Top of rooftop frame (roof): RL77.50
 - Top slab level: RL 74.05
 - Podium Level: Top of slab level: RL18.15
- Townhouse Units
 - Top of garden bed: RL24.95 (Rooftop Garden).
 - Top of roof frame (roof): RL24.35
 - Top of slab level: Level 5 RL 21.25

The Registered Surveyor must provide certification that the height of the building accords with the above to the satisfaction of the Principal Certifier at Stage 1 and Stage 2.

Condition inserted.

68. 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 for Stage 1 and Stage 2.

Condition amended.

69. 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.

- ~~70. No air conditioning units are to be positioned within the facade or balconies of the building.~~

~~*Condition deleted.*~~

ENVIRONMENTAL HEALTH

71. 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

72. 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.

73. 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.

74. PUBLIC DOMAIN WORKS SECURITY BOND

A Public Domain Works Security Bond will be required for any staging of the public domain works and repairing damage that may be caused to the public domain in the vicinity of the site, in accordance with the City of Newcastle adopted fees and charges. Council's Engineering Assessment Team must be contacted to determine the bond amount prior to lodgement. The bond must be lodged with the Council prior to approval being issued for the construction of the public domain works. The bond will be retained in full until all public domain works, including any rectification of damage to the public domain, are completed to Council's standards, and the required work as executed documentation is approved. On satisfying the above requirements and the issue of the Letter of Completion by the Council.

Condition inserted.

75. Prior to any site works commencing for Stage 1 and Stage 2, 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:

- a. A site management strategy, identifying and addressing issues such as environmental health and safety, site security, and traffic management.
- b. A soil and water management strategy, detailing erosion and sediment control, management of soil stockpiles, control and management of surface water and groundwater. Procedures should be included to ensure that all roads adjacent to the site are kept free and clear from mud and sediment.
- c. A dust management strategy, detailing procedures to minimise dust generation, with particular reference to control techniques and operational limits under adverse meteorological conditions.
- d. A waste minimisation strategy that aims to avoid production of waste and maximise reuse, recycling or reprocessing of potential waste material.
- e. A community relations plan that aims to inform local residents and other local stakeholders of the proposed nature and timeframes for construction activities together with contact details for site management.
- f. A noise management strategy detailing measures to minimise the impact of the construction phase on the amenity of the locality, in accordance with 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.
- g. 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.

Condition amended.

76. Prior to commencement of site works for each respective stage of the development, 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.

Condition amended.

77. 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.
78. 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

79. ~~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.~~

80. All parking bays are to be permanently marked out on the pavement surface.
81. 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.
82. 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

83. 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

84. Prior to the issue of an occupation certificate for Stage 1 and Stage 2, the following parking provisions must be accommodated on-site:
 - a) A maximum of 301 on-site car parking spaces must be provided and allocated as follows:
 - i. maximum of 169 resident car parking spaces must be allocated to Southern Tower Residential Units
 - ii. maximum of 88 resident car parking spaces must be allocated to Northern Tower Residential Units
 - iii. 25 commercial car parking spaces, out of which at least 14 spaces shall be used as visitor spaces outside business hours)
 - iv. 19 residential visitor car parking spaces
 - v. A minimum of 14 commercial car parking spaces must be shared as residential visitor parking during off-peak retail/commercial business hours.
 - vi. A minimum of 2 disabled parking, which can be shared between residential visitor and commercial use.
 - vii. At least 1 visitor parking space must be designed as a carwash bay.
 - viii. Out of the 44 Tandem car parking spaces, 12 Tandem car parking spaces shall be allocated to 3-bedroom residential units and 32 tandem parking spaces shall be allocated to 2-bedroom residential units.
 - b) A minimum of 241 secured bicycle parking must be provided and allocated as follows:
 - v. 117 bicycle parking spaces must be allocated to Southern Tower Residential Units
 - vi. 77 bicycle parking spaces must be allocated to Northern Tower Residential Units
 - vii. A minimum of 27 bicycle parking spaces must be allocated for Commercial Units (at least 11 bicycle spaces to be designed with charging points)
 - viii. A minimum of 10 visitor bicycle parking spaces
 - c) A minimum of 15 motorbike parking spaces
 - d) A loading facility area that can accommodate at minimum a heavy rigid vehicle (HRV).

Condition amended.

85. No portion of the proposed structure shall encroach onto the adjoining properties. A survey plan completed by a Registered Surveyor is to be submitted to Council prior to the issuing of an Occupation Certificate for Stage 1 and Stage 2.
Condition inserted.
86. Prior to the issue of an occupation certificate for the relevant Stage 1 and Stage 2, a parking management plan (PMP) must be developed and implemented. Such a plan must address how the future building management or strata will manage the associated risks with pedestrians, vehicular, cyclist and other associated traffic, parking, and management of the overall site infrastructure such as access gates, security and surveillance. The management plan must also detail how on-going compliance of the parking will be managed and achieved, minimise adverse impacts of site's operations and adjoining properties with access to the right of carriageway, ensure network performance, minimise disruption, congestion and delays and provide a safe environment for all users.
Condition inserted.
87. 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.
88. All works within the road reserve required by this consent are to be completed prior to the issue of an Occupation Certificate.
89. 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.
90. 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.
91. 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.
92. A post construction dilapidation report prepared by a suitably 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

93. A Landscape Practical Completion Report is to be submitted to the Principal Certifying Authority prior to the issue of the Final Occupation Certificate for Stage 1 and Stage 2. 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.

Condition amended.

PLANNING

94. All commitments listed in the relevant BASIX certificate for the development are to be satisfactorily completed prior to the issue of an Occupation Certificate for Stage 1 and Stage 2. 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.
Condition amended.
95. 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 Stage 1.
Condition amended.
96. 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 Stage 1 and Stage 2.
Condition amended.
97. 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.
98. 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:
- a. Exterior of the building = 75mm and
 - b. Group mailbox - street number = 150mm / house number = 50mm
99. 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 for Stage 1 and Stage 2. 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.
Condition amended.
100. SURVEY CERTIFICATE PRIOR TO ISSUE OF OCCUPATION CERTIFICATE AT COMPLETION –
Prior to the issue of any staged or Final 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.

Condition inserted.

101. 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 an Interim or Final Occupation Certificate, whichever occurs first for Stage 2.

Condition amended.

102. 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.

Condition Inserted.

ENVIRONMENTAL HEALTH

103. 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 for Stage 1 and Stage 2.

Condition amended.

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

Condition amended.

104. 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 the first Occupation Certificate for Stage 1.

Condition amended.

105. Prior to the issuing of the first Occupation Certificate for Stage 1 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).

Condition amended.

106. 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 the first Occupation Certificate for Stage 1.

Condition amended.

107. 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.

108. 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

109. The use and occupation of the premises for Stage 1 and Stage 2, 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.

Condition amended.

110. The use and occupation of the premises for Stage 1 and Stage 2 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.

Condition amended.

ENGINEERING

111. The driveway crossing, parking areas and stormwater management system are to be properly

maintained for the life of the development.

- 112.** A total of 301 car parking spaces (including minimum of 19 residential visitor parking, 25 commercial parking), 15 motorbike spaces and 241 bicycle parking are to be provided. 14 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.

113. Proposed parking areas, vehicle bays, driveways and turning areas and right of carriageway 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

114. Waste management (recyclable and non-recyclable) is to be collected from the storage areas, as identified on the approved plans, serviced from the loading area within the right of carriageway 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.

115. 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.

- A separate development application for any signs (other than exempt or complying signs) must be submitted to and approved by Council prior to the erection or display of any such signs.
- 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.
-
- Groundwater shall not be allowed to be discharged into adjoining roads stormwater system, sewerage system etc. without the controlling authority's approval and/or owner's consent/s. Approval from the controlling authority and any requirements of the approving authority is to be complied with prior to

the commencement of any extraction of groundwater.

- 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

SUBSIDENCE ADVISORY NSW GENERAL TERMS OF APPROVAL

SCHEDULE 2

GENERAL TERMS OF APPROVAL

GENERAL	
Plans, Standards and Guidelines	
1.	<p>These General Terms of Approval (GTAs) only apply to the development described in the plans and associated documentation relating to MA2022/00286 and provided to Subsidence Advisory NSW.</p> <p>Any amendments or subsequent modifications to the development may render these GTAs invalid.</p> <p>If the proposed development is amended or the development consent modified, Subsidence Advisory NSW must be notified to determine if any variations to these GTAs are required.</p>
2.	<p>This approval expires 5 years after the date the approval was granted if construction work has not physically commenced.</p>
PRIOR TO COMMENCEMENT OF CONSTRUCTION	
3.	<p>Prescribed Design Parameters</p> <p>The proposed structure(s) is to be designed to be "safe, serviceable and any damage from mine subsidence shall be limited to 'very slight' in accordance with AS2870 (Damage Classification) and readily repairable" using the subsidence parameters outlined below:</p> <ul style="list-style-type: none"> a) Maximum Horizontal Tensile Strain: 1 mm/m b) Maximum Tilt: 2 mm/m c) Maximum Radius of Curvature (hogging): 10 Km <p>These parameters are subject to Subsidence Advisory NSW's acceptance that grouting of the mine workings has been completed and verified in accordance with Coffey report "Proposed Multistorey Development, 1-19 National Park St Newcastle West Mine Subsidence, specification for mine grouting and verification works", dated 9 April 2020</p>
4.	<p>On completion of grouting submit a Grout Verification Output Report endorsed by the grout designer and site verification engineers for compliance with the accepted Grouting Plan.</p>
5.	<p>Submit an "Engineering Impact Statement" prior to commencement of detailed design for acceptance by Subsidence Advisory NSW, which shall identify the:</p> <ul style="list-style-type: none"> a. Mine subsidence parameters used for the design. b. Main building elements and materials. c. Risk of damage due to mine subsidence. d. Design measures proposed to control the risks. e. Comment on the: <ul style="list-style-type: none"> • likely building damage in the event of mine subsidence. • sensitivity of the design to greater levels of mine subsidence.

6.	Submit a final design incorporating the design methodology contained in the <i>"Engineering Impact Statement"</i> , for acceptance by Subsidence Advisory NSW prior to commencement of construction. It shall include certification by a qualified structural engineer including a statement to the effect that the improvements will remain <i>"safe, serviceable and any damage from mine subsidence shall be limited to 'very slight' damage in accordance with AS2870 (Damage Classification), and readily repairable"</i> taking into consideration the mine subsidence parameters outlined above.
POST CONSTRUCTION	
7.	Establish 4 survey monitoring reference marks on and around the circumference of the building(s) so that structure movement can be monitored should mine subsidence occur. A plan with the position including Easting, Northing and RL of each of the monitoring reference marks and original RLs are to be forwarded to Subsidence Advisory NSW.
8.	Upon completion of construction, work-as-executed certification by a qualified engineer will be required by Subsidence Advisory NSW confirming that construction was in accordance with the plans accepted by Subsidence Advisory NSW.

Dispute Resolution

If you are dissatisfied with the determination of this application an appeal may be formally submitted with the Chief Executive Officer for an independent internal review. The application must be made in writing and must provide reasons why the determination should be changed.