



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

<b>DATE OF DETERMINATION</b>	2 April 2024
<b>DATE OF PANEL BRIEFING</b>	27 February 2024
<b>PANEL MEMBERS</b>	Alison McCabe (Chair), Roberta Ryan, John Mackenzie, Peta Winney-Baartz
<b>APOLOGIES</b>	Tony McNamara
<b>DECLARATIONS OF INTEREST</b>	None

Papers circulated electronically on 20 February 2024.

**MATTER DETERMINED**

PPSHCC-221-Newcastle – MA2023/00221 at 309 King Street, Newcastle West 2302 – Sec 4.55(2) Modification to DA2019/01169 (as described in Schedule 1).

**PANEL CONSIDERATION AND DECISION**

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

The Panel considered this modification application at a meeting on the 27<sup>th</sup> of February 2024. The Panel has had the benefit of a number of briefings from both the applicant and the Council. In the Panel's deliberation of the matter additional consideration and information was sought with respect to:

- Comparison of the proposed development against the original approval, specifically with respect to ADG compliance in terms of cross-ventilation and solar access.
- The reasons for the reduction in visitor car parking spaces and the amount of disabled car parking spaces.
- How the independent living units meet accessibility standards.
- Clarification of what the additional road works include.
- Clarification of staging and the inclusion of strata subdivision as part of the application. The Panel had been provided with a memo dated 23 February 2024 proposing the introduction of a condition to allow strata subdivision.

Council prepared a further supplementary report and revised conditions addressing the above matters. An updated accessibility report was also provided.

The Panel notes that on a numerical basis it would appear that the modification application would result in diminished amenity. However, it is noted that single-aspect units have been reduced. Those units with reduced solar access benefit from extensive glazing. All communal areas have good solar access. The analysis of and performance of cross ventilation has been considered and is acceptable.

The Panel notes that the UDRP is satisfied with the proposal and considers that the proposal exhibits design excellence. The Panel based on the additional reporting considers that accessibility standards are capable of being achieved.

The Panel requires additional disabled car-parking and visitor car parking. The Panel does not support the extent of reduction proposed. Council's supplementary report has included changes in conditions to require fourteen (14) disabled car parking spaces and twelve (12) visitor spaces. Conditions have been included to accommodate specific requirements.

Additional kerb extension work at the corner of Bull Street and Ravenshaw Street has also been included by condition, given the changes proposed.

The supplementary report included additional conditions to be modified and the Panel is supportive of these modifications.

The proposed development is considered to be substantially the same development when considered against the original approval. The Panel considers that the size of the RAC should not be further reduced. The increase in height is in response to National Construction Code requirements and the Panel notes that the proposal actually results in a reduction in FSR.

The Panel considers that the application could be approved.

#### **Modification application**

The Panel determined to approve the modification application pursuant to section 4.55 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

#### **REASONS FOR THE DECISION**

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





1. The proposed development is substantially the same development.
2. The development will provide additional housing in a well-located area of the city, consistent with the statutory and policy framework.
3. The impacts arising from the development are not unreasonable.

#### **CONDITIONS**

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

#### **CONSIDERATION OF COMMUNITY VIEWS**

In coming to its decision, the Panel notes that no written submissions were made during public exhibition and therefore no issues of concern were raised.

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

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSHCC-221-Newcastle – MA2023/00221
2	PROPOSED DEVELOPMENT	Sec 4.55(2) Modification to DA2019/01169
3	STREET ADDRESS	309 King Street, Newcastle West 2302
4	APPLICANT/OWNER	GWH King Street Pty Ltd / Western Suburbs Leagues Club Ltd
5	TYPE OF REGIONAL DEVELOPMENT	<b>Section 4.55(2) Modification Application</b>
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 (Planning Systems) 2021</li> <li>State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004</li> <li>State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development</li> <li>State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004</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 2021</li> </ul> </li> <li>Planning agreements: Nil</li> <li>Provisions of the <i>Environmental Planning and Assessment Regulation 2021</i>: Section 61</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: 19 February 2024</li> <li>List any council memo or supplementary report received: <ul style="list-style-type: none"> <li>23 February 2024</li> <li>11 March 2024</li> </ul> </li> <li>Written submissions during public exhibition: Nil</li> <li>Total number of unique submissions received by way of objection: Nil</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>Preliminary Briefing: 31 August 2023 <ul style="list-style-type: none"> <li><u>Panel members</u>: Alison McCabe (Chair), Roberta Ryan, Tony McNamara, John Mackenzie, Peta Winney-Baartz</li> <li><u>Applicant</u>: Wade Morris, Sam Coles, Jonathan Craig, Paul Ward, Robert Bisley, Rob Mirams, Trevor Fowler</li> </ul> </li> </ul>

		<ul style="list-style-type: none"> <li>○ <u>Council assessment staff</u>: William Toose, Amy Ryan, Rajnesh Prakash</li> <li>○ <u>DPE</u>: Leanne Harris, Holly McCann</li> <li>• Site inspection: <ul style="list-style-type: none"> <li>○ <u>Alison McCabe</u> (Chair): 16 February 2024</li> <li>○ <u>Roberta Ryan</u>: 9 February 2024</li> <li>○ <u>Peta Winney-Baartz</u>: 27 February 2024</li> <li>○ <u>John Mackenzie</u>: 19 February 2024</li> </ul> </li> <li>• Council Briefing: 5 December 2023 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Alison McCabe (Chair), Roberta Ryan, Tony McNamara, John Mackenzie, Peta Winney-Baartz</li> <li>○ <u>Council assessment staff</u>: Holly Hutchens, Elle Durrant, Rajnesh Prakash</li> <li>○ <u>Department</u>: Leanne Harris, Holly McCann</li> </ul> </li> <li>• Final briefing to discuss council's recommendation: 27 February 2024 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Alison McCabe (Chair), Roberta Ryan, John Mackenzie, Peta Winney-Baartz</li> <li>○ <u>Council assessment staff</u>: William Toose, Rajnesh Prakash</li> <li>○ <u>Applicant representatives</u>: Wade Morris, Paul Ward, Sam Coles, Trevor Fowler, Rob Bisley</li> </ul> </li> </ul>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council supplementary assessment report

## SCHEDULE 2

### SCHEDULE OF CONDITIONS



#### MODIFICATION DETAILS

##### A. Amended conditions:

1; 2; 4; 7; 9; 10; 14; 15; 16; 17; 20; 23; 26; 27; 28; 31; 32; 33; 34; 38; 40; 41; 42; 80; 83; 85; 98; 99; 101; 106; 108; 115; 117 & 119

##### B. Additional conditions:

1A; 1B; 4A; 10A; 19A; 42A; 42B; 42C; 92A; 107A & 123A

##### C. Deleted conditions:

12 & 18

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## SCHEDULE 1

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

<b>Approved plans</b>				
<b>Plan number</b>	<b>Issue number</b>	<b>Plan title</b>	<b>Drawn by</b>	<b>Date of plan</b>
<b>DA0000</b>	<b>6</b>	<b>Drawing List</b>	<b>Fender Katsalidis Pty Ltd</b>	<b>17.01.2024</b>
<b>Site Plans</b>				
<b>DA030</b>	<b>6</b>	<b>Existing Site Plan</b>	<b>Fender Katsalidis Pty Ltd</b>	<b>06.06.2023</b>
<b>DA031</b>	<b>11</b>	<b>Proposed Site Plan</b>	<b>Fender Katsalidis Pty Ltd</b>	<b>06.06.2023</b>
<b>DA032</b>	<b>11</b>	<b>Urban Planning</b>	<b>Fender Katsalidis Pty Ltd</b>	<b>06.06.2023</b>
<b>Floor Plans</b>				
<b>DA098</b>	<b>13</b>	<b>Basement Level 2 Floor Plan</b>	<b>Fender Katsalidis Pty Ltd</b>	<b>17.01.2024</b>
<b>DA099</b>	<b>10</b>	<b>Basement Level 1 Floor Plan</b>	<b>Fender Katsalidis Pty Ltd</b>	<b>17.01.2024</b>
<b>DA100</b>	<b>13</b>	<b>Ground Level Floor Plan</b>	<b>Fender Katsalidis Pty Ltd</b>	<b>17.01.2024</b>
<b>DA101</b>	<b>13</b>	<b>Level 1 Floor Plan</b>	<b>Fender Katsalidis Pty Ltd</b>	<b>17.01.2024</b>
<b>DA102</b>	<b>9</b>	<b>Level 2 Floor Plan</b>	<b>Fender Katsalidis Pty Ltd</b>	<b>04.10.2023</b>
<b>DA103</b>	<b>8</b>	<b>Level 3 Floor Plan</b>	<b>Fender Katsalidis Pty Ltd</b>	<b>04.10.2023</b>
<b>DA104</b>	<b>12</b>	<b>Level 4 Floor Plan</b>	<b>Fender Katsalidis Pty Ltd</b>	<b>04.10.2023</b>
<b>DA105</b>	<b>11</b>	<b>Level 5 Floor Plan</b>	<b>Fender Katsalidis Pty Ltd</b>	<b>04.10.2023</b>
<b>DA106</b>	<b>9</b>	<b>Level 6 Floor Plan</b>	<b>Fender Katsalidis Pty Ltd</b>	<b>04.10.2023</b>
<b>DA107</b>	<b>11</b>	<b>Level 7 Floor Plan</b>	<b>Fender Katsalidis Pty Ltd</b>	<b>04.10.2023</b>
<b>DA108</b>	<b>6</b>	<b>Level 8 Floor Plan</b>	<b>Fender Katsalidis Pty Ltd</b>	<b>04.10.2023</b>
<b>DA109</b>	<b>6</b>	<b>Level 9 Floor Plan</b>	<b>Fender Katsalidis Pty Ltd</b>	<b>04.10.2023</b>
<b>DA110</b>	<b>7</b>	<b>Level 10 Floor Plan</b>	<b>Fender Katsalidis Pty Ltd</b>	<b>04.10.2023</b>
<b>DA111</b>	<b>6</b>	<b>Level 11 Floor Plan</b>	<b>Fender Katsalidis Pty Ltd</b>	<b>04.10.2023</b>
<b>DA112</b>	<b>6</b>	<b>Level 12 Floor Plan</b>	<b>Fender Katsalidis Pty Ltd</b>	<b>04.10.2023</b>

DA113	8	Level 13 Floor Plan	Fender Ltd	Katsalidis Pty	04.10.2023
DA114	8	Level 14 Floor Plan	Fender Ltd	Katsalidis Pty	04.10.2023
DA115	10	Level 15 Floor Plan	Fender Ltd	Katsalidis Pty	04.10.2023
DA116	8	Level 16 Roof Plan	Fender Ltd	Katsalidis Pty	04.10.2023
<b>Apartment Floor Plans</b>					
DA121	5	Tower B Apartment Types 1A & 1B	Fender Ltd	Katsalidis Pty	06.06.2023
DA122	2	Tower B Apartment Types 1C	Fender Ltd	Katsalidis Pty	06.06.2023
DA130	4	Tower B Apartment Types 2A & 2B	Fender Ltd	Katsalidis Pty	06.06.2023
DA132	5	Tower B Apartment Types 2E	Fender Ltd	Katsalidis Pty	18.04.2023
DA140	3	Tower B Apartment Types 3A & 3B	Fender Ltd	Katsalidis Pty	06.06.2023
DA141	3	Tower B Apartment Types 3C & 3D	Fender Ltd	Katsalidis Pty	06.06.2023
DA142	3	Tower B Apartment Types 3E & 3F	Fender Ltd	Katsalidis Pty	06.06.2023
DA143	2	Tower B Apartment Types 3G	Fender Ltd	Katsalidis Pty	06.06.2023
DA150	3	Tower A - ILU Types 1A & 1B	Fender Ltd	Katsalidis Pty	06.06.2023
DA160	4	Tower A - ILU Types 2A & 2B	Fender Ltd	Katsalidis Pty	04.10.2023
DA161	4	Tower A - ILU Types 2C & 2D	Fender Ltd	Katsalidis Pty	04.10.2023
DA162	4	Tower A - ILU Types 2E & 2F	Fender Ltd	Katsalidis Pty	04.10.2023
DA163	3	Tower A - ILU Types 2G & 2H	Fender Ltd	Katsalidis Pty	06.06.2023
DA170	3	Tower A - ILU Types 3A & 3B	Fender Ltd	Katsalidis Pty	06.06.2023
<b>Elevations</b>					
DA200	8	North Elevation	Fender Ltd	Katsalidis Pty	08.11.2023
DA201	7	South Elevation	Fender Ltd	Katsalidis Pty	06.10.2023
DA202	7	West 1 Elevation	Fender Ltd	Katsalidis Pty	08.11.2023
DA203	8	East 1 Elevation	Fender Ltd	Katsalidis Pty	08.11.2023
DA204	10	West 2 Elevation	Fender Ltd	Katsalidis Pty	06.10.2023
DA205	9	East 2 Elevation	Fender Ltd	Katsalidis Pty	06.10.2023
<b>Sections</b>					

DA250	10	Section AA	Fender Katsalidis Pty Ltd	06.10.2023
DA251	8	Section BB	Fender Katsalidis Pty Ltd	06.10.2023
DA252	10	Section CC	Fender Katsalidis Pty Ltd	06.10.2023
<b>Perspectives</b>				
DA401	6	3D Perspective View 1 Existing	Fender Katsalidis Pty Ltd	06.06.2023
DA402	7	3D Perspective View 1 Proposed	Fender Katsalidis Pty Ltd	06.06.2023
DA403	7	3D Perspective View 2 Existing	Fender Katsalidis Pty Ltd	06.06.2023
DA404	8	3D Perspective View 2 Proposed	Fender Katsalidis Pty Ltd	06.06.2023
DA405	6	3D Perspective View 3 Existing	Fender Katsalidis Pty Ltd	06.06.2023
DA406	8	3D Perspective View 3 Proposed	Fender Katsalidis Pty Ltd	06.06.2023
<b>Compliance</b>				
DA504	11	Height Plane Analysis View 1	Fender Katsalidis Pty Ltd	04.10.2023
DA505	11	Height Plane Analysis View 2	Fender Katsalidis Pty Ltd	04.10.2023
DA511	10	Proposed GFA Calculations	Fender Katsalidis Pty Ltd	06.06.2023
DA512	9	Proposed GFA Calculations	Fender Katsalidis Pty Ltd	06.06.2023
DA513	10	Proposed GFA Calculations	Fender Katsalidis Pty Ltd	06.06.2023
DA514	9	Proposed Cross Ventilation Diagrams	Fender Katsalidis Pty Ltd	06.06.2023
DA515	10	Proposed Cross Ventilation Diagrams	Fender Katsalidis Pty Ltd	06.06.2023
DA516	10	Proposed Cross Ventilation Diagrams	Fender Katsalidis Pty Ltd	06.06.2023
DA517	11	Proposed Solar Access Diagrams	Fender Katsalidis Pty Ltd	06.06.2023
DA518	11	Proposed Solar Access Diagrams	Fender Katsalidis Pty Ltd	06.06.2023
DA519	11	Proposed Solar Access Diagrams	Fender Katsalidis Pty Ltd	06.06.2023
DA520	11	Landscape Diagrams	Fender Katsalidis Pty Ltd	17.01.2024
DA524	11	Compliance Summary	Fender Katsalidis Pty Ltd	06.06.2023
DA525	10	Yield Summary	Fender Katsalidis Pty Ltd	16.06.2023
DA530	2	Massing Comparison 01	Fender Katsalidis Pty Ltd	16.06.2023



DA531	3	Massing Comparison 02	Fender Katsalidis Pty Ltd	16.06.2023
DA532	2	Massing Comparison 03	Fender Katsalidis Pty Ltd	16.06.2023
DA540	2	Usage Comparison	Fender Katsalidis Pty Ltd	15.06.2023
DA550	1	Tower A Development Schedule 01	Fender Katsalidis Pty Ltd	06.06.2023
DA551	1	Tower A Development Schedule 02	Fender Katsalidis Pty Ltd	06.06.2023
DA552	1	Tower A Development Schedule 03	Fender Katsalidis Pty Ltd	06.06.2023
DA553	2	Tower B Development Schedule 01	Fender Katsalidis Pty Ltd	06.06.2023
DA554	1	Tower B Development Schedule 02	Fender Katsalidis Pty Ltd	06.06.2023
DA555	1	Tower B Development Schedule 03	Fender Katsalidis Pty Ltd	06.06.2023
DA556	1	Tower B Development Schedule 04	Fender Katsalidis Pty Ltd	06.06.2023
DA557	-	View from Sun Diagrams	Fender Katsalidis Pty Ltd	29.11.2023
DA558	-	View from Sun Diagrams	Fender Katsalidis Pty Ltd	29.11.2023
DA560	-	Shadow Diagrams - Sheet 01	Fender Katsalidis Pty Ltd	30.11.2023
DA561	-	Shadow Diagrams - Sheet 02	Fender Katsalidis Pty Ltd	30.11.2023
DA570	-	Building Separation Diagrams - Approved DA	Fender Katsalidis Pty Ltd	30.11.2023
DA571	-	Building Separation Diagrams - Proposed	Fender Katsalidis Pty Ltd	30.11.2023
<b>Landscaping Plans</b>				
Dwg 1.1	Rev E	Site Plan	Oculus Landscape Architecture	19.01.2024
Dwg 2.1	Rev E	Landscape Spaces	Oculus Landscape Architecture	19.01.2024
Dwg 2.2	Rev E	Design Principals	Oculus Landscape Architecture	19.01.2024
Dwg 2.3	Rev E	Ground Floor - Green Setback & Streetscape Plan	Oculus Landscape Architecture	19.01.2024
-	Rev E	Ground Floor - Indicative Planting Palette	Oculus Landscape Architecture	19.01.2024
Dwg 2.4	Rev E	Ground Floor - Through Site Link	Oculus Landscape Architecture	19.01.2024
-	Rev E	Through Site Link - Section	Oculus Landscape Architecture	19.01.2024
-	Rev E	Through Site Link - Indicative Planting Palette	Oculus Landscape Architecture	19.01.2024
Dwg 2.5	Rev E	Level 1 - Independent Living Courtyard	Oculus Landscape Architecture	19.01.2024

-	Rev E	Independent LivingOculus Landscape	Courtyard - Section	Architecture	19.01.2024
-	Rev E	Independent LivingOculus Landscape	Courtyard - Indicative	Architecture	19.01.2024
Dwg 2.6	Rev E	Level 4 - Mid Rise		Oculus Landscape	19.01.2024
-	Rev E	Level 4 Mid Rise - Indicative		Oculus Landscape	19.01.2024
Dwg 2.7	Rev E	Level 15 - Residential	Communal Rooftop	Oculus Landscape	19.01.2024
-	Rev E	Residential Communal	Rooftop - Sections	Oculus Landscape	19.01.2024
-	Rev E	Residential Communal	Rooftop - Indicative Planting	Oculus Landscape	19.01.2024
Dwg 2.8	Rev E	Façade Planting - North	Elevation	Oculus Landscape	19.01.2024
-	Rev E	Façade Planting - Indicative	Planting Palette	Oculus Landscape	19.01.2024
Dwg 3.1	Rev E	Proposed Materials and	Finishes	Oculus Landscape	19.01.2024
Dwg 4.1	Rev E	Planter Design Maintenance	Access Considerations	Oculus Landscape	19.01.2024
Dwg 4.2	Rev E	Maintenance Schedule		Oculus Landscape	19.01.2024

Document	Revision/ Reference	Prepared by	Date
<b>Plan of Stratum Subdivision of Lot 1 (Sheets 1 - 5)</b>	<b>23189_DP (Draft)_R3_240221</b>	<b>Timothy R. Rheinberger (Delf Lascelles Consulting Surveyors)</b>	<b>21.02.2024</b>

Document	Revision/ Reference	Prepared by	Date
<b>Stormwater Management Plan</b>	<b>Dwg No's C01.01 - C04.05 as indicated on Drawing List in Dwg No. C01.01</b>	<b>Wallace Design Group</b>	<b>02/11/2023</b>
Acid Sulfate Assessment	Version 1	Douglas Partners	29/10/2019
<b>BASIX Certificate</b>	<b>1026173M_02</b>	<b>Building Sustainability Assessments</b>	<b>16/06/2023</b>
Geotechnical Investigation and Targeted Site Investigation (Contamination)	Project 81229.06	Douglas Partners	June 2019
Green Travel Plan	-	Graph Property Pty Ltd	Received: 06/11/2019

<b>Traffic Impact Assessment</b>	<b>Ref: 23/038</b>	<b>Intersect Traffic</b>	<b>12/06/2023</b>
Remediation Action Plan	81229.07 Revision 1	Douglas Partners	21/06/2019
Remediation Action Plan – Supplementary Letter	81229.07	Douglas Partners	01/04/2020
Crime Risk Assessment	-	CHD Partners	June 2018
<b>Noise Impact Assessment</b>	<b>Report No. 23-2844-R1</b>	<b>Reverb Acoustics</b>	<b>June 2023</b>
Operation Waste Management Plan	Report No. SO898 Revision C	Elephants Foot Recycling Solutions	26/02/2021
<b>Management Plan - Phased Construction</b>		<b>GWH</b>	<b>20/02/2024</b>
<b>Access Report</b>	<b>LP_23104 (Revision 3)</b>	<b>Lindsay Perry</b>	<b>28 February 2023</b>

In the event of any inconsistency between conditions of this development consent and the plans/supporting documents referred to above, the conditions of this development consent prevail.

**1A. The development is to be constructed in the following stages:**

<b>Stage / Phase</b>	<b>Works</b>
<b>Stage/Phase 1 (Construction Certificate 1)</b>	<b>Preliminary site works inclusive of demolition of existing structures, lead in utility servicing, site preparation including mine grouting, remediation (as required), bulk excavation, earthworks, and shoring, and inground construction between ground and basement levels.</b>
<b>Stage/Phase 2 (Construction Certificate 2)</b>	<b>Construction of basement to Level 1 (Bull St) podium structures, including two levels of basement parking, ground floor tenancies, parking and back of house servicing areas. Completion of Phase 1 is a precondition for commencement of Phases 2.</b>

<b>Stage/Phase 3 (Construction Certificate 3)</b>	<p><b>Construction of structure and fitout of the eastern residential tower containing 152 dwellings, and associated works including:</b></p> <ul style="list-style-type: none"> <li>• <b>basement to podium level residential facilities (entry foyers, storage cages, bike store etc.)</b></li> <li>• <b>podium level pool and communal facilities,</b></li> <li>• <b>rooftop communal space; and</b></li> <li>• <b>ground floor retail / commercial including end of trip facilities.</b></li> <li>• <b>Memorial walkway along the eastern boundary.</b></li> <li>• <b>Relevant public domain works.</b></li> </ul> <p><b>Phase 3 is subject to the completion of Phase 2.</b></p>
<b>Stage/Phase 4 (Construction Certificate 4)</b>	<p><b>Construction of structure and fitout of the western tower encompassing of 109 independent living units, 50 residential aged care rooms, and associated works including:</b></p> <ul style="list-style-type: none"> <li>• <b>basement to podium level facilities</b></li> <li>• <b>podium level pool and other communal facilities (sauna, common rooms, etc.)</b></li> <li>• <b>top floor communal space.</b></li> <li>• <b>Relevant public domain works.</b></li> </ul> <p><b>Phase 4 is subject to the completion of Phase 2.</b></p>

**(Condition amended - MA2023/000221)**

## **ADMINISTRATIVE CONDITIONS**

2. 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:

- a) Subsidence Advisory NSW, ref: TBA19-06597, dated 24 June 2020 TBA23-02301, dated 28 July 2023

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

**(Condition amended - MA2023/000221)**

3. A total monetary contribution of **\$4,826,976** is to be paid to the City of Newcastle (CN), pursuant to Section 7.12 of the Environmental Planning and Assessment Act 1979, such contribution to be payable prior to the issue of the first occupation certificate in respect of the proposed development.

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

Note:

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

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

<u>Indexation quarters</u>	<u>Approximate release date</u>
September	Late October
December	Late January
March	Late April
June	Late July

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

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

### **ENGINEERING AND PUBLIC DOMAIN**

4. ***Prior to the issue of any construction certificate for the relevant stage, the following parking provisions must be accommodated on-site:***
  - a) ***A maximum of 326 on-site car parking spaces must be provided and allocated as follows:***
    - i. ***minimum of 107 car parking spaces must be allocated for the Independent Living Units (ILU). These 107 spaces must include a minimum of 11 disabled car parking spaces. Out of the 107 car parking spaces, 54 car parking spaces must be allocated to Western Tower ILU.***
    - ii. ***minimum of 7 car parking spaces for Residential Aged Care (RAC). These 7 spaces must include a minimum of 2 disabled car***

- parking spaces. Out of the 7 car parking spaces 3 car parking spaces must be allocated to Western Tower RAC.*
- iii. minimum of 8 commercial car parking spaces. These 8 car parking must be shared as residential visitor parking during off-peak retail / commercial business hours.*
- iv. minimum of 12 residential visitor car parking spaces, out of which 1 space must be designed as a disabled parking space.*
- v. remaining car parking spaces shall be for the residential units*
- b) A minimum of 162 secured bicycle parking must be provided and allocated as follows:**
  - i. 152 bicycle parking spaces must be allocated to Residential Units.*
  - ii. 15 bicycle parking spaces must be allocated for Residential Visitors and Commercial Unit use.*
  - iii. At least 5 bicycle spaces to be designed with electric charging points.*
- c) A minimum of 9 motorbike parking spaces**
- d) 1 wash bay**
- e) Two (2) Ambulance/Service Bay and facility area that can accommodate at minimum, a small rigid vehicle and additional unrestricted area for ambulance stretcher access.**

***All parking spaces are to be set out generally in accordance with the minimum parking layout standards indicated in Element 7.03 'Traffic, Parking and Access' of Council's adopted Newcastle DCP 2012, Australian Standards AS2890 series and State Environmental Planning Policy (SEPP) (Housing for Seniors and People with a Disability) 2004.***

***(Condition amended - MA2023/000221)***

- 4A. Prior to the issue of the relevant Stage construction certificate, the following must be demonstrated to the satisfaction of the certifying authority and must be designed in accordance with Element 7.03 'Traffic, Parking and Access' of Council's adopted Newcastle DCP 2012:**
  - a) The car park must provide an EV Ready Connections to at least 16 car spaces. Provisions are to be provided for at for least 5 electric bicycle and scooter charging stations.**
  - b) EV Distribution Board(s) shall be of sufficient size to allow for any future EV connections to all car parking bays and potential bicycle and scooters.**
  - c) Locate EV Distribution board(s) to ensure that all future EV Ready Connection for any car parking space within the site will require a cable of not more than 50m from the parking bay to connect.**
  - d) Each EV Ready Connection is served from a cable tray and a dedicated spare electrical circuit provided in an EV Distribution Board to enable easy future installation of cabling from an EV charger to the EV Distribution Board and a circuit breaker to feed the circuit.**
  - e) EV Load Management System is to be capable of:**
    - Reading real time current and energy from the electric vehicle chargers under management;**
    - Determining, based on known installation parameters and real**

***time data, the appropriate behaviour of each EV charger to minimise building peak power demand whilst ensuring electric vehicles connected are full recharged;***

- ***Scale to include additional chargers as they are added to the site over time.***

***The above EV electrical design is to be done by an appropriately qualified and licenced electrician and is to be done to the relevant Australian Standards and BCA requirements.***

***(Condition inserted - MA2023/000221)***

5. The off-street car parking and access grades is to be designed to comply with AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking, AS/NZS 2890.2:2004 - Off- street commercial vehicle facilities and AS/NZS 2890.6:2009 - Parking facilities - Off- street parking for people with disabilities. Full details are to be included in documentation for a Construction Certificate application.
6. Motorbike parking spaces to be minimum 1.2m x 2.5m in accordance with AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking. Full details are to be included in documentation for a Construction Certificate application.
7. ***The proposed vehicular access from King Street leading to the Service Bay/Ambulance parking area (SRV access areas) must be detailed designed in accordance with AS/NZS 2890.2:2004 - Off-street commercial vehicle facilities, with the following required design refinements;***
  - a) ***minimum height clearance of minimum 3.5m to allow for small rigid vehicle access***
  - b) ***Fire escape exit stairs located east of the proposed vehicular access is opening directly onto the entering vehicular traffic from King St. The design must ensure that pedestrians do not exit onto the driveway and safe access is provided. Such a design must demonstrate that pedestrian safety is not compromised.***
  - c) ***Water and Gas Meter Room door is also opening directly onto the driveway incoming traffic and is also deemed to be a safety risk. The design must ensure that pedestrian safety is not compromised.***

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

***(Condition amended - MA2023/000221)***

8. All proposed driveways, parking bays, loading bays and vehicular turning areas are to be constructed with a basecourse of a depth to suit design traffic and be sealed with either bitumen seal, asphaltic concrete, concrete or interlocking pavers. Details are to be included in documentation for a Construction Certificate application.
9. A commercial vehicular crossing is to be constructed across the road reserve, in accordance with the following criteria:

- a) Constructed in accordance with City of Newcastle's A1300 - Driveway Crossings Standard Design Details.
- b) The full width of footpath pavement should be continuous without any kerb returns with maximum gradient of 2.5% along the development frontages.
- 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.
- f) *The proposed driveway leading from the property boundary to the gutter must be designed to ensure that median island design does not compromise pedestrian safety and access on the footway is not compromised.***

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

**(Condition amended - MA2023/000221)**

10. ***The Developer must design and construct the following public domain and traffic works within the public road reserves along King Street, Bull Street and Ravenshaw Street frontage, at no cost to Council, and in accordance with the City Centre Public Domain Technical Manual, Newcastle West Public Domain Plan and Newcastle City Council guidelines and design specifications. The public domain and traffic works are generally as follows:***
  - a. ***Full width foot paving as per Council City Centre Technical Manual***
  - b. ***Installation of new kerb and gutter, drainage infrastructure and associated road works***
  - c. ***New driveway crossing and removal of redundant driveways***
  - d. ***Provision of new street furniture including bins, seats and bicycle rings etc and any public artworks within the road reserve***
  - e. ***Stormwater discharge connections from the development site (Bull St drainage) and associated road drainage works (including drainage works associated with the provision of the pedestrian crossings)***
  - f. ***New Street trees as per Council City Centre Technical Manual and standard drawings including any required tree volts for planting***
  - g. ***Provision of kerb extensions at corner of Bull St and Ravenshaw St and such be designed as WSUD raingarden or similar.***
  - h. ***Street Lighting upgrade in accordance with AS1158 and to Smart City requirements (includes provision of Smart City poles) in the vicinity of the development.***
  - i. ***Upgrade existing bus stop on King Street with two shelters and seats in accordance with Council/DDA standards. Potential relocation of the bus stop near the existing driveway of Wests club to avoid street trees.***
  - j. ***Installation of any line marking, parking and mandatory signs***
  - k. ***Pedestrian crossing and associated kerb extensions on King St/Ravenshaw St intersection and associated civil and road works.***



- l. Raised pedestrian crossing, kerb extensions, blisters, street lighting and associated road and streetscape works on Bull Street.*
- m. A separate signposting and line marking plan for the proposed on-street parking changes on King St, Ravenshaw St and Bull St frontages is to be prepared and submitted to Council. The parking plans should include the relocation of the existing bus stop on King St, proposed drop-off and loading zones, pedestrian crossing on Bull St adjoining the proposed through site link, pedestrian crossings at Ravenshaw St/King St corner and any impact on current metered parking spaces. The changes to the on-street parking are subject to NCTC approval generally in accordance with the in- principle NCTC Item 507 dated 16/11/2020.*
- n. Prior to a Construction Certificate being issued for any excavation, civil construction, drainage or building work (whichever is earlier), excluding approved preparatory or demolition work, alignment levels for the building and site frontages must be submitted to and approved by Council. The submission must be prepared by a Registered Surveyor or architect or civil engineer and indicate the existing and proposed footway and property boundary finish levels and such must at include longitudinal and cross sections demonstrating that compliant footway and roadway grades can be achieved.*

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

*(Condition amended - MA2023/000221)*

- 10A. A Public Domain Works Security Bond will be required for any staging of the public domain works and repairing damage that may be caused to the public domain in the vicinity of the site, in accordance with the City of Newcastle adopted fees and charges. Council's Engineering Assessment Team must be contacted to determine the bond amount prior to lodgement. The bond must be lodged with the Council prior to approval being issued for the construction of the public domain works. The bond will be retained in full until all public domain works, including any rectification of damage to the public domain, are completed to Council's standards, and the required work as executed documentation is approved. On satisfying the above requirements and the issue of the Letter of Completion by the Council.*

*(Condition inserted - MA2023/000221)*

- 11. A separate application must be lodged and consent obtained from City of Newcastle for all works within the road reserve pursuant to Section 138 of the Roads Act 1993 (NSW). The consent must be obtained, or other satisfactory arrangements confirmed in writing from Council, before the issue of a Construction Certificate.*
- ~~12. The height clearance for the proposed vehicular access and proposed roller door height at Level 0 which leads to the basement parking areas is to be minimum 3.5m clear to allow for minimum height clearance for small rigid~~*

~~vehicles in accordance with AS/NZS 2890.2:2004 – Off street commercial vehicle facilities. Full details are to be included in documentation for a Construction Certificate application.~~

**(Condition deleted - MA2023/00221)**

13. On-street loading zone and on-street parking changes within the road reserve is to be detailed with the Section 138 Roads Act application generally as approved by the Newcastle City Traffic Committee (NCTC) Item 507 dated 16/11/2020. Full details are to be included in documentation under a separate Section 138 Roads Act Application and formal approval from City of Newcastle is to be attained prior to the issue of any construction certificate.
14. ***Suitable traffic and safety management device in the form of give way to pedestrian signs, line markings for safety and traffic movements within vehicular access and parking areas, mirrors, speed limit and safety signs etc. are to be installed at appropriate locations within the site. Opposing traffic flows on the car park access areas and ramps are to be separated by provision of appropriate traffic safety barrier and/or line markings and such devices to be constructed in accordance with AS/NZS 2890 series documents. Full details are to be included in documentation of Construction Certificate application for relevant stage of construction.***

**(Condition amended - MA2023/000221)**

15. The Developer designing and constructing the following drainage works in connection with the proposed development within the Bull Street public road reserve, adjacent to the site, at no cost to City of Newcastle and in accordance with Council's guidelines and design specifications:
  - a) New street drainage with a minimum pipe size of 375mmdiameter

Engineering design plans and specifications for the works being undertaken within the public road reserve are required to be prepared by a suitably qualified practising civil engineer with experience and competence in the related field and submitted to City of Newcastle for approval pursuant to Section 138 of the Roads Act 1993 (NSW). The consent must be obtained, or other satisfactory arrangements confirmed in writing from Council, before the issue of a Construction Certificate **for Stage 2 works**.

**(Condition amended - MA2023/000221)**

16. ***All stormwater runoff from the proposed development being managed in accordance with the requirements of Element 7.06 'Stormwater' of Newcastle Development Control Plan 2012, the associated Technical Manual and the latest issue of AS 3500.3 as applicable, as indicated on the Stormwater Management plans prepared by Wallace Design Group Project No. 22306 Rev B (Drg. Nos. C01.01 - C04.05, dated 02/11/2023). Full details are to be included in documentation for a Construction Certificate application.***

**(Condition amended - MA2023/000221)**

17. The proposed lighting including car park lighting is to be designed, positioned,

and installed, including appropriate shielding and orientation of the lighting fixture, as to not give rise to obtrusive light, interfere with traffic safety or detract from the amenity of surrounding properties in accordance with Australian Standard AS 4282: 1997 Control of the obtrusive effects of outdoor lighting. CCTV cameras are to be installed around the perimeter of the site at appropriate locations for security and surveillance. Full details are to be included in the documentation for a Construction Certificate application **for the relevant stage of construction.**

**(Condition amended - MA2023/000221)**

18. ~~Prior to the issue of any construction certificate a residential waste collection bin storage area is to be designed in consultation with Council's Waste & Commercial Management team along Bull St frontage of the site within 10m-15m walking vicinity of the proposed Loading Zone on Bull St (Note: the loading zone can be relocated if required subject to consultation with Council) for potential waste collection by Council.~~

~~The Bin Storage area is to be appropriately sized and designed to accommodate for all residential bin collections (including accessibility design) generally in accordance with Council DCP requirements and the industry standards and is to be located in close proximity of lifts to service residential units. A written approval is to be attained from Council's Waste & Commercial Management to confirm the design approval prior to the issue of any construction certificate.~~

**(Condition deleted - MA2023/000221)**

19. Access to the bin storage area from Bull Street is to be via a pin code door entry. Prior to issue of any Occupation Certificate details of entry are to be provided to the written satisfaction of Council. Documentation demonstrating Council's satisfaction with this requirement is to be provided to the Principal Certifier.
- 19A. Before demolition work commences and before the first construction certificate is issued for the development (i.e., whether for part or whole of a building), a dilapidation report is to be prepared by a suitably qualified person and an electronic copy of the dilapidation report is to be submitted to the certifier prior to the issue of the construction certificate. The dilapidation report is to document and contain a photographic record of the condition of the adjoining buildings, infrastructure, and roads, which may be subject to damage during building construction and development related works.**

**(Condition inserted - MA2023/000221)**

#### UTILITIES, SERVICES AND APPROVALS

20. The developer must submit a NECF-01 'Preliminary Enquiry' form to Ausgrid prior to issue of any Construction Certificate **for the relevant stage of construction.**

**(Condition amended - MA2023/000221)**

21. Provision is to be made on the site for the installation of a 'kiosk' type electricity substation should such be required by the electricity authority and any such 'kiosk' being located in accordance with that authority's requirements.
22. Detailed civil plans relating to the chamber substation ventilation are required to be submitted to the writing satisfaction of Ausgrid showing how the duct will be reworked for the ventilation system that is proposed to be altered. Any proposed changes need to be to the satisfaction of Ausgrid and must be adequate, fit for purpose and all penetrations to fire rated walls and ceilings are to be in accordance with current standards.
23. The applicant is to comply with all requirements of the Hunter Water Corporation regarding the connection of water supply and sewerage services, including the payment of any required cash contribution towards necessary amplification of service mains in the locality as a result of the increased intensity of land use proposed. A copy of the Corporation's compliance certificate (refer s.50 *Hunter Water Act 1991*) is to be included in documentation for a Construction Certificate application **for the relevant stage of construction.**

**(Condition amended - MA2023/000221)**

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

Note: Subsidence Advisory NSW advises that it will be necessary for the working drawings to be certified by a qualified Structural Engineer to the effect that the proposed building works will be safe, serviceable and repairable having regard to the following mine subsidence parameters:

- a) Design pot hole of nominal diameter 5000 mm,
  - b) Work as executed drawing to be submitted to the Board, certified by a qualified Structural Engineer that all improvements have been constructed in compliance with the plans approved by the Board,
  - c) No cavity or internal brick walls,
  - d) Absolute maximum height of foundation brickwork not to exceed 1.5metres,
  - e) For brick veneer construction, the design to incorporate special features into the building (panellised brickwork and/or control joints etc)and,
  - f) Raft or infill slabs.
25. The applicant is required to engage an electrical consultant or contractor to complete an online application to AUSGRID for the connection of the approved development to the adjacent electricity network infrastructure.
26. The person having the benefit of this consent will need to apply with Water NSW under the *Water Management Act 2000* for a Groundwater Licence prior to the commencement of any extraction of groundwater. A copy of the Groundwater Licence will need to be provided to City of Newcastle prior to the issue of any Construction Certificate **for the relevant stage of construction.**

**(Condition amended - MA2023/000221)**

**BUILDING**

27. 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*. Details are to be included in documentation for a Construction Certificate application **for the relevant stage of construction.**

**(Condition amended - MA2023/000221)**

28. The construction or erection of appropriate swimming pool safety fences and gates and all associated work is to be carried out in accordance with the Swimming Pool Act 1992 (NSW) and Regulations. Full details are to be included in the documentation for Construction Certificate application **for the relevant stage of construction.**

**(Condition amended - MA2023/000221)**

29. A Waste Management Plan is to be prepared detailing the strategy for managing waste during the construction of the approved development in accordance with Section 7.08 Waste Management of Newcastle DCP 2012 and the Waste Management Technical Manual.
30. The swimming pool/spa water recirculation and filtration system installation shall comply with Australian Standard 1926.3:2010 - Swimming pool safety - Water recirculation systems. Full details are to be included in the documentation for a Construction Certificate application.
31. The proposed awnings are to be designed to meet the requirements of Element 7.10 '*Street Awnings and Balconies*' of Newcastle Development Control Plan 2012. Details are to be included in documentation for a Construction Certificate application **for the relevant stage of construction.**

**(Condition amended - MA2023/000221)**

32. Any private structure on or over the public road reserve, including balconies and awnings, being the subject of a separate consent from Council, under Section 138 of the Roads Act 1993, prior to commencement. In this regard structural engineering design plans and specifications for the works are required to be prepared by a suitably qualified practising structural engineer with experience and competence in the related field and submitted in documentation for a Construction Certificate application **for the relevant stage of construction.**

**(Condition amended - MA2023/000221)**

**ENVIRONMENTAL HEALTH**

33. The design and construction of the proposed development is to be in accordance with the relevant requirements of the *Australian Standard 4674-*

*2004 Design, Construction and Fit-Out of Food Premises.* Full details are to be included in the documentation for Construction Certificate application **for the relevant stage of construction.**

**(Condition amended - MA2023/000221)**

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

**(Condition amended - MA2023/000221)**

35. The recommendations of the acoustic consultant are to be implemented in the construction of the development. Written certification from the acoustic consultant confirming that the recommended acoustic treatments have been implemented is to be submitted to the Principal Certifier prior to the occupation of the premises.

**PLANNING AND DESIGN**

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

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

37. In accordance with the terms and conditions of the Competition Waiver Agreement (Dated 14 August 2018) the applicant shall obtain written approval from the Design Excellence Panel prior to the release of any Construction Certificates or tender documentation for the project.
38. Written verification is required to be submitted to the Principal Certifier by a suitably qualified professional confirming that the approved aged care facility and independent living units have been designed in accordance with the relevant Australian Standards for accessibility as outlined in clause 41 State Environmental Planning Policy (Seniors Housing). Design should be undertaken in accordance with the recommendations of the Access Review **(prepared by Lindsay Perry Access, Revision 3, dated 28 February 2024).**

**(Condition amended - MA2023/000221)**

39. Written verification is required to be submitted to the Principal Certifier by a suitably qualified professional confirming that the construction of the development has been undertaken in compliance with the recommendations of the Crime Risk Assessment (prepared by CHD partners and dated June 2018) and the principles of Crime Prevention Through Environmental Design, including requirements for lighting and installation of CCTV.
40. All proposed planting and landscape elements indicated on the approved landscape concept plans or otherwise required under the conditions of this consent are required to be detailed on a comprehensive landscape design plan and specification. The required comprehensive landscape design plan and specifications is to be in accordance with the provisions of Newcastle Development Control Plan 2012 and is to include details of the following:
  - a) cross sections through the site where appropriate
  - b) proposed contours or spot levels
  - c) botanical names
  - d) quantities and container size of all proposed trees
  - e) shrubs and ground cover
  - f) details of proposed soil preparation
  - g) details of proposed soil preparation
  - h) mulching and staking
  - i) treatment of external surfaces and retaining walls where proposed
  - j) drainage, location of taps and
  - k) appropriate maintenance periods.

The plan is to be prepared by a qualified landscape designer and be included in documentation for the **relevant Construction Certificate application, excluding preliminary site works and reflects phased construction.**

**(Condition amended - MA2023/000221)**

41. A wind tunnelling report is to be prepared by an appropriate qualified and experience engineer. This report is to be prepared in accordance with AS1170.2 and should consider the impact on the building, the environment and pedestrian movements surrounding the development. Architectural and landscape plans will need to reflect the recommendations of the wind tunnelling report and amended plans and the wind tunnelling report is to be provided to the Principal Certifier prior to issue of any Construction Certificate (excluding any construction certificate for remediation works or demolition, **preliminary earthworks and excavation.**). A copy of the wind tunnelling report is to be provided to Council.

**(Condition amended - MA2023/000221)**

42. A public art feature shall be designed for the site in consultation with City of Newcastle. The public artwork is to have a minimum value of **1% (\$1,608,992)** of the capital cost of the development. The final details of all artworks within the

site and associated costing are to be submitted to Council's Public Art Reference Group for written approval prior to the issue of **Stage 3 Construction Certificate**

The written approval be obtained prior to commencement of above-ground works/ground level slabs and the approved artwork(s) be installed prior to the use of the first Occupation Certificate. This feature is to provide visual interest for pedestrians and interpret or reflect the local setting, landscape setting and/or cultural setting of the Newcastle area. The feature is to be designed to ensure long-term durability and be resistant to vandalism.

**(Condition amended - MA2023/000221)**

**42A. The north facing glazing to living room of apartments 101, 201, 301, 401, 501, 601, 701, 801, 901, 1001, 1101, 1201, 1301, and 1401 located in Tower B are to be provided with:**

- a) Frosted translucent glass, and**
- b) Side opening awning mechanisms for the operable portion**

**Full details are to be included in documentation for a Construction Certificate application for the relevant stage of construction.**

**(Condition amended - MA2023/000221)**

**42B. Operable glazing is to be provided where identified by the annotation 'OP' on the approved floor plans. Full details are to be included in the documentation submitted for a Construction Certificate application for the relevant stage of construction.**

**(Condition inserted - MA2023/000221)**

**42C. The residential storage cages located on Basement Level 2, Basement Level 1, and Ground Level are to be individually secured and allocated to specific apartments. Each apartment is to be allocated a storage cage of adequate size to be consistent with the following requirements:**

<b>Dwelling type</b>	<b>Minimum storage cage volume</b>
<b>1 bedroom</b>	<b>3m<sup>3</sup></b>
<b>2 bedroom</b>	<b>4m<sup>3</sup></b>
<b>3+ bedroom</b>	<b>5m<sup>3</sup></b>

**Full details are to be included in the documentation submitted for a Construction Certificate application for the relevant stage of construction.**

**(Condition inserted - MA2023/000221)**

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

### **BUILDING AND SITE REQUIREMENTS**

43. Construction/demolition work that generates noise that is audible at residential



premises is to be restricted to the following times:

- Monday to Friday, 7:00 am to 6:00 pm and
- Saturday, 8:00 am to 1:00 pm.

No noise from construction/demolition work is to be generated on Sundays or public holidays.

44. The work site is to be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
45. All building work must be carried out in accordance with the provisions of the National Construction Code.
46. Toilet facilities are to be available or provided at the work site before works begin and be maintained until the works are completed, at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

Each toilet is to:

- a. Be a standard flushing toilet connected to a public sewer, or
  - b. Have an on-site effluent disposal system approved under the *Local Government Act 1993*, or
  - c. Be a temporary chemical closet approved under the *Local Government Act 1993*.
47. A rigid and durable sign is to be erected on any site on which building work, subdivision work or demolition work is being carried out, before the commencement of the work:
    - a. showing the name, address and telephone number of the Principal Certifier for building work and subdivision work, and
    - b. showing the name, address and telephone number of the Principal Contractor for any building work and also including a telephone number on which the Principal Contractor may be contacted at any time for business purposes, and
    - c. stating that unauthorised entry to the work site is prohibited, and
    - d. being erected in a prominent position that can be read easily by anyone in any public road or other public place adjacent to the site.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out.

48. City of Newcastle's '*Prevent Pollution*' sign is to be erected and maintained in a conspicuous location on or adjacent to the property boundary, so it is clearly visible to the public, or at other locations on the site as otherwise directed by the City of Newcastle, for the duration of demolition and construction work.

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

49. If construction / demolition work is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or involves the need to enclose a public place, a hoarding or fence is to be erected between the work site and the public place. If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place. Any such hoarding, fence or awning is to be removed when the work has been completed.
50. An application is to be made to and approved by the City of Newcastle for the erection of a hoarding or part closure of the footway prior to construction being commenced. Such overhead structure or protective fence is to comply with the *Work Health and Safety Act 2011*, *Work Health and Safety Regulation 2011* and any relevant approved industry code of practice. Notice of intention of commencement is to be given to SafeWork NSW.
51. In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force, such a contract of insurance is to be in force before any building work authorised to be carried out by this consent commences.
52. Erosion and sediment control measures are to be implemented prior to the commencement of works and be maintained during the period of construction in accordance with the details set out on the Erosion and Sediment Control Plan submitted with the application, and with the below requirements:
  - a. Control over discharge of stormwater and containment of run-off and pollutants leaving the site is to be undertaken through the installation of erosion control devices such as catch drains, energy dissipaters, level spreaders and sediment control devices such as hay bale barriers, filter fences, filter dams and sediment basins and controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover; and
  - b. Erosion and sediment control measures are to be designed in accordance with the requirements of the *Managing Urban Stormwater: Soils and Construction 4<sup>th</sup> Edition - Vol. 1* (the 'Blue Book') published by Landcom, 2004.
53. Prior to the commencement of work, a 3.0m wide all-weather vehicle access is to be provided from the kerb and gutter to the building under construction, to reduce the potential for soil erosion. Sand or soil is not to be stockpiled on the all-weather vehicle access.
54. 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.
55. Waste management is to be implemented in accordance with the Waste Management Plan submitted with the Construction Certificate. At a minimum, the following measures are to be implemented during the construction phase:
- a. A waste container of at least one cubic metre capacity is to be provided, maintained and regularly serviced from the commencement of operations until the completion of the building, for the reception and storage of waste generated by the construction of the building and associated waste;
  - b. The waste container is to be, at minimum, constructed with a 'star' picket (corners) and weed control mat (sides), or equivalent. The matting is to be securely tied to the pickets;
  - c. Provision is to be made to prevent windblown rubbish leaving the site; and
  - d. Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.

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

## DEMOLITION AND EARTHWORKS

56. Building demolition is to be planned and carried out in accordance with *Australian Standard 2601:2001 - The Demolition of Structures*.
57. A Hazardous Substances Management Plan is to be prepared by a competent person for the building(s) or parts of the building(s) proposed to be demolished in accordance with *Australian Standard 2601:2001 - The Demolition of Structures*. A copy of the Hazardous Substances Management Plan is to be provided to the City of Newcastle and to the demolisher prior to commencement of work.
58. Demolition works are to be undertaken in accordance with *Australian Standard 2601:2001 - The Demolition of Structures* and the following requirements:
- a. Demolition works are to be conducted in accordance with the submitted Hazardous Substances Management Plan and a copy of the Hazardous Substances Management Plan is to be kept on site for the duration of the proposed development;
  - b. The removal, handling and disposal of any asbestos material is to be undertaken only by an asbestos removal contractor who holds the required class of Asbestos Licence, issued by SafeWorkNSW;
  - c. A copy of all waste disposal receipts are to be kept on site for the duration of the proposed development and made available to authorised City of Newcastle officers upon request;
  - d. Seven working days' notice in writing is to be given to the City of Newcastle and the owners/occupiers of neighbouring premises prior to the

commencement of any demolition work. Such written notice is to include the date demolition will commence and details of the name, address, contact telephone number(s) and licence details (type of licences held and licence numbers) of any asbestos removal contractor and demolition contractor. Notification to owners/occupiers of neighbouring premises is also to include City of Newcastle's contact telephone number (4974 2000) and the SafeWork NSW telephone number (4921 2900); and

- e. On sites where asbestos materials are to be removed, a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm is to be erected in a prominent position during asbestos removal works.
59. The demolisher is to ensure that all services (ie water, telecommunications, gas, electricity, sewerage etc), are disconnected in accordance with the relevant authority's requirements prior to demolition.
60. 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 City of Newcastle's approval to position the container on the adjacent public road in accordance with City of Newcastle's adopted Building Waste Container Policy.

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

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

62. The demolisher is to ensure that all demolition material is kept clear of the public footway and carriageway as well as adjoining premises.
63. Any demolition/waste building materials that are not suitable for recycling are to be disposed of at City of Newcastle's Summerhill Waste Management Facility or other approved site.
64. 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.
65. If the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent is to, at that person's own expense:
- a. Protect and support the adjoining premises from possible damage from the excavation, and
  - b. Where necessary, underpin the adjoining premises to prevent any such damage.

The above requirements do not apply if the person having the benefit of the development

consent owns the adjoining land or the owner of the adjoining land has given consent in writing to the requirements not applying.

66. If the soil conditions require it, retaining walls associated with the erection or demolition of a building or other approved method of preventing movement of the soil are to be provided. All building materials, plant and equipment is to be placed on the site of the development, to ensure that pedestrian and vehicular access in public places is not restricted and to prevent damage to the road reserve. The storage of building materials on City of Newcastle reserves, including the road reserve, is not permitted.
67. Any excavated material to be removed from the site is to be assessed and classified in accordance with the NSW Environment Protection Authority's '*Waste Classification Guidelines Part 1: Classifying Waste*' and be transported and disposed of in accordance with the provisions of the *Protection Of The Environment Operations Act 1997* and the *Protection Of The Environment (Waste) Regulation 2014*.
68. 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*

## PLANNING

69. A Registered Surveyor's certificate detailing the setting out of the proposed building on the site, including the relationship of the set out building to property boundaries, is to be submitted to the Principal Certifier before construction is commenced.
70. A survey certificate prepared by a Registered Surveyor is to be submitted to the Principal Certifier upon completion of the floor slab formwork, before concrete is poured, to verify that the siting of the building in relation to adjacent boundaries is in accordance with the development consent.
71. Certification is to be prepared by a Registered Surveyor and submitted to the Principal Certifier at the stages of construction indicated:
  - a. On completion of ground floor construction, confirming that the floor levels are in accordance with the approved levels.
  - b. On completion of each subsequent floor level, confirming that the floor levels are in accordance with the approved levels.
  - c. When the roof has been completed, confirming that the building does not exceed the approved levels.
72. All external items of air conditioning plant are to be screened or positioned in such a manner as to not detract from the visual presentation of the building.
73. The person having the benefit of the consent, must notify any contractors and

persons involved in undertaking subsurface disturbance works, that it is an offence under Section 86 of the National Parks and Wildlife Act 1974 to harm or desecrate an Aboriginal object unless that harm or desecration is subject of an approved Aboriginal Heritage Impact Permit (AHIP).

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

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

74. 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.
75. An archival photographic record is to be undertaken of the existing garage, including the interiors, prior to the issue of a construction certificate. 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 City of Newcastle with the documentation for the construction 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

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

## ENVIRONMENTAL HEALTH

77. The premises are to be constructed, including the installation of all equipment, fixtures and fittings, in accordance with the requirements of *Australian Standard 4674:2004 - Design, construction and fit-out of food premises*.
78. Remediation must be carried out in accordance with the Remediation Action Plan (prepared by Douglas Partners dated 21 June 2019).

79. Prior to any site works commencing, the Developer preparing a Construction Management Plan (CMP) such to be designed and implemented to manage all environmental aspects associated with the construction works, including off site impacts such as transport to and from the site. Two copies of the CMP are to be provided to the Principal Certifier and the CMP is to be maintained on site during all site works and be made available to Authorised Officers upon request. The CMP is to include but not be limited to:
- a. A site management strategy, identifying and addressing issues such as environmental health and safety, site security, and traffic management.
  - b. A soil and water management strategy, detailing erosion and sediment control, management of soil stockpiles, control and management of surface water and groundwater. Procedures should be included to ensure that all roads adjacent to the site are kept free and clear from mud and sediment.
  - c. A dust management strategy, detailing procedures to minimise dust generation, with particular reference to control techniques and operational limits under adverse meteorological conditions.
  - d. A waste minimisation strategy that aims to avoid production of waste and maximise reuse, recycling or reprocessing of potential waste material.
  - e. A community relations plan that aims to inform local residents and other local stakeholders of the proposed nature and timeframes for construction activities together with contact details for sitemanagement.
  - f. A noise management strategy detailing measures to minimise the impact of the construction phase on the amenity of the locality, in accordance with Australian Standard AS 2436, 1981 'Guide to Noise control on Construction, Maintenance and Demolition Sites'. Noise monitoring during the construction phase should be incorporated into the program.
  - g. A site management strategy for dealing with any identifying potential for Acid Sulphate Soils (ASS) to be encountered and measures and techniques to be followed in the event that ASS is encountered.

#### CAR PARKING

80. ***Prior to the issue of an occupation certificate for the relevant Stage, the following parking provisions must be accommodated on-site:***

- a) **A maximum of 326 on-site car parking spaces must be provided and allocated as follows:**
  - i.*** minimum of 107 car parking spaces must be for allocated for the Independent Living Units (ILU). These 107 spaces must include a minimum of 11 disabled car parking spaces. Out of the 107 car parking spaces, 54 car parking spaces must be allocated to Western Tower ILU.
  - ii.*** minimum of 7 car parking spaces for Residential Aged Care (RAC). These 7 spaces must include a minimum of 2 disabled car parking spaces. Out of the 7 car parking spaces 3 car parking spaces must be allocated to Western Tower RAC.
  - iii.*** minimum of 8 commercial car parking spaces. These 8 car parking must be shared as residential visitor parking during off-peak retail / commercial business hours.
  - iv.*** minimum of 12 residential visitor car parking spaces, out of

which 1 space must be designed as a disabled parking space.

- b) remaining car parking spaces shall be for the residential unitsA minimum of 162 secured bicycle parking must be provided and allocated as follows:
  - i. 152 bicycle parking spaces must be allocated to Residential Units
  - ii. 15 bicycle parking spaces must be allocated for Residential Visitors and Commercial Unit use
  - iii. At least 5 bicycle spaces to be designed with electric charging points
- c) A minimum of 9 motorbike parking spaces
- d) 1 wash bay
- e) Two (2) Ambulance/Service Bay and facility area that can accommodate at minimum, a small rigid vehicle and additional unrestricted area for ambulance stretcher access.

**(Condition amended - MA2023/000221)**

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

#### ENGINEERING AND ASSETS

- 83. **A minimum of Nine street trees along King Street, three street trees along Ravenshaw Street, and 14 street trees along Bull Street, are to be planted as compensation for the removal of the two mature 'London Plane' street trees. Tree planting is to be in consultation with Council City Greening Department and this will include appropriate planting for the loading zone tree planting locations. A fee, to be determined by contacting City of Newcastle's City Greening Services, is to be paid to the City of Newcastle for the required compensatory planting and evidence of the payment of the required fee is to be included in documentation for an Occupation Certificate application. Alternatively, the applicants may seek to install the required number of street trees as part of the public domain Section 138 Roads Act application. Such to be consulted with Council as part of the Section 138 Roads application.**

**Note: The tree selection and location of the required compensatory planting will be determined by City of Newcastle's City Greening Services in accordance with the City of Newcastle's Street Tree Master Plan. The location of the compensatory tree planting may not be in the immediate proximity of the site.**

**(Condition amended - MA2023/000221)**

- 84. The vehicular entrance and exit driveways and the direction of traffic movement within the site are to be clearly indicated by means of reflectorised signs and pavement markings.
- 85. Prior to commencement of site works **for each respective stage of the development the** developer must submit, to the written satisfaction of City of



Newcastle, a Construction Traffic Management Plan addressing traffic control measures to be utilised in the public road reserve during the construction phase.

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

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

**(Condition amended - MA2023/000221)**

86. Provision must be made for safe, continuous movement of traffic and pedestrians in public roads and erecting traffic warning signs conforming to the Roads and Traffic Authority's General Specifications (RTA Spec. Part G10 "Control of Traffic" and RTA Spec. 3355). Traffic control is to be carried out only by flagmen with certification that they have been trained in accordance with Australian Standard 1742.3 - 2002.
87. Where the proposed development involves the destruction or disturbance of any existing survey monuments, those monuments affected are to be relocated at no cost to City of Newcastle by a Surveyor registered under the *Surveying and Spatial Information Act 2002* (NSW).
88. Groundwater shall not be allowed to be discharged into adjoining roads stormwater system, sewerage system etc. without the controlling authority's approval and/or owner's consent/s. Approval from the controlling authority and any requirements of the approving authority is to be complied with prior to the commencement of any extraction of groundwater.
89. Temporary ground anchors are to be designed and installed along the road reserve and adjoining properties to protect the existing properties. The design of the temporary ground anchors is to be carried out by qualified and practicing structural and geotechnical engineers. Approval is to be attained from the relevant Roads Authority for installation of the temporary ground anchors prior to the start of any bulk excavation works. The temporary ground anchors are to be destressed and any timber is to be removed to the satisfaction and requirements of the relevant Roads Authority.

## UTILITIES

90. There are existing overhead electricity network assets on the corner of Bull and Ravenshaw Streets, adjacent the development site. Workcover Code of Practice 2006  
– Work Near Overhead Powerlines outlines the minimum safety separation requirements between these mains/poles to structures within the development throughout the construction phase. Any relocation of overhead mains required to maintain minimum safety clearances is at the cost of the person having the benefit of this consent.
91. The development is in proximity to underground electricity assets. In addition to DBYD searches a ground search is to be conducted to locate electricity assets immediately prior to commencing work to check for updates of installed utilities. During construction work is to be undertaken in accordance with Ausgrids's Network Standard 156 – Working near or around underground cables. Any

alterations to Ausgrid's underground electricity main will be contestable works and funded by the person having the benefit of this consent.

92. A title search of the development site is to be completed prior to commencement of works to identify any existing electricity easements. If easements are present, Ausgrid must assess the proposed activity within the easement.

**92A. Prior to commencement of site works for each respective stage of development the developer is to submit to the written satisfaction of City of Newcastle a Construction Parking Management Plan (CPMP) addressing the parking of construction vehicles and the transportation of construction personnel to the site. The CPMP is to detail a common location for the parking of construction vehicles outside of the Newcastle CBD area and utilise shuttle buses and for the transportation of construction personnel and their equipment to the site.**

**Condition inserted. (Condition inserted - MA2023/000221)**

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

### **ENGINEERING**

93. All works within the road reserve required by this consent are to be completed prior to the issue of an Occupation Certificate.
94. Any redundant existing vehicular crossing is to be removed at no cost to the City of Newcastle. The road reserve and kerb is to be restored to the City of Newcastle's satisfaction. Works are to be completed prior to the issuing of an Occupation Certificate for the proposed development.
95. A copy of the stormwater drainage design plans approved with the Construction Certificate with 'work as executed' levels indicated, are to be submitted to the Principal Certifier and to the City of Newcastle prior to the issue of an Occupation Certificate. The plans are to be prepared by a Practising Professional Engineer or Registered Surveyor experienced in the design of stormwater drainage systems.
96. A Maintenance Manual for all water management devices (quantity and quality) is to be prepared in accordance with Council's Stormwater and Water Efficiency for Development Technical Manual. The Maintenance Manual is to address maintenance issues concerning the water management devices including routine monitoring and regular maintenance. Establishment of the water management devices in accordance with the Maintenance Manual is to be completed prior to the issue of an Occupation Certificate.
97. A post construction dilapidation report prepared by a suitability qualified person is to be submitted to the Principal Certifier prior to the issue of an Occupation Certificate, to ascertain whether any physical damage, caused by the construction work, has occurred to the adjoining buildings, infrastructure and roads. The report is also to be forwarded to the City of Newcastle and will be made available in any private dispute between neighbours regarding damage

arising from construction works.

98. A public right of way shall be registered over proposed accessway linking Bull Street and King Street (Earthquake Memorial Way). A s88B (*Conveyancing Act 1919*) instrument shall be prepared nominating Council as a party to the instrument and submitted to Council for approval and endorsement. Evidence of the registration of the ROW and s88B instrument must be provided to Council in writing prior to the issue of any Occupation Certificate **for Stage 3**.

**(Condition amended - MA2023/000221)**

99. A restriction as to user must be Registered against the titles of the approved Seniors Housing components of the development in accordance with section 88E of the *Conveyancing Act 1919* limiting the use of any accommodation on these properties to seniors housing as defined under *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*. Written evidence of the restriction is to be provided to the written satisfaction of Council prior to the issue of any Occupation Certificate **for Stage 4**.

**(Condition amended - MA2023/000221)**

#### PLANNING

100. All commitments listed in the relevant BASIX certificate for the development are to be satisfactorily completed prior to the issue of an Occupation Certificate. Should there be any changes to the specifications of the dwelling that have implications for compliance with the approved certificate, except where restricted or excluded by any other condition of consent, an amended BASIX Certificate can be relied upon as having complied with this condition. A copy of any amended BASIX Certificate is to be provided to the City of Newcastle with Occupation Certificate documentation.
101. A design verification statement from a qualified designer shall be submitted to the Principal Certifier prior to the issue of an Interim or Final Occupation Certificate, whichever occurs first **for Stage 3**. The statement shall confirm the development has been constructed in accordance with the quality principles set out in Part 2 of State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development. Note: 'Qualified Designer' means a person registered as an architect in accordance with the Architects Act 2003. This condition is imposed in accordance with Clauses 154A of the Environmental Planning and Assessment Regulation 2000.

Details confirming the installation of the public artwork, required as part of this consent, shall be submitted to the Principal Certifier and City of Newcastle prior to the issue of the Occupation Certificate ***the issue of an occupation certificate for Stage 3, being the relevant phase of construction containing the Earthquake Memorial, being is the public art component.***

**(Condition amended - MA2023/000221)**

102. A Landscape Practical Completion Report is to be submitted to the Principal Certifier prior to the issue of the Final Occupation Certificate. The report is to verify that all landscape works have been carried out in accordance with the comprehensive landscape design plan and specifications that were required to

be included in documentation for a Construction Certificate application and is to verify that an effective maintenance program has been commenced.

103. The premises are to be identified by the provision of house and street numbers on the building exterior and mailbox, respectively, such that they are clearly visible from the road frontage. The minimum numeral heights shall be:
  - a. Exterior of the building = 75mm and
  - b. Group mailbox - street number = 150mm / house number = 50mm
104. Appropriate arrangements being made for the collection of garbage (recyclable and non-recyclable) from within the development and such arrangements being in place prior to the occupation of the premise the subject of this development application. The arrangements are to be to the written satisfaction of the City of Newcastle. Under no circumstances are garbage bins to be presented to King Street, Ravenshaw Street or Bull Street for kerbside collection.
105. A operational fire sprinkler system is to be installed within the residential care facility in accordance with the relevant Australian Standards and National Construction Code.
106. Lighting is to be provided to all entrances and exits of the premises and is to be designed, positioned, and installed, including appropriate shielding and orientation of the lighting fixture, as to not give rise to obtrusive light, interfere with traffic safety or detract from the amenity of surrounding properties. All lighting must comply with AS 1158 'Lighting for Roads and Public Spaces' and AS 4282 'Control of Obtrusive Effects of Outdoor Lighting'. ***Certification of compliance must be provided to the Certifier prior to an occupation certificate for the relevant stage of construction.***

***(Condition amended - MA2023/000221)***

107. Technical Surveillance (CCTV) is to be installed in accordance with relevant Australian Standards and the recommendations of the NSW Police contained within correspondence dated 20 November 2019.
- 107A. Prior to any Occupation Certificate being issued, an accurate 1:1 electronic CAD model of the completed development must be submitted to and approved by Council for the electronic City Model.***

***The data required to be submitted within the surveyed location must include and identify:***

- i. building design above and below ground in accordance with the development consent;***
- ii. all underground services and utilities, underground structures and basements, known archaeological structures and artefacts;***
- iii. a current two points on the site boundary clearly marked to show their Northing and Easting MGA (Map Grid of Australia) coordinates, which must be based on Established Marks registered in the Department of Lands and Property Information's SCIMS Database with a Horizontal Position Equal to or better than Class C. The data***

***is to be submitted as a DGN or DWG file on a Compact Disc. All modelling is to be referenced to the Map Grid of Australia (MGA) spatially located in the Initial Data Extraction file.***

***The electronic model must be constructed in accordance with the City's 3D CAD electronic model specification.***

***(Condition inserted - MA2023/000221)***

#### ENVIRONMENTAL HEALTH

108. Acoustic treatment is to be implemented in accordance with the recommendations set out in the report prepared by Reverb Acoustics, dated August 2018 ***Noise Impact Assessment prepared by Reverb Acoustics Pty Ltd (Report No. 23-2844-R1) dated June 2023***. Written final certification verifying that 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 the City of Newcastle prior to the issue of an Occupation Certificate. Note: The acoustic consultant may need to be involved during the construction process, in order to ensure that final certification is achieved.

***(Condition amended - MA2023/000221)***

109. Following completion of the remediation work, 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 City of Newcastle prior to the issuing of an Occupation certificate.
110. Prior to issue of an Occupation Certificate, the food business must notify the relevant enforcement agency, under the *Food Act 2003* and (for licensed food businesses) under the *Food Regulation 2010*.

If notification is to be provided to City of Newcastle please visit [www.newcastle.gov.au](http://www.newcastle.gov.au) and download a copy of the 'Council Food Business Notification Form' or contact City of Newcastle's Regulatory Services on (02) 4974 2525.

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

#### ENVIRONMENTAL HEALTH

111. The use and occupation of the premises, including all plant and equipment installed thereon, is not to give rise to any offensive noise, as defined under the *Protection of the Environment Operations Act 1997*. Should City of Newcastle consider that offensive noise has emanated from the premises, the owner/occupier of the premises will be required to submit an acoustic assessment prepared by a suitably qualified acoustical consultant recommending acoustic measures necessary to ensure future compliance with this condition and will be required to implement such measures within a nominated period. Furthermore, written certification from the said consultant, verifying that the recommended acoustic measures have been satisfactorily implemented, will be required to be submitted to City of Newcastle prior to the expiration of the nominated period.

112. The use and occupation of the premises is not to give rise to the emission of any 'air impurity' as defined under the *Protection of the Environment Operations Act 1997*, that interferes unreasonably with the amenity of neighbouring premises and/or other sensitive receivers. Should City of Newcastle consider that unreasonable levels of air impurities have been emitted from the premises, the owner/occupier will be required to engage a suitably qualified consultant to recommend measures to control emission of air impurities to an acceptable level and such measures will be required to be implemented within a nominated time period. Furthermore, written certification from the suitably qualified consultant will be required to be submitted to City of Newcastle, confirming that air impurity emissions from the premises do not interfere unreasonably with the amenity of neighbouring premises and/or other sensitive receptors, before the expiration of the nominated period.
113. Any liquid wastes from the premises, other than stormwater are to be either discharged to the sewers of the Hunter Water Corporation in accordance with an approved Trade Waste Agreement or collected and disposed of by a licensed waste transport contractor in accordance with the Department of Environment and Climate Change 'Waste Classification Guidelines Part 1: Classifying Waste'.

## ENGINEERING

114. The driveway crossing, parking areas and stormwater management system are to be properly maintained for the life of the development.
115. On site car parking is to be provided for the development as follows:
- a) ***A maximum of 326 on-site car parking spaces must be provided and allocated as follows:***
    - i. ***minimum of 107 car parking spaces must be for allocated for the Independent Living Units (ILU). These 107 spaces must include a minimum of 11 disabled car parking spaces. Out of the 107 car parking spaces, 54 car parking spaces must be allocated to Western Tower ILU.***
    - ii. ***minimum of 7 car parking spaces for Residential Aged Care (RAC). These 7 spaces must include a minimum of 2 disabled car parking spaces. Out of the 7 car parking spaces 3 car parking spaces must be allocated to Western Tower RAC.***
    - iii. ***minimum of 8 commercial car parking spaces. These 8 car parking must be shared as residential visitor parking during off-peak retail / commercial business hours.***
    - iv. ***minimum of 12 residential visitor car parking spaces, out of which 1 space must be designed as a disabled parking space.***
    - v. ***remaining car parking spaces shall be for the residential units***
  - b) ***A minimum of 162 secured bicycle parking must be provided and allocated as follows:***
    - i. ***152 bicycle parking spaces must be allocated to Residential Units.***
    - ii. ***15 bicycle parking spaces must be allocated for Residential Visitors and Commercial Unit use.***
    - iii. ***At least 5 bicycle spaces to be designed with electric charging***

*points.*

- c) **A minimum of 9 motorbike parking spaces**
- d) **1 wash bay**
- e) **Two (2) Ambulance/Service Bay and facility area that can accommodate at minimum, a small rigid vehicle and additional unrestricted area for ambulance stretcher access.**

**(Condition amended - MA2023/000221)**

116. 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.
117. Hours of operation for the security door providing access to the ground level car park and loading and unloading area to be restricted to 9 PM to 7 AM, ensuring that the cars have clear access to ground level parking facilities between 7 AM to 9 PM **ensuring that the cars have clear access to ground level parking facilities between 7 AM to 9 PM.**

**(Condition amended - MA2023/000221)**

118. A Green Travel Plan for the development is to be prepared and implemented prior to occupation of the development. The Green Travel Plan is to be in accordance with Element 7.03 'Traffic, Parking and Access' of Council's adopted Newcastle Development Control Plan 2012 and the draft Green Travel Plan submitted with the development application.

**PLANNING**

119. The hours of operation or trading of the following premises are limited as follows:

**Retail Tenancy 1 and 2**

<b>Day</b>	<b>Start</b>	<b>Finish</b>
<b>Monday</b>	<b>7:00am</b>	<b>10:00pm</b>
<b>Tuesday</b>	<b>7:00am</b>	<b>10:00pm</b>
<b>Wednesday</b>	<b>7:00am</b>	<b>10:00pm</b>
<b>Thursday</b>	<b>7:00am</b>	<b>10:00pm</b>
<b>Friday</b>	<b>7:00am</b>	<b>10:00pm</b>
<b>Saturday</b>	<b>7:00am</b>	<b>10:00pm</b>
<b>Sunday</b>	<b>7:00am</b>	<b>10:00pm</b>

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

**(Condition amended - MA2023/000221)**

120. Waste collection from the proposed development being restricted to between 7:00am and 6:00pm daily.
121. A Landscape Establishment Report is to be submitted to City of Newcastle

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 to a high professional standard; copy of report format attached.

122. No goods or advertising signs are to be displayed or allowed to stand on the public footpath or street.

123. Lighting and CCTV is to be maintained and operational throughout the life of the development.

**123A. In the event of any future subdivision, the residential storage cages located on Basement Level 2, Basement Level 1, and Ground Level are to be allocated as follows:**

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

<b><i>Dwelling type</i></b>	<b><i>Minimum storage cage volume</i></b>
<b><i>1 bedroom</i></b>	<b><i>3m<sup>3</sup></i></b>
<b><i>2 bedroom</i></b>	<b><i>4m<sup>3</sup></i></b>
<b><i>3+ bedroom</i></b>	<b><i>5m<sup>3</sup></i></b>

***(Condition inserted - MA2023/000221)***



## ADVISORY MATTERS

- It is recommended that, prior to commencement of work, the free national community service 'Dial before you Dig' be contacted on 1100 or by fax on 1200 652 077 regarding the location of underground services in order to prevent injury, personal liability and even death. Inquiries should provide the property details and the nearest cross street/road.
- Any necessary alterations to public utility installations are to be at the developer/demolisher's expense and to the requirements of both City of Newcastle and any other relevant authorities. City of Newcastle and other service authorities should be contacted for specific requirements prior to the commencement of any works.
- Any proposed business identification sign or advertising sign is to be designed in accordance with the provisions of Newcastle Development Control Plan 2012 and be the subject of a separate Development Application that is to be approved prior to the sign being erected or placed in position, except when such signage meets 'exempt development' criteria.
- Prior to commencing any building works, the following provisions of Part 6 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 the City of Newcastle is to be notified of the appointment; and
  - c. The City of Newcastle is to be given at least two days notice of the date intended for commencement of building works.
- It is an offence under the provisions of the *Protection of the Environment Operations Act 1997* (NSW) to act in a manner causing, or likely to cause, harm to the environment. Anyone allowing material to enter a waterway or leaving material where it can be washed off-site may be subject to a penalty infringement notice ('on-the-spot fine') or prosecution.
- A Construction Certificate application for this project is to include a list of fire safety measures proposed to be installed in the building and/or on the land and include a separate list of any fire safety measures that already exist at the premises. The lists are to describe the extent, capability and basis of design of each of the measures.
- Development applications are not assessed against the provisions of the National Construction Code. An application to modify the application under the *Environmental Planning and Assessment Act 1979* will be required if design amendments that cause the proposal to be inconsistent with the development consent are necessary to comply with the provisions of the Building Code of Australia.
- A copy of the final Fire Safety Certificate (together with a copy of the current fire safety schedule) is to be given to the Commissioner of NSW Fire Brigades and a further copy of the Certificate (together with a copy of the current fire safety schedule) is to be prominently displayed in the building.
- An annual Fire Safety Statement in the form described in Clause 175 of the *Environmental Planning and Assessment Regulation 2000* is to be submitted to the City

of Newcastle and a copy (together with a copy of the current fire safety schedule) is to be given to the Commissioner of New South Wales Fire Brigades. A further copy of the Statement (together with a copy of the current fire safety schedule) is to be prominently displayed in the building.

- Failure to comply with the conditions of consent constitutes a breach of the *Environmental Planning and Assessment Act 1979*, which may be subject to a penalty infringement notice (i.e. 'on-the-spot fine') or prosecution.
- The owner of the premises on which a swimming pool/spa is situated is to ensure that the pool details are entered into the *State Swimming Pool Register*. The register is accessible at [www.swimmingpoolregister.nsw.gov.au](http://www.swimmingpoolregister.nsw.gov.au).
- The development is allocated the following street addresses in accordance with *Council's House Numbering Policy* and the *Surveying and Spatial Regulation*.

ADDRESS SCHEDULE				
Lot Number on plan	Council Allocated Street Addresses			
	House Number	Street Name	Street Type	Suburb
Stratum Lot 21/ Tower B Primary Address	124	Bull	Street	Newcastle West
Stratum Lot 22/ Tower A Primary Address	126	Bull	Street	Newcastle West

**(Advisory note inserted - MA2023/00221)**

**END OF CONDITIONS**

## SCHEDULE 2

### REASONS FOR THE DETERMINATION & CONSIDERATION OF COMMUNITY VIEWS

The determination decision was reached for the following reasons:

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

### REASONS WHY THE CONDITIONS HAVE BEEN IMPOSED

The following conditions are applied to:

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

## SCHEDULE 3

### Subsidence Advisory NSW – General Terms of Approval

GENERAL					
Plans, Standards and Guidelines					
1.	<p>These General Terms of Approval (GTAs) only apply to the development described in the plans and associated documentation relating to <b>MA2023/00221</b> and provided to Subsidence Advisory NSW.</p> <p>Any amendments or subsequent modifications to the development renders these GTAs invalid.</p>				
2.	<p>This approval expires 5 years after the date the approval was granted if building, engineering or construction work relating to the application has not physically commenced on the land.</p>				
PRIOR TO COMMENCEMENT OF CONSTRUCTION					
3	<p><b>Grouting of mine workings</b></p> <p>Grout the mine workings in accordance with Douglas Partners report on 'Mine Subsidence Grout Methodology and Verification – Proposed Residential and Aged Care' ref: 81229.15 R.002.Rev1, dated 19 December 2022.</p>				
4.	<p><b>Grout Verification Output Report</b></p> <p>On completion of grouting submit a <b>Grout Verification Report</b> in accordance with <b>Attachment E</b> of the Merit Assessment Policy, endorsed by the grout designer and site verification engineer for compliance with the accepted Grouting Plan to Subsidence Advisory for acceptance.</p>				
5.	<p><b>Prescribed Design Parameters – Serviceability</b></p> <p>Provide certification from a qualified structural engineer that the proposed structure is capable of remaining <i>serviceable</i> (as defined in section 4.7 of the Merit Assessment Policy) if subjected to the subsidence parameters outlined below:</p> <table style="margin-left: 40px;"> <tr> <td>a) Maximum Vertical Subsidence:</td><td style="text-align: right;">40 mm</td></tr> <tr> <td>b) Tensile Horizontal Strain:</td><td style="text-align: right;">2 mm/m</td></tr> </table>	a) Maximum Vertical Subsidence:	40 mm	b) Tensile Horizontal Strain:	2 mm/m
a) Maximum Vertical Subsidence:	40 mm				
b) Tensile Horizontal Strain:	2 mm/m				

	<p>c) Maximum Tilt: 4 mm/m</p> <p>d) Minimum Radius of Curvature: 5 km</p>
6.	<p><b>Structural Engineer Certification</b></p> <p>Prior to commencement of works, submit an <b>Engineering Impact Statement</b> to Subsidence Advisory NSW for acceptance. The engineering impact statement must identify the following</p> <ul style="list-style-type: none"> <li>a) Mine subsidence parameters used for the design</li> <li>b) Main building elements and materials</li> <li>c) Risk of damage due to mine subsidence</li> <li>d) Design measures proposed to control the risks</li> <li>e) Provide certification that the design will ensure the improvement meets the requirements of Condition 5.</li> <li>f) Comment on the: <ul style="list-style-type: none"> <li>• likely building damage in the event of mine subsidence.</li> <li>• sensitivity of the design to greater levels of mine subsidence.</li> </ul> </li> </ul> <p><b>OR</b></p> <p>Prior to commencement of works, submit a <a href="https://nsw.gov.au">Mine Subsidence Design Structural Engineer Certification Form (nsw.gov.au)</a> (<b>Attachment F</b> of the Subsidence Advisory Merit Policy).</p>
7.	<p><b>Submit Final Design</b></p> <p>Prior to commencement of works, submit a final design incorporating the design methodology contained in the <b>Engineering Impact Statement</b> or <b>Mine Subsidence Structural Engineer Certification Form</b>, to Subsidence Advisory for acceptance.</p> <p>Certification by a structural engineer is to confirm that the requirements of Condition 5 are met.</p>
<b>POST CONSTRUCTION</b>	
8.	<p><b>Survey Monitoring</b></p> <p>Establish 4 survey monitoring reference marks on and around the circumference of the building(s) so that building movement can be monitored should mine subsidence occur.</p> <p>Provide a plan with the position including Easting, Northing and RL of each monitoring reference marks and original RLs to Subsidence Advisory</p>
9.	<p><b>Certification of Works</b></p> <p>Upon completion of construction, submit certification from a qualified builder or certifier that confirms construction is in accordance with the plans approved by Subsidence Advisory.</p> <p>Where structural elements identified in the <b>Engineering Impact Statement</b> or <b>Mine Subsidence Structural Engineer Certification Form</b> have been certified by an engineer, details of this certification should be included with the builder/certifier's post construction certification.</p>