

<b>DATE OF DETERMINATION</b>	3 October 2023
<b>DATE OF PANEL DECISION</b>	3 October 2023
<b>PANEL MEMBERS</b>	Alison McCabe (Chair), Tony McNamara, Roberta Ryan and Peta Winney-Baartz
<b>APOLOGIES</b>	John McKenzie
<b>DECLARATIONS OF INTEREST</b>	Nil

Papers circulated electronically on 12 September 2023.

#### **MATTER DETERMINED**

PPSHCC-160 – Newcastle – DA 2022/01317 - 711 Hunter Street, Newcastle West - Stage 2 – 26 Storey mixed-use development (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 application is one (1) of two (2) separate development applications being considered concurrently on the site known as 711 Hunter Street, Newcastle West. This application is Stage 2 and is located on the King Street side of the site. Stage 1 is on the Hunter Street side of the site. The applications are integrated and share carparking, ground plane and podium up to level 5. The balance of each development comprises separate tower elements. The development has been lodged as separate applications to facilitate the potential to stage construction.

The Panel has previously considered a detailed report on this matter and submissions by the applicant. The Panel deferred the determination of the application for additional information and a further supplementary report on the 8<sup>th</sup> of August of 2023.

The Panel sought further information and clarification regarding:

- GFA calculations
- Compliance with ADG
- Revised clause 4.6 written request
- Revised podium landscape outcomes
- Details of carpark façade and lighting
- Capacity of lift to service the development
- Arrangements for shelter in place

The proposed development is the outcome of a design competition process and review by the Urban Design Review Panel (UDRP) for both Stage 1 and 2. The Panel in its deferral required the additional information to be further reviewed by the UDRP. Amended documents were lodged by the applicant and considered by the UDRP.

A supplementary assessment report dated 12 September 2023 was prepared by Council assessing the amended material. The Panel has considered this report. The applicant in response to the report made a further written submission dated 15 September 2023 which sought changes to proposed conditions and provided a revised clause 4.6 written submission to the Floor Space Ratio control and building separation control to correct minor errors in the document in respect to issues around % of breach.

Council provided a memo to the Panel on Tuesday the 19<sup>th</sup> of September responding to the matters raised by the applicant. The Panel has considered all these additional documents.

A further set of conditions was provided to the Panel on the 21<sup>st</sup> of September 2023 arising from the Panel's consideration and at the request of the Panel. The condition numbers referenced in the following section are the numbers identified in Schedule 2.

The Panel's position on the matters raised in the applicants' latest submission and Council response is discussed as follows.

#### Traffic Condition – red arrow protection

The applicant seeks deletion of condition 95 as they do not consider that there is a nexus to the development as proposed. They also note that it is an existing situation. The proposed development is of a scale that would warrant such a traffic mitigation measure. The Panel also understands that this change to an existing set of traffic signals is not onerous. The Panel considers that the condition is appropriate and arises from the consideration of appropriate traffic mitigation measures required for the development.

Condition 95 is to remain.

#### Flood Refuge

Condition 16 (previously 18) requires a flood refuge in Stage 1 for ground floor commercial tenancies of Stage 1 and 2. The previous version of the condition required the area nominated on level 5 to be enclosed, to afford appropriate weather protection. The Panel agrees that this would have constituted additional floorspace and is of the view that residential common spaces should not be used for flood refuge for the commercial tenancies. Tenancy T1 in Stage 1 has a floor level at an RL above the PMF, with toilet facilities and is enclosed.

The Panel understands that the flood refuge would only be required in the most extreme event. This is a more suitable space for the nominated flood refuge as it keeps commercial tenancy requirements within a commercial tenancy. Condition 16 has been amended to reflect this requirement. Consequential amendments to condition 171 requiring section 88B instrument have also been made to reflect this requirement.

#### Live Music and Hours of Operation (Stages 1 and 2)

The applicant seeks approval across all tenancies to midnight based on the acoustic report provided.

Venues trading to midnight in mixed use precincts need to be well managed and designed for as part of the architecture of the building. Stage 2 proposes uses as food and drink premises, and business tenancies with separate use nominated. Only T1 in Stage 1 has had an acoustic assessment modelled.

The Panel would require patron numbers and detailed plans of management to address patron behaviour and detailed acoustic assessments if extended hours were to be considered. The hours of operation to be imposed are 7am to 10pm. Extended hours could be considered but will need to be addressed as either separate applications or as a modification to this application. Any application would need to be accompanied by detailed acoustic reports, plans of management and patron numbers identified. The number of toilet facilities would also need to be addressed.

Condition 111 reflects hours of operation between 7am and 10pm.

### Interim Park (Stage 2)

The applicant has sought changes to the requirement for the interim park – condition 93 and condition 174.

The Panel has considered this request and proposes to leave the condition as originally drafted. The applicant will have sufficient time to revisit this requirement in the event that they decide to proceed with Stage 2 at an earlier than anticipated date that would make work on the park redundant e.g. circumstances such as if a cc was issued for Stage 2 and construction work had commenced.

The condition is imposed on this DA (Stage 2) in the event that the site is subdivided. Condition 93 is deleted but condition 174 remains.

### Other Conditions

The applicant also sought change to a number of other condition which are address as follows:

- **Condition 21 - Food premises standards** – reference to a cc for the fit out of food premises is agreed.
- **Condition 32 - CPTED requirements** – retain condition as is, as the applicants' change does not reflect UDRP comments,
- **Condition 45 - Proposed carparking screening (lighting)** – amended to reference a requirement to be designed.
- **Condition 77 - Staging of Infrastructure** – amended to require installation before OC.
- **Condition 78 - Provision of Public Art** – amended to require installation before issue of first OC.
- **Condition 79 - Dwelling storage** – retained as it requires demonstration that storage has been provided before OC and is not a double up.
- **Condition 81 - CPTED requirements** – retained so as to demonstrate they are in place.
- **Condition 174 – Interim Park** – retained as discussed above.

All condition references are to the numbers in Schedule 2. The conditions discussed in the submission may have had a different condition number. Other minor changes were made to ensure internal consistency between conditions and correct references.

### ADG Compliance

The revised information and further detailed assessment has satisfied the Panel that the key criteria of the ADG can be achieved.

The performance of Stage 2 on its own does not achieve a reasonable amount of solar access. However, having regard to the integrated nature of the proposal, the overall site is only marginally below at 68.8% if considered as a whole i.e. both Stage 1 and 2.

The development has demonstrated design excellence and will make a positive contribution to the evolving urban design and architectural outcomes envisaged for the Newcastle West End.

### Application to vary a development standard

The application includes two (2) clause 4.6 written requests to:

- (i) clause 7.4 Building separation
- (ii) clause 7.10 Floor Space Ratio to development in Area A

Neither clauses have objectives.

The written request in both cases have identified a proposed and underlying intent and objective of the standard and demonstrated that the objectives can be met notwithstanding the non-compliance.

While the development also benefits from the provision of clause 7.5 (6) under design excellence, the proposal exceeds the additional 10% FSR permitted by this clause albeit marginally so that the relevant standard to be varied in the case of Floor Space Ratio is clause 7.10.

Following consideration of a written request from the applicant, made under clause 4.6 (3) of the Newcastle Local Environmental Plan 2012 (LEP), that has demonstrated that:

- a) compliance with:
  - o clause 7.10 Floor Space Ratio for certain development in Area A
  - o clause 7.4 Building Separationis unreasonable or unnecessary in the circumstances; and
- b) there are sufficient environmental planning grounds to justify contravening the development standard

the Panel is satisfied that:

- a) the applicant's written request adequately addresses the matters required to be addressed under clause 4.6 (3) of the LEP; and
- b) the development is in the public interest because it is consistent with the objectives of clauses 7.10 and 7.4 of the LEP and the objectives for development in the E2 Commercial Centre zone; and
- c) the concurrence of the Secretary has been assumed and the provisions of clause 4.6 (5) have been considered by the Panel.

### Conclusion

The Panel considers that the application is an appropriate response to the site and reflects the policy framework adopted for the emerging centre. It will provide much needed housing in a well serviced and accessible location.

### **Development application**

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

The decision was unanimous.

### **REASONS FOR THE DECISION**

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

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

## CONDITIONS

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





## CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel notes that 3 written submissions were made during public exhibition.

The Panel notes that issues of concerns included:

- View loss/view sharing
- Air quality
- Light / headlight glare
- Building separation / setbacks
- FSR variation
- Design Excellence
- Building Height
- Construction impacts

The Panel considers that concerns raised by the community have been adequately addressed in the assessment report and were in the subject of further supplementary reports to address matters raised in the submissions and by the Panel.

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

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSHCC-160 – Newcastle – DA 2022/01317 and
2	PROPOSED DEVELOPMENT	DA2022-01317 - Stage 1 involving demolition of existing structures and the erection of a mixed-use development proposing 136 apartments, retail premises and associated parking, landscaping, services and associated two lot subdivision.
3	STREET ADDRESS	711 Hunter Street, Newcastle West
4	APPLICANT OWNER	Urbis Pty Ltd Hunter Street JV CO Pty Limited
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>• Environmental planning instruments: <ul style="list-style-type: none"> <li>○ State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</li> <li>○ State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development</li> <li>○ State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>○ State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>○ Newcastle Local Environmental Plan 2012</li> </ul> </li> <li>• Draft environmental planning instruments: Nil.</li> <li>• Development control plans: <ul style="list-style-type: none"> <li>○ Newcastle Development Control Plan 2012</li> </ul> </li> <li>• Planning agreements: Nil</li> <li>• Provisions of the <i>Environmental Planning and Assessment Regulation 2021</i></li> <li>• Coastal zone management plan: [Nil]</li> <li>• The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality.</li> <li>• The suitability of the site for the development</li> <li>• Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations.</li> <li>• The public interest, including the principles of ecologically sustainable development</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>• Council assessment report: 20 July 2023</li> <li>• Council supplementary assessment report: 12 September 2023</li> <li>• Revised conditions: 21 September 2023</li> <li>• Clause 7.10 – Floor Space Ratio for certain development in Area A NLEP 2012</li> <li>• Clause 7.4 – Building Separation NLEP 2012</li> <li>• Written submissions during public exhibition: 3</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>• Preliminary Briefing: 21 February 2023 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Alison McCabe (Chair) and Tony McNamara, Peta Winney-Baartz and John MacKenzie</li> <li>○ <u>Applicant representatives</u>: Luke McNamara, Justyn Ng, Naomi Ryan, Andrew Harvey, Kirraly Northey, Rido Pin, Hong Nguyen, Mark Kuhne, Jojo Navarro and Sam Shepherd</li> <li>○ <u>Council assessment staff</u>: Damian Jaeger and Amy Ryan</li> <li>○ <u>Department staff</u>: Leanne Harris and Lisa Foley</li> </ul> </li> </ul>

		<ul style="list-style-type: none"> <li>• Briefing: 21 June 2023 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Alison McCabe (Chair) and Tony McNamara, Roberta Ryan, Peta Winney-Baartz and John MacKenzie</li> <li>○ <u>Applicant representatives</u>: Luke McNamara, Justyn Ng, Andrew Harvey, Kirraly Northey, Rido Pin, Hong Nguyen, John Carr and Sam Shepherd</li> <li>○ <u>Council assessment staff</u>: Damian Jaeger, Amy Ryan and Priscilla Emmett</li> <li>○ <u>Department staff</u>: Leanne Harris</li> </ul> </li> <li>• Site inspection: <ul style="list-style-type: none"> <li>○ <u>Alison McCabe (Chair)</u>: 13 January 2023</li> <li>○ <u>Tony McNamara</u>: 21 June 2023</li> <li>○ <u>Roberta Ryan</u>: 26 July 2023</li> <li>○ <u>Peta Winney-Baartz</u>: Visted site on several occasions.</li> </ul> </li> <li>• Final briefing to discuss Council's recommendation: 27 July 2023 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Alison McCabe (Chair), Tony McNamara, Roberta Ryan, Peta Winney-Baartz and John Mackenzie</li> <li>○ <u>Council assessment staff</u>: Damian Jaeger, Amy Ryan, Robert Manev, Rajnesh Prakash and David Ryner</li> <li>○ <u>Department staff</u>: Tim Mahoney, Lisa Foley and Barbara Gilbert</li> </ul> </li> <li>• Applicant Briefing: 27 July 2023 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Alison McCabe (Chair), Tony McNamara, Roberta Ryan, Peta Winney-Baartz and John Mackenzie</li> <li>○ <u>Council assessment staff</u>: Damian Jaeger, Amy Ryan, Robert Manev, Rajnesh Prakash and David Ryner</li> <li>○ <u>Department staff</u>: Tim Mahoney, Lisa Foley and Barbara Gilbert</li> <li>○ <u>Applicant representatives</u>: Luke McNamara, Justyn Ng, Andrew Harvey, Naomi Ryan, Rebecca Elliot, Rido Pin, Hong Nguyen, Mark Kuhne, John Carr and Sam Shepherd</li> </ul> <p><u>Note</u>: Applicant briefing was requested to respond to the recommendation in the Council assessment report</p> </li> <li>• Final briefing to discuss Council's recommendation: 19 September 2023 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Alison McCabe (Chair), Roberta Ryan, Tony McNamara and Cr Peta Winney-Baartz</li> <li>○ <u>Council assessment staff</u>: Damian Jaeger, Amy Ryan, Robert Manev and Rajnesh Prakash</li> <li>○ <u>Department staff</u>: Leanne Harris and Holly McCann</li> </ul> </li> </ul>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council assessment report

## SCHEDULE 2

### DRAFT SCHEDULE OF CONDITIONS

<b>Application No:</b>	DA2022/01317
<b>Land:</b>	Lot 1 DP 867617
<b>Property Address:</b>	711 Hunter Street Newcastle West NSW 2302
<b>Proposed Development:</b>	DA2022-01317 - Stage 2 involving demolition of existing structures and the erection of a mixed-use development proposing 121 apartments, retail premises and associated parking, landscaping, services and associated two lot subdivision.

### Terms and Reasons for Conditions

#### GENERAL CONDITIONS

##### Condition

#### General Terms of Approval

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

- Subsidence Advisory NSW dated 30 June 2023 (Proposed Apartments Ref:TBA22-04442)
- Subsidence Advisory NSW dated 30 June 2023 (Proposed Subdivision Ref:TSUB22-00419)

Condition reason: to ensure the requirements of state authorities are complied with under relevant legislation.

#### Development contributions - 7.11 general

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

Description	Contribution (\$)
Transport	\$236,152.13
Open Space and Recreation	\$1,014,796.51
Community Facilities	\$187,729.80
Plan Preparation and Administration	\$35,915.43
<b>TOTAL</b>	<b>\$1,474,593.87</b>

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

The contributions shall be paid to the Newcastle City Council:

- (i) prior to the issue of the Subdivision Certificate where the development is for subdivision;



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

Condition reason: To ensure development contributions are paid to address the increased demand for public amenities and services resulting from the approved development.

### Approved plans and documentation

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

<b>Approved plans</b>				
<b>Plan number</b>	<b>Revision number</b>	<b>Plan title</b>	<b>Drawn by</b>	<b>Date of plan</b>
PLA-DA-S2-0300	B	Demolition	Plus Architecture	19/5/2023
PLA-DA-S2-0301	B	Demolition- Lv1	Plus Architecture	19/5/2023
PLA-DA-S2-0400	B	Site	Plus Architecture	19/5/2023
PLA-DA-S2-0500	B	Staging	Plus Architecture	19/5/2023
PLA-DA-S2-1000	B	Ground Floor	Plus Architecture	19/5/2023
PLA-DA-S2-1000.1	B	Mezzanine	Plus Architecture	19/5/2023
PLA-DA-S2-1001	B	Level 1	Plus Architecture	19/5/2023
PLA-DA-S2-1002	B	Level 2	Plus Architecture	19/5/2023
PLA-DA-S2-1003	B	Level 3	Plus Architecture	19/5/2023
PLA-DA-S2-1004	B	Level 4	Plus Architecture	19/5/2023
PLA-DA-S2-1005	C	Level 5	Plus Architecture	21/8/2023
PLA-DA-S2-1007	B	Levels 6-13	Plus Architecture	19/5/2023
PLA-DA-S2-1014	B	Level 14-16	Plus Architecture	19/5/2023
PLA-DA-S2-1017	B	Levels 17	Plus Architecture	19/5/2023
PLA-DA-S2-1024	B	Level 18-24	Plus Architecture	19/5/2023
PLA-DA-S2-1025	B	Level 25	Plus Architecture	19/5/2023
PLA-DA-S2-1026	B	Level 26 - Plant	Plus Architecture	19/5/2023
PLA-DA-S2-1027	B	Roof Plan	Plus Architecture	19/5/2023
PLA-DA-S2-1100	B	Ground Floor	Plus Architecture	19/5/2023
PLA-DA-S2-1101.1	B	Mezzanine	Plus Architecture	19/5/2023
PLA-DA-S2-1101	B	Level 1	Plus Architecture	19/5/2023
PLA-DA-S2-1102	B	Level 2	Plus Architecture	19/5/2023
PLA-DA-S2-1103	B	Level 3	Plus Architecture	19/5/2023
PLA-DA-S2-1104	B	Level 4	Plus Architecture	19/5/2023
PLA-DA-S2-1105	C	Level 5	Plus Architecture	21/8/2023
PLA-DA-S2-1107	B	Levels 6-13	Plus Architecture	19/5/2023
PLA-DA-S2-1124	B	Level 14-24	Plus Architecture	19/5/2023
PLA-DA-S2-1125	B	Levels 25	Plus Architecture	19/5/2023
PLA-DA-S2-1126	B	Levels 26	Plus Architecture	19/5/2023
PLA-DA-S2-1127	B	Level 27	Plus Architecture	19/5/2023
PLA-DA-S2-2000	C	North Elevation	Plus Architecture	21/8/2023
PLA-DA-S2-2001	B	South Elevation	Plus Architecture	19/5/2023

PLA-DA-S2-2002	B	East Elevation	Plus Architecture	19/5/2023
PLA-DA-S2-2003	B	West Elevation	Plus Architecture	19/5/2023
PLA-DA-S2-3000	B	Section 01	Plus Architecture	19/5/2023
PLA-DA-S2-3001	B	Section 02	Plus Architecture	19/5/2023
PLA-DA-S2-6000	B	Adaptable Units	Plus Architecture	19/5/2023
PLA-DA-S2-6001	B	Adaptable Units	Plus Architecture	19/5/2023
PLA-DA-S2-7000	B	Material Schedule	Plus Architecture	19/5/2023

<b>Approved documents</b>			
<b>Document title</b>	<b>Version number</b>	<b>Prepared by</b>	<b>Date of document</b>
Acid Sulphate Soil Management Plan	754-NTLGE293239-AD	Tetra Tech Coffey	18/10/22
Acoustic Report	20220898.1 Rev1	Acoustic Logic	19/10/22
F&B Acoustic Report	20220898.1 Rev1	Acoustic Logic	19/05/23
Design Report	20623	Plus Architecture	19/5/23
CPTED Report	22.013	The Design Partnership	May 2023
Landscape Design Report & Plan	P0042847 Iss C	Urbis	19/5/23
Landscape Maintenance Plan	Proj Code: P0042847 Rpt Number: LMP-01 Rev A	Urbis	14 August 2023
Lift Performance Report	Revision A	S4Bstudio	August 2023
Operational Waste Management Plan	3469 Rev G	Elephants Foot	19/5/23
Proposed Stratum Report	Ref 21745	CMS Surveyors	19/5/23
Connecting to Country Indigenous Design Strategy	Issue C	COLA	October 2022
Construction & Demolition Waste Management Plan	Rev B	Elephants Foot	24/10/22
Remedial Action Plan	754-NTLGE293239-AH Rev 2	Tetra Tech Coffey	17/7/23
Green Travel Plan	N21112_RPT_002 REV / A	BG&E	2/11/22

In the event of any inconsistency between the approved plans and documents, the approved conditions prevail.

Condition reason: to ensure all parties are aware of the approved plans and supporting documentation that applies to the development.

**BUILDING WORK  
BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE**

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Condition

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**Disabled access details**

Before the issue of a construction certificate, details of how the building is to be provided with access for persons with disabilities, to the extent necessary to comply with the Commonwealth's *Disability (Access to Premises - Buildings) Standards 2010* are required, with full details included in the construction certificate documentation.

Condition reason: to satisfy access standards for the disabled.

**Parking requirements**

Before the issue of a construction certificate, details of on-site parking accommodation are to be provided for a maximum of:

- a) 105 residential parking spaces (inclusive 7 accessible and 5 electric vehicle charging spaces);
- b) 21 residential visitor parking spaces;
- c) 9 commercial / retail parking spaces (inclusive 1 electric vehicle charging space);
- d) 6 motorbike;
- e) 137 bicycle (comprising 114 Security Level B and 23 Security Level C)

The design of on-site parking accommodation shall meet the minimum parking layout standards indicated in Section 7.03 'Traffic, Parking and Access' of Newcastle Development Control Plan 2012, with full details included in the construction certificate documentation.

Condition reason: to meet on-site car parking numbers and design standards.

**Traffic visibility**

Before the issue of a construction certificate, details are to be provided demonstrating that visibility of letterboxes, landscaping and any other obstructions will be kept clear of a 2.0m by 2.5m splayed area within the property boundary (each side of the driveway entrance) or limited to 1.2m in height in that area, in accordance with *AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking*. Full details are to be provided with the construction certificate documentation.

Condition reason: to ensure traffic safety.

**Electric vehicle circuitry and electric vehicle charging point requirements - new residential**

Electric vehicle circuitry and electric vehicle charging point requirements - new residential

Before the issue of a construction certificate, details are to be provided of electrical plan and specifications for all off-street car parking, prepared by a suitably qualified and experienced person and demonstrating the following;

- a) That each off-street car parking space will be provided with electrical circuitry to support the installation of a 'Level 2' electric vehicle charger point. The construction certificate plans are to:
  - i) Identify the power capacity to each car parking space.
  - ii) Identify the EV Distribution Board and EV Load Management System on each level of parking. Locate EV Distribution Board(s) so that no future EV Ready connection will require a cable of more than 50 metres from the parking bay to connect.

- iii) Identify the conduit system to allow each car space to install an electric vehicle charger point - such as cable trays and/or buried cables underground. This system should allow future installation of cabling to power electric vehicle charger points and allow internet access (run Ethernet cable or install 4G modem).

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

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

Full details are to be included in documentation for a construction certificate application.

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

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

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

### **Public domain works required**

Before the issue of a construction certificate, full details are to be provided to, and consent obtained, or other satisfactory arrangements confirmed in writing, from Newcastle City Council pursuant to Section 138 of the Roads Act 1993 for the following works to be constructed by the developer in connection with the proposed development within the King, Little King and National Park Street public road reserve, adjacent to the site, at no cost to Newcastle City Council and in accordance with Newcastle City Council's guidelines and design specifications:

- a) Road shoulder pavement
- b) Kerb and gutter replacement
- c) Footway formation and full width paving /landscaping
- d) Landscaping of the entire footway area bounded by King, Little King and National Park Streets
- e) Upgrade stormwater drainage
- f) Upgrade of street lighting incorporating Council's Smart Lighting Poles
- g) Street tree planting in gap-graded structural soil vaults and incorporating Council's City Centre Technical Manual TG1 tree guard and TS2 grate.
- h) Installation of new stormwater connections from the development including stormwater controls and discharge from proposed park over Stage 2 development area
- i) Upgrade of road drainage along Hunter St, King St and National Park St in accordance with the Newcastle West Drainage Study
- j) Road works associated with adjustments to road surface levels (resurfacing) of National Park St in accordance with the Newcastle West Drainage Study for flood mitigation purposes

Engineering design plans and specifications for the works to be undertaken within the public road reserve are to be prepared by a practising professional engineer with experience and competence in the related field.

Condition reason: to require details and council approval of works within the public road reserve.

## **Water tanks and plumbing direction**

Before the issue of a construction certificate, details are to be provided demonstrating roof water from the proposed new work will be directed to the proposed water tank with a minimum capacity of 7,500 litres and being either reticulated to any new toilet cisterns and cold water washing taps and/or landscape areas on Level 5 of this development or podium level 5 landscape areas of the Stage 1 development, with a mains water top up being installed to maintain between 10% and 15% of the tank capacity. Alternatively, an electronically activated mechanical valve device is to be installed to switch any new toilet cisterns and laundry taps to mains water when the tank falls below 10% capacity. The water tank and plumbing is to be designed in accordance with the Plumbing Code of Australia (National Construction Code Volume 3). Full details are to be provided with the construction certificate documentation.

Condition reason: to ensure appropriate design standards for water tanks and plumbing applicable to the new work are included at the detailed design stage.

## **Rainwater tank screening**

Before the issue of a construction certificate, details are to be provided demonstrating that all downpipes discharging to the rainwater tanks will have pre-storage insect, debris and vermin control (e.g. a rainwater head being leaf screened and vermin and insect proof) to minimise the contamination of captured roof water. A first flush device is to be provided for the inlet to the tank and a backflow prevention device is to be installed in the tank overflow outlet before connecting to the stormwater drainage system. If the roof downpipes are charged to the rainwater tank, all pipes are to be chemically welded and the stormwater system is to be designed such that the system is capable of being flushed in the event of pipe blockage (e.g. capped relief access points at the lowest level of stormwater drainage). Full details are to be included in documentation for a construction certificate application.

Condition reason: to require screening of rainwater tanks.

## **Controlling overflows - inter-allotment**

Before the issue of a construction certificate, details are to be provided demonstrating that overflows from the roof water tank and any additional discharge controls (if required) will be directed to Newcastle City Council's drainage system by means of an inter-allotment drainage line or underground pipe directly to the street gutter. Full details are to be provided with the construction certificate documentation.

Condition reason: to ensure that detailed designs provide for overflows relating to the new work to be directed to council's drainage system.

## **On-site drainage requirement**

Before the issue of a construction certificate, details are to be provided demonstrating that all new impervious surfaces, including driveways and paved areas will be drained to the nominated discharge controls, with full details included in documentation with the construction certificate application.

Condition reason: to ensure that details relating to impervious surface drainage applicable to the new work are included at the detailed design stage.

## **Flooding - verifying floor levels**

Before the issue of a construction certificate, full details are to be provided demonstrating that the floor level of all proposed buildings or building additions are to be no lower than 3.2 m Australian Height Datum.

Condition reason: to require verification of proposed floor level heights.

## **Flooding - requirements below flood level**

Before the issue of a construction certificate, details are to be provided demonstrating that the whole of the proposed structure below known flood level (3.2 m Australian Height Datum) will 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 are to be installed above the said height, or alternatively be of materials and functional capability resistant to the effects of floodwaters/tidal waters. Full details are to be included in documentation for a construction certificate application.

Condition reason: to require details of proposed structures, machinery and equipment.

## **Flooding - emergency response plan**

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

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

- a) likely flood behaviour
- b) flood warning systems
- c) education awareness program
- d) evacuation and evasion procedures
- e) evacuation routes to flood refuges (shelter in place) for expected number of people and
- f) flood preparedness and awareness procedures for residents and visitors

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

Condition reason: to require a flood emergency response plan.

## **Flood refuge on-site**

Before the issue of a construction certificate, details are to be provided demonstrating that an on-site flood refuge (shelter in place) is to be provided for the development, within the proposed Stage 1's northern tower's food and drinks premise on Level's 1 and 2 (i.e. Tenancy 1 located on the corner of Hunter Street & National Park Streets) or similar location with the written approval of the City of Newcastle. The minimum on-site refuge level in the building is the level of the Probable Maximum Flood event (reduced level 4.10 m Australian Height Datum) and must be provided for the expected number of people for both Stage 1 and Stage 2 DA2022/01317 developments, with an evacuation access route to the flood refuges being clearly indicated. The design and/or suitability of the refuge is to be structurally certified by a professional engineer, ensuring that the building is able to withstand the hydraulic loading due to flooding from the Probable Maximum Flood (Flood Level reduced level 4.10 m Australian Height Datum, Maximum Flow Velocity of floodwaters 0.8 m/s). Full details are to be included in documentation for a construction certificate application.

Condition reason: to require location and design of an appropriate flood refuge on-site.

## **Flood storage**

Before the issue of a construction certificate, details are to be provided demonstrating that under floor flood storage areas will be provided, designed to allow floodwaters to enter and leave without flow restrictions, generally as indicated in Figure 5 of the Flood Impact Statement prepared by BG&E Project No. N21112 Rev A dated 31/10/2022. Full details are to be provided in documentation for a construction certificate application.

Note: The use of suspended floor techniques such as pier and beam construction, with a minimum 20% by area openings over the full height of the storage area perimeter is satisfactory.

Condition reason: to require location and design of an appropriate under floor flood storage area on-site.

## **Tree protection on site**

Before the issue of a construction certificate, details are to be provided demonstrating that all trees on the site outside the envelope of the proposed building will be preserved where practicable and to be identified for preservation on the required comprehensive landscape design plan. Those trees are to be protected against damage during the building construction period. Full details are to be included in documentation for a construction certificate application.

Condition reason: to protect trees on-site.

## **Street trees removal approval**

The existing Magnolia grandiflora street tree (Newcastle City Council ID 13758) is approved to be removed, subject to arrangements being made for the removal of the street tree by contacting Newcastle City Council's City Greening Services. All tree removal works are to be carried out by the Newcastle City Council at the developer's expense.

Condition reason: to ensure street trees are not removed without approval.

## **Additional Street Trees**

Before the issue of a construction certificate, details are to be provided demonstrating that a street tree will be planted as compensation for each street tree removal and that additional street trees are provided within the public street frontage associated with the proposal, and evidence provided that a fee, to be determined by contacting Newcastle City Council's City Greening Services, has been paid to Newcastle City Council for the required compensatory planting.

### **Note:**

- 1 Tree plantings along the Stage 2 site frontage within King, Little King and National Park Streets comprising 2 x 300 litre, 1 x 300 litre tree and 3 x 300 litre trees respectively.
- 2 The tree selection and location of the required compensatory planting will be determined by Newcastle City Council Greening Services in accordance with the Newcastle City Council's '*Street Tree Master Plan*'. The location of the compensatory tree planting may not be in the immediate proximity of the site.

Condition reason: to ensure additional and compensatory street tree planting is provided within the public domain.

## **Food premises standards**

Before the issue of a construction certificate for the fitout of a food and drink premises, details are to be provided demonstrating that the design and construction of the proposed development is to be in accordance with the relevant requirements of *Australian Standard 4674:2004 - Design, Construction and Fit-Out of Food Premises*. Full details are to be included in the documentation for the construction certificate application.

Condition reason: to require details of food premises design and fit-out.

## **Preparation of mechanical ventilation plans**

Before the issue of a construction certificate, detailed plans of the mechanical exhaust ventilation system must be prepared by a suitably qualified person.

The detailed plans must be in accordance with the following and submitted to the certifier:

- a) Australian Standard 1668: - The use of ventilation and air- conditioning in buildings; and
- b) ensure all generate heated air, smoke, fumes, steam or grease vapours do not:
  - i) cause a nuisance to persons within or nearby to the premises, or
  - ii) cause air pollution as defined under the *NSW Protection of the Environment Operations Act 1997*

Condition reason: to ensure that detailed professional plans of the approved mechanical ventilation system are submitted before the issue of a construction certificate.

## **SEPP 65 verification statement**

Before the issue of a construction certificate, a statement from a qualified designer is to be provided, verifying that the plans and specifications achieve or improve the design quality of the development for which development consent was granted, having regard to the design quality principles of *State Environmental Planning Policy No. 65 - Design Quality of Residential Apartment Development*.

**Note:** 'Qualified Designer' means a person registered as an architect in accordance with the *Architects Act 2003*.

Condition reason: to ensure compliance with the SEPP 65.

## **Heritage Interpretation Plan**

An interpretation plan is to be prepared by an experienced heritage interpretation practitioner and submitted with the documentation for a Construction Certificate. The Interpretation Plan shall be in accordance with the Heritage Council's "Interpreting Heritage Places and Items Guidelines" (2005). The plan must interpret the former uses and history of the site in a way that is engaging, informative and readily accessible to the majority of visitors. Written approval from Council's Heritage Officer is to be obtained prior to the issue of a Construction Certificate.

Condition reason: To ensure that a heritage interpretation plan is prepared.

## **Heritage Sandstone Kerbing**

Sandstone kerbing in National Park Street is to be retained. Full details to be provided with the documentation for a Construction Certificate.

Condition reason: To ensure existing sandstone kerbing is retained

## **Construction Environmental Management Plan (CEMP)**

Prior to the issue of a Construction Certificate, the proponent preparing and submitting to the PCA and Council a Construction Environmental Management Plan (CEMP) for construction/demolition works on the site, such to be kept on site and made available to



authorised Council officers upon request. The CEMP 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 water management strategy, detailing erosion and sediment control, management of soil stockpiles, control and management of surface water, groundwater. Procedures should also be included to ensure that all roads adjacent to the site are kept free and clear from mud and sediment.
- c) A dust management strategy, detailing procedures to minimise dust generation, with reference to control techniques and operational limits under adverse meteorological conditions.
- d) A noise and vibration management program, detailing measures to minimise the impact of the development on local amenity. Provision for noise and vibration monitoring during works should be incorporated into the program.
- e) A soil management strategy, detailing measures to be implemented to manage the identification and control and disposal of any acid sulphate soils or soil contamination identified during site works.
- f) A waste minimisation strategy, which aims to avoid production of waste and maximise reuse, recycling or reprocessing of potential waste material.
- g) A community relations plan, which aims to inform local residents and other local stakeholders of the proposed nature and timeframes for demolition and construction activities together with contact details for site management.

Condition reason: To ensure that appropriate construction and site management measures are implemented.

### **Public Road Reserve Works (Section 138)**

Comprehensive engineering design plans and specifications for the works to be undertaken in the public road reserve being submitted for approval with the required application under Section 138 of the Roads Act, 1993, such to be accompanied by the following documentation and additional details:

#### **Road Design Plans**

Engineering Plans to comply with the following requirements:

- a) Plans to be accompanied by a pavement design report prepared and certified by a practising geotechnical engineer
- b) Plans to be accompanied by a design report prepared and certified by a practising road design engineer, such report to include a risk assessment reviewing the location of power poles relative to the edge of kerbside travel lanes in accordance with the TfNSW Road Design Guide
- c) Kerb and gutter shapes within the public road to be constructed in accordance with Council's Standard Drawing No. A1200.
- d) Drainage inlet structures within the public road to be constructed in accordance with Council's Standard Drawing Nos. A 2000 series
- e) Footways to be generally high level and at 2.5% grade toward the kerb
- f) Kerb ramps to be constructed in accordance with Council's Draft Standard Drawing No. A 1201
- g) A separate line marking and signposting plan (approved by the Newcastle City Traffic Committee) to be included with the design plans.

## Land Management Plan

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

## Stormwater Drainage Plan

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

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

## Utilities Layout Plan

The Utilities Layout Plan to indicate the location of existing mains, associated installations and service conduits, together with any proposed utility alterations and installations in particular street lighting. Any required electricity substations, pumping stations or similar installations are to be located in public reserves and/or private land and are not to be located within road reserves.

## Set-out Layout Plan

The Set-out Layout Plan to indicate survey co-ordinates for set out points for kerbs, medians and lane lines.

Condition reason: To ensure appropriate road and public domain works are undertaken

## **Provision Mechanical Ventilation & Grease Arrestors**

All retail premises are to be connected to grease arrestors and provided within suitable service ducting to allow future installation of mechanical ventilation. Full details are to be submitted with the required Construction Certificate.

Condition reason: To ensure that future uses of the retail premises are not restricted

## **Waste Management**

Prior to the issue of any Construction Certificate, a final waste management plan (WMP) is to be approved by the City of Newcastle's Waste & Commercial Collection Manager addressing all necessary criteria for collection on site by Council's waste service vehicles. Written evidence of this approval is to be submitted prior to the issue of any Construction Certificate.

### Note

- 1 The WMP may need to include entering into a legal agreement with Council to address our access onto a private site.
- 2 The WMP will need to allow access to the bin presentation point/s and should not be dependent on meeting someone for access. The Owners Corporation must ensure that the Nominated Collection Point is at all times easily and safely accessible by Council, noting that keyless entry is required (e.g. PIN pad access or similar).

Condition reason: To ensure the safe and efficient collection of waste from the subject site.

### **CPTED Requirements**

The design and operation of all ground floor tenancies and being restricted as follows: -

- i) no signage, graphics, paint or similar restricts more than 10% of any shop glazing
- ii) no shelving or internal fit-outs is to have a height of greater than 750 mm along the shop frontage glazing

Full details to be submitted prior to the issue of associated Construction Certificate

Condition reason: To ensure than CPTED principles are maintained and suitable sightlines are achieved within the development in regard to casual and passive surveillance.

### **Dwelling Storage**

Prior to the issue of an Construction Certificate, it is to be demonstrated via plans, that all dwellings have been provided with the minimum amount of internal and external storage (m3) as required under 4G of the Apartment Design Guidelines.

Condition reason: To ensure adequate storage for the future residents.

### **CPTED Recommendations**

Prior to the issue of a Construction Certificate, all recommendations of CPTED the report by The Design Partnership (May 2023) are to be incorporated into the design. Full details to be shown and included with the required Construction Certificate.

Condition reason: To ensure appropriate CPTED measures are undertaken.

### **Provision of Public Art**

A public art feature is to be designed for the site or surrounding area in consultation with Newcastle City Council. The public artwork is to have a minimum value of 1% of the capital cost of the development. The final details of all artworks within the site and associated costing are to be submitted to Council's Public Art Reference Group for written approval prior to the issue of a Construction Certificate.

Condition reason: To ensure the incorporation of public art features in a timely manner

### **Staging of Infrastructure**

All infrastructure associated with the servicing of the proposed developments, DA2022/01316 and DA2022/01317 on the proposed allotments, including drainage, electricity, gas, telecommunications and the like, being detailed within the required Construction Certificate.

Condition reason: To ensure that the provision of infrastructure occurs in a timely manner and

in the public interest

### **Car park design**

Before the issue of a construction certificate, full details of the design of the car parking and vehicular access complying with the relevant provisions of *AS/NZS 2890 Parking facilities* are to be documented, with full details included in the construction certificate documentation.

Condition reason: to satisfy car parking and vehicular access standards for vehicles.

### **Driveways basecourse**

Before the issue of a construction certificate, all proposed driveways, parking bays, loading bays and vehicular turning areas are to be designed and constructed with a basecourse of a depth to suit design traffic and be sealed with either bitumen seal, asphaltic concrete, concrete or interlocking pavers, with full details included in the construction certificate documentation.

Condition reason: to set appropriate design standards for vehicle use on-site.

### **Landscape protection - driveways and parking bays**

Before the issue of a construction certificate, kerbing or a dwarf wall having a minimum height of 100mm are to be designed along the edge of all garden or lawn areas adjacent to driveways and parking bays, sufficient to discourage the encroachment of vehicles thereon, with full details included in the construction certificate documentation.

Condition reason: to protect landscaping from vehicle damage.

### **Stormwater management details**

Before the issue of a construction certificate, details are to be provided demonstrating how stormwater runoff from the proposed development is to be managed in accordance with the requirements of Section 7.06 '*Stormwater*' of Newcastle Development Control Plan 2012, the associated Technical Manual and *AS/NZS 3500.3 Plumbing and drainage Part 3 Stormwater drainage*, as indicated on the stormwater management concept plan prepared by BG&E (Drg. No's. CI-0200 Rev C, CI-201, CI-206 (Rev A) dated 18/05/2023 & CI-350 Rev A dated 14/10/2022) except as amended by this consent, with minimum 7,500L rainwater tank(s) being provided for the Stage 2 development and must be designed in accordance with Section 7.06 '*Stormwater*' of Newcastle Development Control Plan 2012. Full details are to be included in documentation for a construction certificate application.

Condition reason: to ensure that detailed designs provide for stormwater runoff relating to the new work to be directed to a dispersion trench.

### **Landscape plans and specifications**

Before the issue of a construction certificate, all proposed planting and landscape elements indicated on the approved landscape concept plan or otherwise required by the conditions of this consent are to be detailed on a comprehensive landscape plan and specification. The plan and specification are to be prepared in accordance with the provisions of Newcastle Development Control Plan 2012 and is to include details of the following:

- a) cross sections through the site
- b) proposed contours or spot levels
- c) botanical names
- d) quantities and container size of all proposed trees
- e) shrubs and ground cover
- f) details of proposed soil preparation

- g) mulching and staking
- h) treatment of external surfaces and retaining walls where proposed
- i) drainage, location of taps and
- j) maintenance periods.

The plan and specification are to be prepared by a qualified landscape designer and be included in documentation for the construction certificate application.

Condition reason: to require a detailed landscape plan and specifications.

### **Hunter Water Requirements - compliance certificate**

Before the issue of a construction certificate, a copy of a Hunter Water compliance certificate (*Water Act 1991 - Section 50*) must be obtained and included in the construction certificate documentation.

**Note:** Compliance is required with all of Hunter Water's requirements to provide the development with water supply and sewerage service.

Condition reason: to require a Hunter Water compliance certificate.

### **Mailbox for dwellings**

Before the issue of a construction certificate, details are to be provided showing a group type mailbox at the street frontage in accordance with the requirements of Australia Post, clearly displaying individual unit numbers and the required street number. Full details are to be included in the documentation for a construction certificate application.

Condition reason: to require details of mailboxes.

### **Vehicular crossings standards**

Before the issue of a construction certificate, full details are to be provided to, and approval obtained or other satisfactory arrangements confirmed, in writing, from Newcastle City Council, pursuant to section 138 of the Roads Act 1993 for a commercial vehicular crossing across the road reserve, in accordance with the following criteria:

- a) Constructed in accordance with Newcastle City Council's A1300 - Driveway Crossings Standard Design Details.
- b) The driveway crossing, within the road reserve, is to be a maximum of 6.5 m wide.
- c) Letterboxes, landscaping and any other obstructions to visibility are to be kept clear of or limited in height to 1.2m, in the 2.0m by 2.5m splay within the property boundary, each side of the driveway entrance.
- d) The proposed driveway is to be a minimum of 3.0m clear of the trunk of any tree within the road reserve.
- e) The proposed driveway is to be a minimum of 750mm clear of the centre of any pole or obstruction within the road reserve and 1.0m clear of any drainage pit.

Note: These works are not approved until consent under Section 138 of the Roads Act 1993 has been granted by the Newcastle City Council.

Condition reason: to require full details of designs in accordance with council's criteria on vehicular crossings.

### **Roads Act Approval**

Before the issue of a construction certificate, a separate application is to be lodged and consent obtained from Newcastle City Council for all works within the road reserve pursuant to Section 138 of the *Roads Act 1993*. The consent is to be obtained, or other satisfactory arrangements confirmed in writing from the Newcastle City Council.

Condition reason: to ensure compliance with the *Roads Act 1993*.

### **Controlling stormwater**

Before the issue of a construction certificate, full details are to be provided demonstrating that all the surface waters and stormwater run-off from the proposed park over the Stage 2 development area and associated surrounding landscaped areas is designed to be contained within the subject site and such must be designed in accordance with Section 7.06 'Stormwater' of Newcastle Development Control Plan 2012 and included in the construction certificate documentation.

Note: any new drainage outlet connections for the proposed park and associated landscape areas shall be conveyed to the street gutter by way of a sealed pipe system, extending through the footway to Newcastle City Council requirements.

A separate approval from Newcastle City Council will be required pursuant to Section 138 of the Roads Act 1993.

Condition reason: to control stormwater runoff.

### **Proposed car parking screening (Lighting)**

The proposed screening to the car parking areas being design so that it ensures screening of the car park such that there are no unreasonable impacts from lighting or headlight glare within the subject site and surrounding areas, that the screening and associated lighting is designed to provide a 'warm glow' to the proposed development, while maintaining an architecturally attractive and compatible element within the overall design of the proposal.

Prior to the issue of any Construction Certificate, written approval for the design of car park screening is to be obtained from the City of Newcastle's Urban Design Review Panel (UDRP).

Note: The required details are to be submitted to the City of Newcastle who will arrange consideration of the further design development by the UDRP.

Condition Reason: To minimise amenity impacts on the subject site and surrounding areas and ensure a high standard architectural outcome that maintains design excellence.

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## **BEFORE BUILDING WORK COMMENCES**

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### **Condition**

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#### **Hoardings**

Before building work commences, 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.

Condition reason: to protect public spaces during demolition.

#### **Telecommunication requirements**

Before building work commences, the developer is to comply with all requirements of the telecommunications authority regarding the connection of telephone services including:

- a) The payment of any required cash contribution towards the provision of underground or aerial reticulation cabling or internal block cabling.

- b) Consultation with the NBN. Where the development will result in an additional connection to the network, the design and construction of the works must comply with the current National Broadband Network (NBN) standards. Development in an area affected by the publicly announced rollout maps by the NBN must be registered, with the NBN via their website.

Written evidence of consultation shall be submitted to the principal certifier before the commencement of work

Condition reason: to ensure requirements of telecommunications authority are met.

### **Roads Act approval**

Before building work commences, a separate application is to be lodged and consent obtained from Newcastle City Council for all works within the road reserve, pursuant to Section 138 of the *Roads Act 1993*, prior to the commencement of works.

Condition reason: to ensure compliance with the *Roads Act 1993*.

### **Traffic management - RMS accredited**

Before site work and/or building work commences, a Construction Traffic Management Plan is to be prepared by a Roads & Maritime Services accredited person with a *Design and Audit Traffic Control Plans Certificate* in accordance with *Australian Standard 1742.3:2009 - Manual of uniform traffic devices - traffic control for works on roads*. The plan is to ensure the provision for safe, continuous movement of traffic and pedestrians within the road reserve. Written acceptance of the Plan must be obtained from the relevant roads authority and Newcastle City Council.

Condition reason: to require a traffic management plan.

### **Aboriginal Cultural Heritage**

The conclusions and recommendations (Section 8.0) of the Aboriginal Due Diligence Assessment Report (by AMAC, 2 December 2022) are to be implemented. This includes the preparation of an Aboriginal Cultural Heritage Assessment Report prior to any ground disturbance works commencing, including full Aboriginal community consultation; archaeological test excavation; and any further action and permits pending these studies as described in outlined in Section 8.1 of the report.

**Condition reason:** To ensure that items of aboriginal cultural heritage are properly assessed and protected.

### **Archaeological Assessment**

Prior to any ground disturbance works commencing, the conclusions and recommendations (Section 6.0) of the Baseline Archaeological Assessment Report (by AMAC, 26 October 2022) are to be implemented. This includes the preparation of an Archaeological Research Design; and any further action and permits pending these studies as described in outlined in Section 6.0 of the report.

Condition reason: To ensure that all required archaeological assessment are undertaken.

### **Heritage, Aboriginal Cultural Heritage & Archaeology Inductions**

Before any works commence on site, all contractors and subcontractors shall undergo an induction session, delivered by a suitably qualified heritage consultant, highlighting the historical significance of the site including Aboriginal cultural heritage and archaeology. The

induction session is to include the relevant obligations under the Heritage Act 1977 and the National Parks and Wildlife Act 1974 in regards to unexpected finds.

Condition reason: To ensure all people involved in works on site are aware of their obligations in terms of heritage, aboriginal cultural heritage and archaeology

### **Works Authorisation Deed Agreement**

Prior to commencement of any site works the developer entering into an appropriate Works Authorisation Deed Agreement with the Transport for New South Wales pursuant to the Roads Act 1993.

Condition reason: To ensure appropriate road construction measures are undertaken

### **Toilets on site**

Before building work commences, toilet facilities are to be available or provided at the work site and maintained until the works are completed, at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site. Each toilet is to:

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

Condition reason: to require provision of toilet facilities on site.

### **Erosion and sediment control - vehicle access**

Before site work and/or building work commences a 3.0m wide all-weather vehicle access is to be provided from the kerb and gutter to the building under construction, to reduce the potential for soil erosion. Sand or soil is not to be stockpiled on the all-weather vehicle access.

Condition reason: to prevent soil erosion.

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## **DURING BUILDING WORK**

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### **Condition**

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### **Acid sulfate soil - as per management plan**

During site work and/or building work the development being carried out in accordance with the details set out in the Acid Sulfate Soil Management Plan prepared by Tetra Tech Coffey dated 18 October 2022.

Condition reason: to require compliance with approved AS management plan.

### **Erosion and sediment control measures**

During site work and/or building work, erosion and sediment control measures are to be implemented, 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.

Condition reason: to prevent erosion and control sediment.

### **Checking building siting**

During building work, a survey certificate prepared by a Registered Surveyor is to be submitted to the principal certifier upon completion of the floor slab formwork, before concrete is poured, to ensure that the siting of the building in relation to adjacent boundaries is in accordance with the development consent.

Condition reason: to confirm siting of buildings.

### **Site signage - site and building work**

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

- a) showing the name, address and telephone number of the Principal Certifier for building work and subdivision work, and
- b) showing the name, address and telephone number of the Principal Contractor, if any, for any building work and a telephone number on which the Principal Contractor may be contacted at any time for business purposes, and
- c) stating that unauthorised entry to the work site is prohibited, and
- d) being erected in a prominent position that can be read easily by anyone in any public road or other public place adjacent to the site.

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

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

Condition reason: prescribed condition.

### **Compliance with BCA**

Building work must be carried out in accordance with the requirements of the Building Code of Australia.

Condition reason: prescribed condition - EP&A Regulation (Section 69).

### **Excavation and backfilling safety**

During site work and/or building work, all excavations and backfilling are to be executed safely, and excavations are to be properly guarded and protected to prevent them from being dangerous to life and property.

Condition reason: to protect the public near worksites.

### **Erosion and sediment control measures**

During site work and/or building work, erosion and sediment control measures are to be implemented and maintained during the period of construction in accordance with the requirements of Managing Urban Stormwater: Soils and Construction 4th Edition - Vol. 1 (the 'Blue Book') published by Landcom, 2004. Controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover.

Condition reason: to prevent erosion and control sediment.

### **Containing materials and plant**

During building work, all building materials, plant and equipment is to be placed on the site of the development, to ensure that pedestrian and vehicular access in public places is not restricted and to prevent damage to the road reserve. The storage of building materials on Newcastle City Council reserves, including the road reserve, is not permitted.

Condition reason: to contain materials and plant and protect the public.

### **Controlling surface water**

During site work and/or building work 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.

Condition reason: to protect adjacent properties from additional surface water runoff.

### **Limits on noise**

During building/demolition work, generation of 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.

Condition reason: to protect the residential amenity of neighbours.

### **Pollution prevention signage**

During site work and/or building work, a Newcastle City Council '*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 the Newcastle City Council for the duration of demolition and construction work.

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

Condition reason: to require pollution prevention signage.

### **Controlling dust**

During site work and/or building work, all necessary measures are to be undertaken to control dust pollution from the site. These measures are to include, but are not limited to:

- a) Restricting topsoil removal.
- b) Regularly and lightly watering dust prone areas (note: prevent excess watering as it can cause damage and erosion)
- c) Alter or cease construction work during periods of high wind; and
- d) Erect green or black shade cloth mesh or similar products 1.8m high around the perimeter of the site and around every level of the building under construction.

Condition reason: to control dust during works.

### **Street tree protection**

During site work and/or building work, all public trees (ID 69237, 13754 & 13755) that are required to be retained are to be physically protected in accordance with the Newcastle City Council '*Urban Forest Technical Manual*', Part B Public Trees.

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

Condition reason: to protect street trees.

### **Checking floor levels - surveyor**

During building work, certification is to be prepared by a Registered Surveyor and submitted to the principal certifier at the following stages of construction:

- a) On completion of ground floor construction, confirming that the floor levels are in accordance with the approved level of 3.2 m AHD.
- 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 level of 92.1 m AHD.

Condition reason: to ensure finished floor levels equal approved plans.

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## **BEFORE ISSUE OF AN OCCUPATION CERTIFICATE**

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### **Condition**

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#### **Landscaping complete**

Before the issue of an occupation certificate, landscape works are to be carried out generally in accordance with the details indicated on the approved landscape design plan except as required to be modified under the terms of this consent.

Condition reason: to ensure approved landscape plans are implemented.

#### **Flooding - caution signage**

Before the issue of an occupation certificate, a clear warning notice is to be erected and maintained at all points of entry to the site advising, that the premises is subject to flooding and that caution should be observed at times of heavy or prolonged rainfall. Such notice is to also provide advice regarding the availability of further information sources in respect of possible flooding.

Condition reason: to protect the public from floodwaters.

## **Compliance with Hunter Water**

Before the issue of an occupation certificate, all requirements of the Hunter Water Corporation regarding the connection of water supply and sewerage services must be complied with, 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.

Condition reason: to satisfy Hunter Water requirements.

## **Water management measures complete**

Before the issue of an occupation certificate, the water management measures as indicated on the submitted plans and Statement of Environmental Effects and/or as modified under the terms of this consent are to be implemented and the nominated fixtures and appliances are to be installed and operational.

Condition reason: to ensure water management measures are as approved.

## **Acoustic treatment complete**

Before the issue of an occupation certificate, appropriate acoustic treatment is to be implemented in accordance with the recommendations set out in the report prepared by Acoustic Logic (19 October 2022) and Acoustic Logic (19 May 2023). Written final certification confirming the recommended acoustic treatment has been implemented in accordance with the requirements of the above report is to be submitted to the principal certifier and Newcastle City Council.

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

Condition reason: to ensure acoustic treatment is as approved.

## **Food Premises Final Inspection**

Before the issue of an occupation certificate, the food premises shall be inspected by an Authorised Officer of Newcastle City Council under the *Food Act 2003*, to determine compliance with the *Food Act 2003*, Food Safety Standards and Australian Standard 4674:2004: Design, Construction and Fit-out of Food Premises

Condition reason: to enable council to ensure compliance with the Food Act 2003 before the business commences.

## **Design Verification**

Before the issue of an Occupation Certificate, a design verification statement from a qualified designer shall be submitted to the principal certifier. 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 Apartment 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 Section 43 of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*.

Condition reason: to require a design verification statement.

## **Staging of Infrastructure**

All infrastructure associated with the servicing of the proposed developments, DA2022/01316 and DA2022/01317 on the proposed allotments, including drainage, electricity, gas, telecommunications and the like, being installed prior to the issue of any subdivision certificate or occupation certificate, whichever occurs first.

Condition reason: To ensure that the provision of infrastructure occurs in a timely manner and in the public interest

### **Provision of Public Art**

The required public art feature approved by Council's Public Art Reference Group be installed prior to the use of the first Occupation Certificate.

Condition reason: To ensure the incorporation of public art features in a timely manner

### **Dwelling Storage**

Prior to the issue of an occupation certificate, it is to be demonstrated via plans and an on-site certification, that all dwellings have been provided with the minimum amount of internal and external storage (m3) as required under 4G of the Apartment Design Guidelines.

Condition reason: To ensure adequate storage for the future residents.

### **Parking requirements**

Before the issue of an occupation certificate, details of on-site parking accommodation are to be provided for a maximum of:

- a) 105 residential parking spaces (inclusive 7 accessible and 5 electric vehicle charging spaces);
- b) 21 residential visitor parking spaces;
- c) 9 commercial / retail parking spaces (inclusive 1 electric vehicle charging space);
- d) 6 motorbike;
- e) 137 bicycle (comprising 114 Security Level B and 23 Security Level C)

The on-site parking accommodation shall be set out generally in accordance with the details indicated on the approved DA plans except as otherwise provided by the conditions of consent.

Condition reason: to require minimum car spaces.

### **CPTED Requirements**

The design and operation of all ground floor tenancies and being restricted as follows: -

- i) no signage, graphics, paint or similar restricts more than 10% of any shop glazing
- ii) no shelving or internal fit-outs is to have a height of greater than 750 mm along the shop frontage glazing

Compliance with these requirements being demonstrated prior to the issue of associated any Occupation Certificate

Condition reason: To ensure than CPTED principles are maintained and suitable sightlines are achieved within the development in regard to casual and passive surveillance.

### **Car park line marking**

Before the issue of an occupation certificate, all parking bays are to be permanently marked out on the pavement surface.

Condition reason: to require line-marking for car spaces.

### **Car park marking**

Before the issue of an occupation certificate, all parking bays (including visitor and any required loading bays) are to be permanently marked out on the pavement surface. Loading bays and visitor parking facilities must also be clearly indicated by signs.

Condition reason: to require signage and line-marking for visitor car spaces.

### **Car park marking - customer/staff**

Before the issue of an occupation certificate, the proposed customer/staff parking bays are to be permanently marked out on the pavement surface and being clearly indicated by means of signs and/or pavement markings.

Condition reason: to require signage and line-marking for visitor car spaces.

### **Directional signage on site**

Before the issue of an occupation certificate, 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.

Condition reason: to require directional signage.

### **Evidence of correct installation of EV charging**

Before the issue of any occupation certificate or occupation or use of part of the building, the principal contractor or owner-builder must submit to the satisfaction of the principal certifier, certification by a suitably qualified and experienced person that the electric vehicle charger points and/or electric vehicle circuitry, has been installed in accordance with the construction certificate plans and specifications as required by the appropriate conditions of consent that have been included in the determination.

Condition reason: to ensure proposed electric vehicle parking and charging facilities are completed.

### **Restriction on Ground Floor Uses**

All of the proposed ground floor tenancies being limited to either *retail premises* or *business premises* as defined under the Newcastle LEP 2012

Condition reason: to ensure that active street frontages are maintained.

### **Heritage Interpretation Plan**

Prior to the release of the occupation certificate, the Heritage Interpretation Plan must be implemented on the site to the written satisfaction of Council's Heritage Officer.

Condition reason: To ensure that an appropriate Heritage Interpretation Plan is provided for the development.

### **Acoustic Controls**

The noise control recommendations in the F & B Tenancy Acoustic Assessment prepared by Acoustic Logic Pty Ltd (Project ID. 20220898.8) dated 19 May 2023 are to be implemented.

Condition reason: To ensure appropriate acoustic measures are implemented.

### **Acoustic Treatment of Plant & Equipment**

The acoustic performance of all mechanical plant and equipment associated with the building being assessed by an appropriately qualified acoustic consultant prior to the issue of any required Construction Certificate. Appropriate acoustic treatment as recommended by the acoustic consultant being designed prior to the issue of a Construction Certificate. Written certification from an appropriately qualified acoustic consultant being submitted to the Principal Certifying Authority prior to issue of an Occupation Certificate confirming that noise from all mechanical plant and equipment achieves the required acoustic attenuation to comply with the conditions of consent and the requirements of the Protection of the Environment Operations Act 1997.

Condition reason: To ensure that appropriate acoustic mitigation measures are implemented.

### **Sequencing of Construction**

The development being undertaken in numerical order with Stage 1 (DA2022-01316) being completed and issued an Occupation Certificate prior to Stage 2 (DA2022-01317) being issued an Occupation Certificate.

Condition reason: To ensure appropriate sequencing of construction

### **Street lighting**

Street lighting being upgraded, at no cost to Council (other than annual maintenance), in accordance with Australian Standard AS1158 - Lighting along the Hunter and National Park Street frontages of the site, such comprising Council's Smart Lighting Poles. The lighting upgrade works are to be completed prior to the issue of any Occupation Certificate.

Note: The developer is to liaise with Energy Australia in relation to the design and construction of the street lighting.)

Condition reason: To ensure that appropriate street lighting is implemented

### **Street Trees**

The tree species is to be determined in consultation with Council's City Greening Centre. The required tree are to be certified by the supplier to comply with the current NATSPEC guideline with respect to root development, height, trunk diameter, branch structure and balance (refer to Specifying Trees, Construction Information Systems Australia PL, Clark, R 2003). All associated costs are to be borne by the developer. To be completed prior to issue of any occupation certificate.

Condition reason: To ensure additional street trees are appropriately provided within the public domain

### **Street Tree Planting Vaults**

The planting vaults proposed within the road carriageway of King, Little King and National Park Streets are to be designed and constructed at no cost to Council and generally in accordance with Council's City Centre Technical Manual, such being completed prior to the issue of any occupation certificate.

Condition reason: To ensure that all street tree plantings are undertaken using appropriate methods

## **Requirements for Traffic Control Signals**

In accordance with the Transport for New South Wales letter dated 25 January 2023 the developer making provision at the King and National Park Street traffic control signals for red arrow protection for pedestrians, such to be completed prior to issue of any occupation certificate.

Condition reason: To ensure that appropriate additional traffic control measures are implemented.

## **Provision Mechanical Ventilation & Grease Arrestors**

All retail premises are to be connected to grease arrestors and provided within suitable service ducting to allow future installation of mechanical ventilation. These measures are to be implemented prior to the issue of any Occupation Certificate.

Condition reason: To ensure that future uses of the retail premises are not restricted

## **Wind Report**

Prior to the issue of any occupation certificate, a certification prepared by an appropriately qualified and experience person in this relevant field of expertise must be provided to the Certifying Authority (Certifier) confirming that all the measures to manage and mitigate wind impacts as approved with the relevant construction certificate documents and/or as modified under the terms of this consent have been satisfactorily implemented and installed and operational.

Condition reason: To ensure that amenity impacts are properly managed

## **Maintenance of Stormwater Systems**

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

Condition reason: To ensure safe and efficient operation of associated stormwater systems

## **Relocation of survey monuments**

Before the issue of an occupation certificate, where the proposed development involves the destruction or disturbance of any survey monuments, those monuments affected are to be relocated at no cost to Newcastle City Council, by a surveyor registered under the *Surveying and Spatial Information Act 2002*.

Condition reason: to ensure relocation of survey marks.

## **Public infrastructure - rectification of damage**

Before the issue of an occupation certificate, any public infrastructure (including all public footways, foot paving, kerbs, gutters and road pavement) damaged during the works (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concreting vehicles) are to be immediately fully repaired following the damage, to a condition that provides for safe use by pedestrians and vehicles, to the written satisfaction



of Council, and at no cost to Council.

Condition reason: to ensure rectification of any damage to public infrastructure.

### **Basix implemented**

Before the issue of an occupation certificate, all commitments listed in the relevant BASIX certificate for:

- a) BASIX development, or
- b) BASIX optional development, if the development application was accompanied by a BASIX certificate are to be satisfactorily completed.

Should there be any changes to the specifications of the dwelling that have implications for compliance with the approved certificate, except where restricted or excluded by any other condition of consent, an amended BASIX Certificate can be relied upon as having complied with this condition. A copy of any amended BASIX Certificate is to be provided to the Newcastle City Council with Occupation Certificate documentation.

Condition reason: to ensure BASIX commitments are completed.

### **Completion of road reserve works**

Before the issue of an occupation certificate, all works within the road reserve required by this consent are to be completed. A practical completion certificate, or equivalent written advice, is to be obtained from Council prior to the issue of any occupation certificate.

Condition reason: to ensure completion of works within the road reserve.

### **Removing redundant driveways**

Before the issue of an occupation certificate, any redundant existing vehicular crossing is to be removed at no cost to the Newcastle City Council. The road reserve and kerb are to be restored to the Newcastle City Council's satisfaction.

Condition reason: to ensure removal of redundant driveways.

### **Works as executed - stormwater**

Before the issue of an occupation certificate, a copy of the stormwater drainage design plans approved with the construction certificate with 'work as executed' levels indicated, shall be submitted to the principal certifier and to Newcastle City Council. The plans shall be prepared by a Practising Professional Engineer or Registered Surveyor experienced in the design of stormwater drainage systems.

Condition reason: to ensure works as executed levels are as approved.

### **Landscaping complete - Report requirements**

Before the issue of an occupation certificate, a Landscape Practical Completion Report is to be submitted to the principal certifier. 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 reason: to ensure landscape works are as approved.

## Street numbers - urban housing

Before the issue of an occupation certificate, the premises are to be identified by the provision of street numbers on the building exterior and mailbox, respectively, such that they are clearly visible from the road frontage.

The minimum numeral heights are to be:

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

**Note:** Street numbering shall be in accordance with Newcastle City Council's *House Numbering Policy* and the *Surveying and Spatial Regulation*.

Condition reason: to require street numbers.

## Numbering premises

The premises are allocated the following street address/es in accordance with Newcastle City Council's *House Numbering Policy* and the *Surveying and Spatial Regulation*.

ADDRESS SCHEDULE				
Unit/Dwelling/Lot Number on plan	Council Allocated Street Addresses			
	House Numbers	Street Name	Street Type	Suburb
Stratum Subdivision Lot 1/1 Stage 1 Residential	2	National Park	Street	Newcastle West
Stratum Subdivision Lot 2/1 Stage 1 Commercial	2	National Park	Street	Newcastle West
Stratum Subdivision Lot 3/1 Stage 2 Development Lot	4	National Park	Street	Newcastle West

Condition reason: to require numbering of premises.

## House numbering

Before the issue of an Occupation Certificate, addressing provided by Newcastle City Council must be correctly implemented.

Condition reason: to ensure the necessary house numbering is implemented in accordance with the NSW Addressing Policy.

## OCCUPATION AND ONGOING USE

Condition

## Hours of Operation

During occupation and ongoing use, the hours of operation or trading of the retail premises (including food and drinks premises) are to be not more than:

DAY	START	FINISH
Monday	7.00am	10.00pm
Tuesday	7.00am	10.00pm
Wednesday	7.00am	10.00pm
Thursday	7.00am	10.00pm

Friday	7.00am	10.00pm
Saturday	7.00am	10.00pm
Sunday	7.00am	10.00pm

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

Condition reason: to limit hours of operation.

### **Operating hours**

This condition applies to the use of all outdoor terraces associated with the licensed premises is to be restricted to 7:00am to 10:00pm Monday to Sunday. No patrons are permitted on the outdoor terraces outside of these times.

Condition reason: to protect the amenity of the local area.

### **Noise control**

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

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

Condition reason: to limit offensive noise.

### **Air quality**

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

Should Newcastle City 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 emission of air impurities to an acceptable level and such measures are to be implemented within a nominated time period. Furthermore, written certification from the suitably qualified consultant will be required to be submitted to Newcastle City 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 reason: to protect air quality.

### **Landscape establishment report**

During occupation and ongoing use, a Landscape Establishment Report is to be submitted to the Newcastle City Council following completion of a three-month maintenance period, verifying that satisfactory maintenance of the landscape works has been undertaken and any necessary rectification measures have been carried out.

Condition reason: to ensure landscaping is established.

### **Visitor car parking**

During occupation and ongoing use, a minimum of 21 of proposed on-site parking bays are to be made available for the use of casual visitors to the premises as visitor car parking and such spaces under no circumstances to be subdivided, leased or controlled by or on behalf of particular unit owners, residents or third parties or become unbundled car parking.

Condition reason: to ensure an acceptable standard of development having regard to the Newcastle Development Control Plan 2012.

### **Vehicle movement**

During occupation and ongoing use, all vehicular movement to and from the site is to be in a forward direction.

Condition reason: to control traffic.

### **Parking and access maintenance**

During occupation and ongoing use, proposed parking areas, vehicle bays, driveways and turning areas are to be maintained clear of obstruction and be used exclusively for purposes of car parking, loading and unloading, and vehicle access, respectively. Under no circumstances are such areas to be used for the storage of goods or waste materials.

Condition reason: to enforce approved parking, loading and traffic measures.

### **Waste management operation - storage areas**

During occupation and ongoing use, waste management (recyclable and non-recyclable) is to be collected from the refuse storage areas, as identified on the approved plans, serviced and returned immediately to the refuse storage areas. Under no circumstances are garbage bins to be presented to the kerb for collection.

Condition reason: to require appropriate use of waste storage areas.

### **On-going Noise Limiting Devices**

Engage an appropriately qualified consultant to install and set out the ongoing operating requirements of a noise limiting device(s) to meet the noise levels specified in the Acoustic Logic Pty Ltd (Project ID. No. 20220898.8) F & B Tenancy Acoustic Assessment dated 19 May 2023. Written certification confirming this has been implemented is to be submitted to Council within 6 weeks of commencement of the operation of the facility.

Condition reason: To ensure that appropriate acoustic mitigation and monitoring measures are implemented and maintained on site.

### **Certification of acoustic modelling & treatments**

Engage an appropriately qualified acoustic consultant to monitor and assess the noise emissions from the facility and produce a report confirming the recommended acoustic treatments have been implemented and meet the project noise goals for the facility in accordance with the requirements of Revised Noise Impact Assessment prepared by Acoustic Logic Pty Ltd (Project ID. No. 20220898.8) F & B Tenancy Acoustic Assessment dated 19 May

2023. The report is to be prepared and submitted within 6 months of the commencement of operation of the facility.

Condition reason: To ensure that appropriate acoustic mitigation measures have been implemented.

### **Operating hours**

This condition applies to all doors and windows to outdoor areas associated with the licensed premises are to be closed from 10:00pm to 7:00am Monday to Sunday, except to allow for ingress or egress of patrons.

Condition reason: to protect the amenity of the local area.

### **Operating hours**

This condition applies to goods deliveries and waste collection from the premises is to be limited to 7:00am to 6:00pm Monday to Sunday.

Condition reason: to protect the amenity of the local area.

### **Limitation on live musical entertainment**

No live musical entertainment being conducted at the premises unless a separate application and acoustic assessment prepared by a qualified acoustic consultant is submitted and approved by Council.

Condition reason: to protect the amenity of the local area.

### **Groundwater Licence**

If dewatering is required, the applicants must apply for a Groundwater Licence for any dewatering activity with the Water NSW authority prior to the commencement of any extraction of groundwater. A copy of the licence is to be submitted to the Certifying Authority prior to the commencement of any work.

Condition reason: To ensure appropriate approval and management of ground waters is undertaken

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## **DEMOLITION WORK BEFORE DEMOLITION WORK COMMENCES**

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### **Condition**

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#### **Asbestos removal signage**

Before demolition work commences involving the removal of asbestos, a standard commercially manufactured sign containing the words 'DANGER: Asbestos removal in progress' (measuring not less than 400mm x 300mm) must be erected in a prominent position at the entry point/s of the site and maintained for the entire duration of the removal of the asbestos.

Condition reason: to alert the public to any danger arising from the removal of asbestos.

#### **Demolition management plan**

Before demolition work commences, a demolition management plan must be prepared by a

suitably qualified person.

The demolition management plan must be prepared in accordance with Australian Standard 2601 - The Demolition of Structures, the Code of Practice - Demolition Work, Newcastle Development Control Plan 2012 and must include the following matters:

- a) The proposed demolition methods
- b) The materials for and location of protective fencing and any hoardings to the perimeter of the site
- c) Details on the provision of safe access to and from the site during demolition work, including pedestrian and vehicular site access points and construction activity zones
- d) Details of demolition traffic management, including proposed truck movements to and from the site, estimated frequency of those movements, and compliance with AS 1742.3 Traffic Control for Works on Roads and parking for vehicles
- e) Protective measures for on-site tree preservation and trees in adjoining public domain (if applicable) (including in accordance with AS 4970-2009 Protection of trees on development sites and Newcastle Development Control Plan 2012)
- f) Erosion and sediment control measures which are to be implemented during demolition and methods to prevent material being tracked off the site onto surrounding roadways
- g) Noise and vibration control measures, in accordance with any Noise and Vibration Control Plan approved under this consent
- h) Details of the equipment that is to be used to carry out demolition work and the method of loading and unloading excavation and other machines
- i) Details of any bulk earthworks to be carried out
- j) Details of re-use and disposal of demolition waste material in accordance with Newcastle Development Control Plan 2012
- k) Location of any reusable demolition waste materials to be stored on-site (pending future use)
- l) Location and type of temporary toilets onsite
- m) A garbage container with a tight-fitting lid.

Condition reason: to provide details of measures for the safe and appropriate disposal of demolition waste and the protection of the public and surrounding environment during the carrying out of demolition works on the site.

### **Disconnection of services before demolition work**

Before demolition work commences, all services, such as water, telecommunications, gas, electricity and sewerage, must be disconnected in accordance with the relevant authority's requirements.

Condition reason: to protect life, infrastructure and services.

### **Demolition standards - hazardous waste plan**

Before site work and/or demolition work commences, a Hazardous Substances Management Plan is to be prepared by a competent person for the building(s) or parts of the building(s) proposed to be demolished in accordance with Australian Standard 2601:2001 - The Demolition of Structures. A copy of the Hazardous Substances Management Plan is to be provided to the Newcastle City Council and to the demolisher before demolition work commences.

Condition reason: to comply with Australian standards.

### **Toilets on site**

Before site work and/or demolition work commences, toilet facilities are to be available or provided at the work site and maintained until the works are completed, at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site. Each toilet is to:

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

Condition reason: to require provision of toilet facilities on site.

## **Hoardings**

Before demolition work commences, if 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.

Condition reason: to protect public spaces during demolition.

## **Erosion and sediment control measures**

Before site work and/or demolition work commences, erosion and sediment control measures are to be implemented and be maintained during the period of construction in accordance with the details set out on the Erosion and Sediment Control Plan approved 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.

Condition reason: to prevent erosion and control sediment.

## **Full archival photographic record**

A full archival photographic record is to be undertaken of all buildings on the site, including the interiors. The archival recording is to be in accordance with the requirements of:

- a) The NSW Heritage Office publication "How to Prepare Archival Records of Heritage items" (1998); and
- b) The Department of Planning's "Recording Places of Cultural Significance" (1991)

The record in digital form is to be submitted to Council and written approval of Council's Heritage Officer submitted prior to the release of the Construction Certificate.

Condition reason: To ensure that a full archival photographic record is undertaken of all buildings on the site

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## DURING DEMOLITION WORK

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### Condition

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#### **Asbestos safety**

During site work and/or demolition work, the removal of any asbestos material is to be in accordance with the requirements of the SafeWork NSW.

Condition reason: to require compliance with SafeWork NSW.

#### **Handling of asbestos during demolition**

While demolition work is being carried out, any work involving the removal of asbestos must comply with the following requirements:

- a) Only an asbestos removal contractor who holds the required class of Asbestos Licence issued by SafeWork NSW must carry out the removal, handling and disposal of any asbestos material.
- b) Asbestos waste in any form must be disposed of at a waste facility licensed by the NSW Environment Protection Authority to accept asbestos waste; and
- c) Any asbestos waste load over 100kg (including asbestos contaminated soil) or 10m<sup>2</sup> or more of asbestos sheeting must be registered with the EPA on- line reporting tool WasteLocate.

Condition reason: to ensure that the removal of asbestos is undertaken safely and professionally.

#### **Site maintenance**

While demolition work is being carried out, the following requirements, as specified in the approved demolition management plan, must be maintained until the demolition work and demolition waste removal are complete:

- a) Protective fencing and any hoardings to the perimeter on the site
- b) Access to and from the site
- c) Construction traffic management measures
- d) Protective measures for on-site tree preservation and trees in adjoining public domain
- e) Onsite temporary toilets
- f) A garbage container with a tight-fitting lid

Condition reason: to protect workers, the public and the environment.

#### **Demolition standards - Australian Standards**

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

Condition reason: to comply with Australian standards.

#### **Demolition management**

During site work and/or demolition work, works are to be undertaken in accordance with *Australian Standard 2601:2001 - The Demolition of Structures* and the following requirements:

- a) prior to commencement of demolition works a competent person shall determine the presence of hazardous substances impacted by the proposed demolition works in accordance with Section 1.6.1 of AS2601:2001 and where required produce a Hazardous Substances Management Plan
- b) demolition works shall be conducted in accordance with any required Hazardous



- Substances Management Plan. A copy of the Plan shall be kept on-site for the duration of the proposed development and a copy is to be held in the possession of the landowner.
- c) the removal, handling and disposal of any asbestos material is to be undertaken only by an asbestos removal contractor who holds the appropriate class of Asbestos Licence, issued by the WorkCover Authority of NSW
  - d) a copy of all waste disposal receipts is to be kept in the possession of the landowner and made available to authorised Council Officers upon request.
  - e) seven working days' notice in writing is to be given to the owners/occupiers of neighbouring premises prior to the commencement of any demolition works. Such written notice is to include the date demolition will commence and details of the name, address, contact telephone number(s) and licence details (type of licences held and licence numbers) of any asbestos removal contractor and demolition contractor, and
  - f) on sites where asbestos materials are to be removed, a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm is to be erected in a prominent position during asbestos removal works.

Condition reason: to comply with Australian standards.

### **Erosion and sediment control measures**

During site work and/or demolition work, erosion and sediment control measures are to be implemented and maintained during the period of demolition in accordance with the requirements of Managing Urban Stormwater: Soils and Construction 4th Edition - Vol. 1 (the 'Blue Book') published by Landcom, 2004. Controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover.

Condition reason: to prevent erosion and control sediment.

### **Containing waste**

During site work and/or demolition work, and at a minimum, the following measures are to be implemented:

- a) A waste container of at least one cubic metre capacity is to be provided, maintained and regularly serviced from the commencement of operations until the completion of the building, for the reception and storage of waste generated by the construction of the building and associated waste.
- b) The waste container is to be, at minimum, constructed with a 'star' picket (corners) and weed control mat (sides), or equivalent. The matting is to be securely tied to the pickets.
- c) Provision is to be made to prevent wind-blown rubbish leaving the site; and
- d) Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.

Note: Fines may be issued for pollution/littering offences under the *Protection of the Environment Operations Act 1997*.

Condition reason: to require waste management on site on site.

### **Demolition - protecting services**

During demolition work, the demolisher is to ensure that all services (i.e. water, telecommunications, gas, electricity, sewerage etc) are disconnected in accordance with the relevant authority's requirements prior to demolition.

Condition reason: to protect services during demolition.

### **Demolition - material management**

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

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

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

Condition reason: to protect public spaces during demolition.

### **Demolition - maximising reuse**

During demolition work, all demolition material incapable of being re-used in future redevelopment of the site is to be removed from the site, and the site cleared and levelled.

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

Condition reason: to require waste disposal and maximise reuse on site.

### **Demolition - material management**

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

Condition reason: to protect public and private spaces during demolition

### **Demolition - waste management**

During demolition work, any demolition/waste building materials that are not suitable for recycling are to be disposed of at Newcastle City Council's Summerhill Waste Management Facility or other approved site.

Condition reason: to require waste disposal and maximise reuse on site.

### **Site lighting during work**

During demolition work, the worksite is to be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

Condition reason: to protect the public near worksites.

### **Site signage - site and building work**

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

- a) showing the name, address and telephone number of the Principal Certifier for building work and subdivision work, and
- b) showing the name, address and telephone number of the Principal Contractor, if any, for any building work and a telephone number on which the Principal Contractor may be contacted at any time for business purposes, and
- c) stating that unauthorised entry to the work site is prohibited, and
- d) being erected in a prominent position that can be read easily by anyone in any public road or other public place adjacent to the site.

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

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

Condition reason: prescribed condition.

### **Excavation and backfilling safety**

During site work and/or demolition work, all excavations and backfilling are to be executed safely, and excavations are to be properly guarded and protected to prevent them from being dangerous to life and property.

Condition reason: to protect the public near worksites.

### **Controlling surface water**

During site work and/or demolition work, 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.

Condition reason: to protect adjacent properties from additional surface water runoff.

### **Safework NSW requirements**

During site work and/or demolition work, operations are to comply with all requirements of SafeWork NSW.

Condition reason: to require compliance with SafeWork NSW.

### **Limits on noise**

During site work and/or demolition work, generation of 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.

Condition reason: to protect the residential amenity of neighbours.

### **Pollution prevention signage**

During demolition work, a Newcastle City Council '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 the Newcastle City Council for the duration of demolition and construction work.

Condition reason: to require pollution prevention signage.

### **Handling excavated waste**

During site work and/or demolition work, 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'.

Condition reason: to ensure compliance with State Guidelines.

### **Imported fill material**

During site work and/or demolition work, 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*.

Condition reason: to ensure compliance with State Guidelines.

### **Resource recovery Orders**

During demolition work, documentation demonstrating compliance with the conditions of the appropriate Resource Recovery Order and Resource Recovery Exemption must be maintained for any material received at the site and subsequently applied to land under the conditions of the Resource Recovery Order and Exemption. This documentation must be provided to Newcastle City Council officers or the principal certifier on request.

Condition reason: to provide evidence of compliance.

### **Protecting footways**

During site work and/or demolition work, a temporary protective crossing is to be provided over the footway for vehicular traffic. This approval does not permit access to the property over any adjacent private or public land.

Condition reason: to protect footways during works.

### **Controlling dust**

During site work and/or demolition work, all necessary measures are to be undertaken to control dust pollution from the site. These measures are to include, but are not limited to:

- a) Restricting topsoil removal.
- b) Regularly and lightly watering dust prone areas (note: prevent excess watering as it can cause damage and erosion)
- c) Alter or cease construction work during periods of high wind; and
- d) Erect green or black shadecloth mesh or similar products 1.8m high around the perimeter of the site and around every level of the building under construction.

Condition reason: to control dust during works.

### **Street tree protection**

During site work and/or demolition work, all public trees that are required to be retained are to be physically protected in accordance with Newcastle City Council's *Urban Forest Technical Manual*, Part B *Public Trees*.

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

Condition reason: to protect street trees.

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#### **DURING REMEDIATION WORK**

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Condition

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##### **Remedial Action Plan Compliance**

The site is to be investigated and remediated in accordance with Section 4 of Tetra Tech Coffey Remedial Action Plan dated 17 July 2023.

Condition reason: Remedial Action Plan Compliance

##### **Remediation Treatment**

Under no circumstances is onsite remediation treatment to be carried out.

Condition reason: To ensure that appropriate remediation measures are undertaken.

##### **Remedial Action Plan**

Remediation being carried out in accordance with Option 1 as set out in the submitted Remedial Action Plan prepared by Tetra Tech Coffey dated 17 July 2023.

Condition reason: To ensure that appropriate remediation measures are undertaken.

##### **Remediation Method - Off-site Removal of Contaminates**

Any soils identified as exceeding the validation criteria during the remediation works (as specified by the Remedial Action Plan prepared by Tetra Tech Coffey dated 17 July 2023) are to be removed offsite.

Condition reason: To ensure that appropriate remediation measures are undertaken.

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#### **ON COMPLETION OF REMEDIATION WORK**

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Condition

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##### **Remediation Validation Report**

Following completion of the remediation works, a validation report being prepared by a suitably qualified consultant in accordance with the relevant Environment Protection Authority Guidelines and submitted to the Principle Certifying Authority and Council prior to the issuing of Occupation Certificate.

Condition reason: To ensure that appropriate remediation measures are undertaken.

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#### **BEFORE ISSUE OF A SUBDIVISION CERTIFICATE**

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Condition

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##### **Subdivision Certificate - digital copies**

Before the issue of a subdivision certificate, an application is to be made, supported by a digital

copy (.pdf format) of the survey plan of subdivision and associated administration sheets.

Condition reason: to require digital copies.

### **Rights of carriageway and easements**

Before the issue of a subdivision certificate, reciprocal rights of carriageway and easements for services are to be created over the access corridor serving Lot 1 in favour of Lot 2.

Condition reason: to require creation (and registration) of access rights and easements.

### **Vehicle access and parking complete**

Before the issue of a subdivision certificate, the vehicular access and car parking facility for the development on proposed Lot 1 (Stage 1 - Hunter Street allotment) is to be constructed.

Condition reason: to ensure driveways are completed.

### **Vehicular access**

Before the issue of a Subdivision Certificate, vehicular access(es) from the kerb line to the useable parts of the proposed battle-axe lot(s) is to be constructed in accordance with Section 3.01 'Subdivision' of Newcastle Development Control Plan 2012.

Condition reason: to require compliance with standards.

### **Roads Act Approval**

Before the issue of a subdivision certificate, a separate application is to be lodged and consent obtained from Newcastle City Council for all works within the road reserve pursuant to Section 138 of the Roads Act 1993. The consent is to be obtained, or other satisfactory arrangements confirmed in writing from the Newcastle City Council.

Condition reason: to ensure compliance with the Roads Act 1993

### **Section 88B Instrument - easements**

Before the issue of a subdivision certificate, the appropriate notation is to be placed on the plan of subdivision and an instrument under Section 88B of the Conveyancing Act, 1919 being submitted to the Principal Certifier setting out the terms of easements (including easements in gross) and/or rights of carriageway and/or restrictions as to user required for the subdivision, in respect of the following where applicable:

- a) Interallotment drainage lines in favour of upstream properties utilising the lines.
- b) Rights of carriageway in favour of the property serviced, including carriageway provision to access the flood refuge areas.
- c) Easements for services in favour of the property serviced and /or the appropriate utility provider.
- d) Temporary or permanent Asset Protection Zones and Fire Trails; and
- e) Public stormwater drains, existing and proposed stormwater outlets, overland flow paths and any temporary cul-de-sac heads or turning facilities in favour of Council.

Council, in addition to the owner of any land benefited by the easement is to be a party whose consent is needed to release or vary easements or positive covenants; however, Council and the NSW Rural Fire Service must not be noted as prescribed bodies having benefit of any easements, restrictions or covenants relating to bushfire protection measures including Asset

Protection Zones and Fire Trails.

Council advises that it will not withhold consent to release the Positive Covenants or Easements in respect of temporary Asset Protection Zones.

Condition reason: to require notation and registration of a section 88B instrument for easements and other restrictions.

### **Service arrangements verified - combined essential services**

Before the issue of a subdivision certificate, written evidence of arrangements being made with Hunter Water Corporation Limited for the provision of water supply and sewerage services and with Ausgrid, or other approved supplier, for the provision of overhead or underground electricity supply and with NBN Co. Ltd, or other approved supplier, for the provision of underground National Broadband Network services to all lots is to be submitted to the principal certifier.

Condition reason: to require evidence of services arrangements.

### **Staging of Infrastructure**

All infrastructure associated with the servicing of the proposed developments, DA2022/01316 and DA2022/01317 on the proposed allotments, including drainage, electricity, gas, telecommunications and the like, being completed prior to the issue of any subdivision certificate or occupation certificate, whichever occurs first. Full details to be submitted with the required Construction Certificate.

Condition reason: To ensure that the provision of infrastructure occurs in a timely manner and in the public interest

### **Footway dedication**

Before the issue of an occupation certificate, the portion of the site required for road widening, to provide a 3.0m x 3.0m splay on the corner of King and National Park Streets for the subject property, is to be transferred to Newcastle City Council for dedication as road. A survey plan providing for the dedication is to be submitted with an accompanying Subdivision Certificate application for Newcastle City Council certification and such plan is to be registered with NSW Land Registry Services.

**Note:** All associated survey and legal work is to be undertaken by the developer at the developer's expense.

Condition reason: to require dedication (and registration) of public footway as a road.

### **Section 88B Instrument**

Before the issue of an occupation certificate or a subdivision certificate, a notation is to be made on a survey plan and accompanying instrument under Section 88B of the Conveyancing Act 1919 setting out the terms of the required easements to drain water and such is to be lodged with the Newcastle City Council for certification and be subsequently registered with NSW Land Registry Services.

Note: The instrument is to provide that the easement to drain water is unable to be released, varied or modified without the concurrence of Newcastle City Council.

Condition reason: to require registration of a section 88B instrument.

### **Section 88B Instrument - right-of-way (vehicular access)**

Before the issue of an occupation certificate, the common driveway is to be the subject of a reciprocal right-of-way and the necessary survey plan and accompanying instrument under Section 88B of the *Conveyancing Act 1919* is to be registered with NSW Land Registry Services.

#### **Note:**

1. The instrument is to provide that the right-of-way is unable to be relinquished, varied or modified without the concurrence of Newcastle City Council.
2. The reciprocal right-of-way are to be comprehensive and include pedestrian and maintenance access across both the proposed Torrens title and Stratum title lots.
3. The reciprocal right-of-way are to be comprehensive and include the use of all common and public areas across both the proposed Torrens title and Stratum title lots.

Condition reason: to require registration of a reciprocal right-of-way.

### **Section 88B Instrument - right-of-way (pedestrian access)**

Before the issue of an occupation certificate, all common areas within Lot 1 and Lot 2 are to be provided reciprocal right-of-way for pedestrian access inclusive of the ground floor areas, walkways and public domain areas, the podium levels and level 17 including both communal areas and rooms within each lot and including access to the flood refuge areas; and the necessary survey plan and accompanying instrument under Section 88B of the *Conveyancing Act 1919* is to be registered with NSW Land Registry Services.

#### **Note:**

1. The instrument is to provide that the right-of-way is unable to be relinquished, varied or modified without the concurrence of Newcastle City Council.
2. The reciprocal right-of-way are to be comprehensive and include pedestrian and maintenance access across both the proposed Torrens title and Stratum title lots.
3. The reciprocal right-of-way are to be comprehensive and include the use of all common and public areas across both the proposed Torrens title and Stratum title lots.

Condition reason: to require registration of a reciprocal right-of-way.

### **Interim Park ('Stage 2')**

The proposed interim park (as detailed on Dwg PLA-Das1-1000 Rev B dated 19/5/23 by Plus Architecture and the Landscape Design Report Job Ref P0042847 by Urbis Iss C dated 19/5/23) being installed and completed prior to the issue of any Occupation Certificate for 'Stage 1' or prior to the issue of any Subdivision Certificate, whichever occurs first, unless it can otherwise be demonstrated that both physical commencement for DA2022-01317 ('Stage 2') has been achieved and the associated construction certificate for the proposed works under DA2022-01317 has been issued.

Condition reason: To ensure that the implementation of the proposed park occurs in appropriate sequence.



# STRATA SUBDIVISION

## BEFORE ISSUE OF A STRATA CERTIFICATE

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### Condition

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#### Car parking separate lots

Before the issue of a strata subdivision certificate, details are to be provided demonstrating that car parking spaces have been created as separate lots in the strata plan, with the exception of visitor car parking spaces which are retained as common property in the strata plan. Visitor parking facilities under no circumstances to be subdivided, leased or controlled by or on behalf of particular unit owners, residents or third parties. Full details are to be included in documentation for a strata subdivision certificate application.

Condition reason: to ensure creation of car parking lots and that visitor car spaces are retained.

#### Advisory Matters

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

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

- ☐ Should any Aboriginal objects be uncovered by the work which is not covered by a valid Aboriginal Heritage Impact Permit, excavation or disturbance of the area is to stop immediately and Heritage NSW is to be informed in accordance with the National Parks and Wildlife Act 1974. Works affecting Aboriginal objects on the site must not continue until Heritage NSW has been informed and the appropriate approvals are in place. Aboriginal objects must be managed in accordance with the National Parks and Wildlife Act 1974.
- ☐ 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 Newcastle City Council and any other relevant authorities. Newcastle City Council and other service authorities should be contacted for specific requirements prior to the commencement of any works.
- ☐ Any approval for fences on side boundaries, common to other private properties, is independent of any consent or agreement which may be required from any adjoining owner under the provisions of the *Dividing Fences Act 1991*.
- ☐ Prior to commencing any building works, the following provisions of Division 6.2 of the Environmental Planning and Assessment Act 1979 are to be complied with:
  - a) A Construction Certificate is to be obtained; and
  - b) A Principal Certifier is to be appointed for the building works and Newcastle City Council is to be notified of the appointment; and

- c) Newcastle City Council is to be given at least two days notice of the date intended for commencement of building works.
- ☐ Prior to the occupation or use of a new building, or occupation or use of an altered portion of, or an extension to an existing building, an Occupation Certificate is to be obtained from the Principal Certifier appointed for the proposed development. An application for an Occupation Certificate must contain the information set out in Section 37 of the *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021* (NSW).
  - ☐ It is an offence under the provisions of the *Protection of the Environment Operations Act 1997* to act in a manner causing, or likely to cause, harm to the environment. Anyone allowing material to enter a waterway or leaving material where it can be washed off-site may be subject to a penalty infringement notice (ie 'on-the-spot fine') or prosecution.
  - ☐ Failure to comply with the conditions of consent constitutes a breach of the *Environmental Planning and Assessment Act 1979*, which may be subject to a penalty infringement notice (ie 'on-the-spot fine') or prosecution.
  - ☐ An application is to be submitted to Newcastle City Council for the removal or pruning of any trees located more than three metres from the dwelling wall, measured from the centre of the trunk to the footings of the dwelling, excluding carports and pergolas.