

<b>Application No:</b>	MA2024/00006
<b>Land:</b>	Lot 21 DP 1269807
<b>Property Address:</b>	185 Hunter Street Newcastle NSW 2300
<b>Proposed Development:</b>	Sec 4.55(2) modification to DA2019/01150 to extend the operating hours of the ground level bar (known as the "Lyrique Bar") until 2:00am, Monday to Saturday and 12:00 midnight, Sunday.

**A. Amended conditions:**

**APPROVED DOCUMENTATION**

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

<b><i>Plan No. / Supporting Document</i></b>	<b><i>Reference / Version</i></b>	<b><i>Prepared by</i></b>	<b><i>Dated</i></b>
<b><i>Lyrique Bar Plan of Management</i></b>		<b><i>Urbis (on behalf of Iris Capital Pty Ltd)</i></b>	<b><i>November 2024</i></b>
<b><i>Social Impact Assessment</i></b>	-	<b><i>Sarah George Consulting</i></b>	<b><i>12 July 2024</i></b>
<b><i>Noise Assessment</i></b>		<b><i>Acoustic Logic</i></b>	<b><i>31 January 2024</i></b>

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

- The hours of operation hours of operation are regulated as follows:

- The use of the outdoor terrace associated with the Rooftop Bar is to be closed and not used from 10:00pm to 7:00am, Monday to Sunday.

***(aa) The hours of operation for the Ground Floor Sports Bar/Gaming Lounge (known as "Lyrique Bar") is approved to operate 10.00am – 12.00 midnight, Monday to Saturday and 10.00am – 10.00pm, Sunday.***

- Notwithstanding (a) above, the use of the outdoor terrace may operate between 10:00pm and 12:00 midnight Monday to Saturday for a trial period of 12 months from the date of the commencement of the trial period. Council is to be informed in writing of the date of commencement of the trial hours.

***(bb) Notwithstanding (aa) above, the Ground Floor Sports Bar/Gaming Lounge (known as "Lyrique Bar") may operate between 12:00 midnight and 2:00am, Monday to Saturday and 10:00pm and 12:00 midnight, Sunday for a trial period of 12 months from the date of the commencement of the trial period. Council is to be informed in writing of the date of commencement of the trial hours.***

(c) The applicant may apply to Council (by way of further development application) prior to the expiration of the trial period, but not earlier than a 9-month period from the commencement of the trial, to make the extended hours outlined in Condition **76(bb)** above permanent. Any decision to make hours permanent will be based on the performance of the operator during the trial period and may include (but not limited to) factors such as:

- evidence to be furnished by the operator as to whether the trial has actually occurred;
- Any justified complaints received and investigated by NSW Liquor and Gaming, NSW Police and/or Council;
- Comments and advice received from the Newcastle Police Area Command and as a result of the new development application being referred to them;
- The performance of the operator or during the trial period with respect to compliance with the plan of management.

(d) If the Applicant does not obtain development consent in respect of the Development on a permanent basis (after the trial period has concluded), the operational hours of the outdoor terrace revert to the hours approved under Condition 76(a).

***(dd) If the Applicant does not obtain development consent in respect of the Development on a permanent basis (after the trial period has concluded), the operational hours of the Ground Floor Sports Bar/Gaming Lounge (known as "Lyrique Bar") will revert to the hours approved under Condition 76(aa).***

(ee) If an application to make the trial hours permanent is lodged within the 12-month trial period, the trial hours will continue to apply until such time as the application is finally determined.

**B. Additional conditions:**

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

***10C. The closing over of all louvers for the Ground Floor Sports Bar/Gaming Lounge (known as "Lyrique Bar") is to be designed prior to the issue of a Construction Certificate in accordance with the Acoustic Assessment prepared by Acoustic Logic dated 31 January 2024. Written final certification confirming the treatment has been designed to meet the noise levels specified in accordance with the requirements of the above report is to be submitted to the principal certifier and Newcastle City Council.***

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

***49A. Prior to the issue of an Occupation Certificate an appropriately qualified consultant is to install and set out the ongoing operating requirements of a noise limiting device to meet the noise levels specified in the Acoustic Logic Noise Assessment, dated 31 January 2024 for the Ground Floor Sports Bar/Gaming Lounge (known as "Lyrique Bar. Written final certification confirming all treatments have been implemented in accordance with the requirements of the above report is to be submitted to the principal certifier and Newcastle City Council.***

**CONDITIONS TO BE SATISFIED PRIOR TO COMMENCEMENT OF EXTENDED HOURS OF LYRIQUE BAR**

- 61C.** *Prior to the commencement of the extended trade for the for the Ground Floor Sports Bar/Gaming Lounge (known as "Lyrique Bar"), the acoustic measures, being the closing over of all louvers and installation a noise limiting device, are to be implemented in accordance with the recommendations set out in the report prepared by Acoustic Logic dated 31 January 2024.*
- 61D.** *Written final certification confirming the acoustic measures above have been implemented in accordance with the requirements of the above report is to be submitted to Council prior to the commencement of extended operational hours of the for the Ground Floor Sports Bar/Gaming Lounge (known as "Lyrique Bar") to this consent.*

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

- 68F.** *The entry doors of the for the Ground Floor Sports Bar/Gaming Lounge (known as "Lyrique Bar") are to be closed between 10:00pm to 2:00am, except to allow for entry or exit of patrons or in the case of an emergency.*

- 80A.** *The Plan of Management for the Lyrique Bar, dated November 2024 is to be amended in accordance with the conditions of this consent, including the following:*

- a) All acoustic and management measures proposed to be implemented to minimise potential noise impacts from the premises, including the relevant recommendations of the Noise Assessment prepared by Acoustic Logic, dated 31 January 2024.*
  - b) One (1) uniformed licensed security person is to be employed from 8:00pm until 30 minutes after closing of the Lyrique Bar, Thursday to Sunday.*
  - c) Ensure the manner in which the business of the premises is conducted and/ or the behaviour of persons entering and leaving the premises does not cause undue disturbance to the amenity of the neighbourhood. In this regard, the management shall be responsible for the control of noise and litter generated by persons and/or premises operations.*
  - c)Record in a Register, the full details of any disturbance complaint/s made by a person to management or staff in respect to the manner in which the business of the premises is conducted and/or the behaviour of persons entering or leaving the premises. Such recording will include time, date, nature of the complaint/s, complainant's details (if provided) and all actions undertaken by management/ staff to resolve such complaints.*
  - d) The final Plan of Management, as outlined as a condition of this consent, incorporating security management and responsible service of alcohol being implemented at all times and updated in response to complaints lodged through consultation with NSW Liquor and Gaming, NSW Police and / or Council.*
  - e)A copy of the Plan of Management is to be kept on the premises and made available for inspection on the request of Liquor and Gaming, Police, Council and / or any members of the public.*
- Note: Any further amendments or proposed variation to the approved Plan of Management require approval from Council through the submission of a s.4.55 modification application.*

- 81A. *A telephone number must be displayed on a sign at the Lyrique Bar's entrance (Lyrique Lane) entrance for any person who wishes to make a complaint.***

## CONDITIONS OF CONSENT - MA2024/00006

### APPROVED DOCUMENTATION

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

Plan No / Supporting Document	Reference Version	Prepared by	Dated
Site Plan P-A-0102/22	Job No. 5589	SJB Architects	18/10/2019
Demolition - Level 01 B-A-3201/22	Job No. 5589	SJB Architects	18/10/2019
Demolition - Level 02 B-A-3202/22	Job No. 5589	SJB Architects	18/10/2019
Demolition - Level 03 B-A-3203/22	Job No. 5589	SJB Architects	18/10/2019
Demolition - Level 04 B-A-3204/22	Job No. 5589	SJB Architects	18/10/2019
Demolition - Level 05 B-A-3205/22	Job No. 5589	SJB Architects	18/10/2019
Demolition - Roof B-A-3206/22	Job No. 5589	SJB Architects	18/10/2019
Building B Elevation - North B-A-0501/40 23	Job No. 5589	SJB Architects	<del>09/04/2021</del> 28/03/2024
Building B Elevation - West B-A-0504/10	Job No. 5589	SJB Architects	09/04/2021
Building B Elevation - South B-A-0503/11	Job No. 5589	SJB Architects	09/04/2021
Building B Elevation - East B-A-0502/1	Job No. 5589	SJB Architects	09/04/2021
Building B Elevation - North (Heritage) B-A-0551/5	Job No. 5589	SJB Architects	09/04/2021
Building B Elevation - West (Heritage) B-A-0552/5	Job No. 5589	SJB Architects	09/04/2021
Building B Elevation - South (Heritage) B-A-0553/5	Job No. 5589	SJB Architects	09/04/2021
Building B Level 01 B-A-0201/29	Job No. 5589	SJB Architects	09/04/2021
Building B Level 01B B-A-0201/21	Job No. 5589	SJB Architects	09/04/2021
Building B Level 02 B-A-0202/19	Job No. 5589	SJB Architects	09/04/2021
Building B Level 03 B-A-0203/18	Job No. 5589	SJB Architects	09/04/2021
Building B Level 03B B-A-0203/17	Job No. 5589	SJB Architects	09/04/2021
Building B Level 04 B-A-0204/17	Job No. 5589	SJB Architects	09/04/2021
Building B Level 05	Job No. 5589	SJB Architects	09/04/2021

B-A-0205/20			
Building B Level 06 B-A-0206/25-23	Job No. 5589	SJB Architects	09/04/2021- 28/03/2024
Building B Level Roof B-A-0207/15	Job No. 5589	SJB Architects	09/04/2021
Building B Level 01 (Heritage) B-A-0251/22	Job No. 5589	SJB Architects	18/10/2019
Building B Level 01 B (Heritage) B-A-0251/22	Job No. 5589	SJB Architects	18/10/2019
Building B Level 02 (Heritage) B-A-0252/22	Job No. 5589	SJB Architects	18/10/2019
Building B Level 03 (Heritage) B-A-0253/22	Job No. 5589	SJB Architects	18/10/2019
Building B Level 03 B (Heritage) B-A-0253/22	Job No. 5589	SJB Architects	18/10/2019
Building B Level 04 (Heritage) B-A-0254/22	Job No. 5589	SJB Architects	18/10/2019
Building B Level 05 (Heritage) B-A-0255/22	Job No. 5589	SJB Architects	18/10/2019
Building B Level 06 (Heritage) B-A-0256/22	Job No. 5589	SJB Architects	18/10/2019
Building B Level Roof (Heritage) B-A-0257/22	Job No. 5589	SJB Architects	18/10/2019
Building B Section A B-A-0601/10	Job No. 5589	SJB Architects	09/04/2021
Building B Section B B-A-0602/10	Job No. 5589	SJB Architects	09/04/2021
Building B Section F B-A-0606/4	Job No. 5589	SJB Architects	09/04/2021
Building B Section 03 B-A-0603/22	Job No. 5589	SJB Architects	18/10/2019
Building B Section 01 (Heritage) B-A-0651/22	Job No. 5589	SJB Architects	18/10/2019
Building B Section 02 (Heritage) B-A-0652/22	Job No. 5589	SJB Architects	18/10/2019
Building B Section 03 (Heritage) B-A-0653/22	Job No. 5589	SJB Architects	18/10/2019
Building C Plan - Level 7 C-A-0207/15	Job No. 5589	SJB Architects	18/10/2019
Building C Elevation - South C- A-0503/15	Job No. 5589	SJB Architects	18/10/2019
Building C Elevation – West C-A-0504/15	Job No. 5589	SJB Architects	18/10/2019
Level 01, Level 02 and Level 06 Landscape Plans Drawings 101 to 103	Project No 19071 Revisions B	Xeriscapes	18/09/2019
Stormwater Management Building B	NL167241	Northrop	25/09/2019

Statement of Environmental Effects	n/a	SJB Planning	October 2019
Clause 4.6 Exceptions to Development Standards Floor Space Ratio	n/a	SJB Planning	undated
Social Impact Assessment	<del>12509981</del>	<del>GHD</del> <b>Sarah George Consulting</b>	<del>09/09/2019</del> <b>12 July 2024</b>
Environmental Noise Impact Assessment	20190080.3	Acoustic Logic	25/09/2019
Traffic and Parking Assessment	Rev 2	TTM Consulting Pty Ltd	21/10/2019
Waste Management	IA210500.1	Jacobs	25/09/2019
Heritage Impact Statement	Rev 2	City Plan	October 2019
East End Stage 1 Hotel Operational Management Plan	Rev. D	Iris Capital Pty Ltd	<del>September 2019</del> 29 March 2023
<b>Lyrique Bar Plan of Management</b>		<b>Urbis (on behalf of Iris Capital Pty Ltd)</b>	<b>November 2024</b>
Accessibility Review Report	Ref 8330	ABE Consulting	26/09/2019
BCA Assessment Report	Rev. 2	City Plan	26/09/2019
Validation Report		EI Australia	8/05/2019

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.

(modified under DA2019/01150.04)  
(modified under DA2019/01150.03)  
(modified under MA2022/00433)  
**(modified under MA2024/00006)**

## INTEGRATED DEVELOPMENT

2. The General Terms of Approval issued by the Subsidence Advisory NSW dated 21 November 2019 (Ref: TBA19-06682) and reproduced at Schedule 1 form part of this Integrated Development Consent.

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

3. On-site parking accommodation is to be provided for a minimum of 37 vehicles comprising 29 guest and 8 staff spaces and be set out generally in accordance with the minimum parking layout standards indicated in Element 7.03 'Traffic, Parking and Access' of Council's adopted Newcastle Development Control Plan 2012. Full details are to be included in documentation for a Construction Certificate application.
4. The car park is to be designed to comply with AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking and AS/NZS 2890.6:2009 - Parking facilities - Off-street parking for people with disabilities. Full details are to be included in documentation for a Construction Certificate application.

5. The design and construction of the proposed development is to be in accordance with the relevant requirements of Australian Standard 4674:2004 - Design, Construction and Fit-Out of Food Premises. Full details are to be included in the documentation for the Construction Certificate application.
6. The proposed floodlighting of the premises is to be designed, positioned, and installed, including appropriate shielding and orientation of the lighting fixture, as to not give rise to obtrusive light, interfere with traffic safety or detract from the amenity of surrounding properties in accordance with Australian Standard 4282:1997 - Control of the obtrusive effects of outdoor lighting. Full details are to be included in the documentation for a Construction Certificate application.
7. The relevant terms of this development consent are to be incorporated into an operational Plan of Management of the hotel relating to all aspects of the operation of the hotel use including, but not limited to, hours of operation, waste management including collection and storage, servicing and deliveries, baggage handling and the hotel, maintenance and cleaning, complaint management, security, staffing, emergency evacuation, facilitating access, use and parking for disabled persons, enforcement of the maximum patron caps applicable to the bar, lounge, restaurant and private dining areas and management of intoxicated persons on or near the premises. The Plan of Management is to be submitted and approved by Council prior to the issue of the Construction Certificate.
8. Certification from a structural engineer certifying that the structural strength and load bearing capacity of the existing building will be appropriate to its new use, and that the existing building is structurally adequate to support the superimposed loads of the new storeys, is to be submitted with any application for a Construction Certificate.
9. The existing building (designated as Building B) is to be upgraded so as to comply with the Performance Requirements of Parts C, D and E of Volume One of the Building Code of Australia. Full details on means of compliance are to be nominated in Construction Certificate documentation.
10. The acoustic performance of all mechanical plant and equipment associated with the building being assessed by an appropriately qualified acoustic consultant prior to the issue of any required Construction Certificate. Appropriate acoustic treatment as recommended by the acoustic consultant being designed prior to the issue of a Construction Certificate. Written certification from an appropriately qualified acoustic consultant being submitted to the Principal Certifying Authority prior to issue of an Occupation Certificate confirming that noise from all mechanical plant and equipment achieves the required acoustic attenuation to comply with the conditions of consent and the requirements of the Protection of the Environment Operations Act 1997.
- 10A. A solid awning and barrier are to be designed prior to the issue of a Construction Certificate in accordance with the Rooftop Bar Noise Assessment prepared by Acoustic Logic, dated 16 January 2024. Written final certification confirming the treatment has been designed to meet the noise levels specified in accordance with the requirements of the above report is to be submitted to the principal certifier and Newcastle City Council.

(Condition inserted under MA2022/00433)

- 10B. Prior to the issue of an Occupation Certificate an appropriately qualified consultant is to install and set out the ongoing operating requirements of a noise limiting device to meet the



noise levels specified in the Acoustic Logic Rooftop Bar Noise Assessment dated 16 January 2024.

Written final certification confirming all treatments have been implemented in accordance with the requirements of the above report is to be submitted to the principal certifier and Newcastle City Council.

(Condition inserted under MA2022/00433)

- 10C. *The closing over of all louvers for the Ground Floor Sports Bar/Gaming Lounge (known as "Lyrique Bar") is to be designed prior to the issue of a Construction Certificate in accordance with the Acoustic Assessment prepared by Acoustic Logic dated 31 January 2024. Written final certification confirming the treatment has been designed to meet the noise levels specified in accordance with the requirements of the above report is to be submitted to the principal certifier and Newcastle City Council.***

(Condition inserted under MA2024/00006)

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

11. Toilet facilities are to be available or provided at the work site before works begin and be maintained until the works are completed, at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

Each toilet is to:

- a) Be a standard flushing toilet connected to a public sewer, or
  - b) Have an on-site effluent disposal system approved under the *Local Government Act 1993* (NSW), or
  - c) Be a temporary chemical closet approved under the *Local Government Act 1993* (NSW).
12. Building demolition is to be planned and carried out in accordance with Australian Standard 2601:2001 - The Demolition of Structures.
13. A Hazardous Substances Management Plan is to be prepared by a competent person for the building(s) or parts of the building(s) proposed to be demolished in accordance with Australian Standard 2601:2001 - The Demolition of Structures. A copy of the Hazardous Substances Management Plan is to be provided to Council and the demolisher prior to commencement of work.
14. The demolition works are to be undertaken in accordance with Australian Standard 2601:2001 - The Demolition of Structures and the following requirements:
- a. Demolition works shall be conducted in accordance with the submitted Hazardous Substances Management Plan and a copy of the Hazardous Substances Management Plan shall be kept on-site for the duration of the proposed development
  - b. The removal, handling and disposal of any asbestos material is to be undertaken only by an asbestos removal contractor who holds the appropriate class of Asbestos Licence, issued by the WorkCover Authority of NSW

- c. A copy of all waste disposal receipts are to be kept on-site for the duration of the proposed development and made available to authorised Council Officers upon request
  - d. Seven working days' notice in writing is to be given to Council and the owners/occupiers of neighbouring premises prior to the commencement of any demolition works. Such written notice is to include the date demolition will commence and details of the name, address, contact telephone number(s) and licence details (type of licences held and licence numbers) of any asbestos removal contractor and demolition contractor. Notification to owners/occupiers of neighbouring premises shall also include Council's contact telephone number (49742000) and the Workcover Authority of NSW telephone number (49212900) and
  - e. On sites where asbestos materials are to be removed, a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm is to be erected in a prominent position during asbestos removal works.
15. 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.
16. Any waste containers used in association with the proposed demolition are to be located on the site where possible.

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

17. 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.

18. The demolisher is to ensure that all demolition material is kept clear of the public footway and carriageway as well as adjoining premises.
19. Any demolition/waste building materials that are not suitable for recycling are to be disposed of at Council's Summerhill Waste Management Facility or other approved site.
20. Waste management shall be implemented in accordance with the approved Waste Management Plan. At a minimum, the following measures shall be implemented during the construction phase:
- a) A waste container of at least one cubic metre capacity shall be provided, maintained and regularly serviced from the commencement of operations until the completion of the building for the reception and storage of waste generated by the construction of the building and associated waste
  - b) The waste container is to be, at minimum, constructed with a 'star' picket (corners) and weed control mat (sides), or equivalent. The matting is to be securely tied to the pickets
  - c) Appropriate provision is to be made to prevent windblown rubbish leaving the site and

- d) Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.

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

- 21. 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 must 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.
- 22. An application is to be made to and approved by Council for the erection of a hoarding or part closure of the footway prior to construction being commenced. Such overhead structure or protective fence shall comply with the *Work Health and Safety Act 2011* (NSW), *Work Health and Safety Regulation 2011* (NSW) and any relevant approved industry code of practice. Notice of intention of commencement must be given to WorkCover New South Wales.
- 23. The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- 24. A rigid and durable sign is to be erected on any site on which building work, subdivision work or demolition work is being carried out, before the commencement of the work:
  - a) showing the name, address and telephone number of the Principal Certifying Authority for building work and subdivision work, and
  - b) showing the name, address and telephone number of the Principal Contractor for any building work and also including a telephone number on which the Principal Contractor may be contacted at any time for business purposes, and
  - c) stating that unauthorised entry to the work site is prohibited, and
  - d) being erected in a prominent position that can be read easily by anyone in any public road or other public place adjacent to the site.

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

- 25. All building work must be carried out in accordance with the provisions of the National Construction Code.
- 26. All excavations and backfilling are to be executed safely in accordance with appropriate professional standards and excavations are to be properly guarded and protected to prevent them from being dangerous to life and property.
- 27. All building materials, plant and equipment is to be placed on the site of the development so as to ensure that pedestrian and vehicular access in public places is not restricted and to prevent damage to the road reserve. The storage of building materials on Council reserves including the road reserve is not permitted.
- 28. A separate application must be lodged and consent obtained from Council for all works within the road reserve pursuant to Section 138 Roads Act 1993 (NSW), before the commencement of works.

29. Prior to commencement of site works the developer is to submit to Council for approval a Construction Traffic Management Plan addressing traffic control measures to be utilised in the public road reserve during the construction phase.
30. The Construction Traffic Management Plan is to be prepared by a Roads & Maritime Services accredited person with a Design and Audit Traffic Control Plans Certificate in accordance with Australian Standard 1742.3:2009 - Manual of uniform traffic devices - traffic control for works on roads. The plan is to ensure the provision for safe, continuous movement of traffic and pedestrians within the road reserve.
31. Any alteration to natural surface levels on the site is to be undertaken in such a manner as to ensure that there is no increase in surface water runoff to adjoining properties or that runoff is impounded on adjoining properties, as a result of the development.
32. Stormwater is to be conveyed to the existing property stormwater drains by way of a sealed pipe system. The existing drains are to be checked for adequacy and cleared of any obstructions.
33. 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.
34. On-site car parking accommodation is to be provided for a minimum of 37 vehicles, such comprising 29 guest spaces and 8 staff spaces, and being set out generally in accordance with the details indicated on the submitted plans except as otherwise provided by the conditions of consent.
35. The proposed parking bays are to be permanently marked out on the pavement surface and being clearly indicated by means of signs and/or pavement markings.
36. 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.

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

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

38. Erosion and sediment control measures are to be implemented prior to the commencement of works and maintained during the period of demolition and/or construction in accordance with the requirements of Managing Urban Stormwater: Soils and Construction 4<sup>th</sup> Edition - Vol. 1 (the 'Blue Book') published by Landcom, 2004. Controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover.
39. All necessary measures are to be undertaken to control dust pollution from the site. These measures must include, but not are limited to:

- a) Restricting topsoil removal
  - b) Regularly and lightly watering dust prone areas (note: prevent excess watering as it can cause damage and erosion)
  - c) Alter or cease construction work during periods of high wind and
  - 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.
40. 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 Council by a Surveyor registered under the *Surveying and Spatial Information Act 2002* (NSW).
41. 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.
42. 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 Certifying Authority and to Council 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:
- i. A site management strategy, identifying and addressing issues such as environmental health and safety, site security, and traffic management.
  - ii. 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.
  - iii. A dust management strategy, detailing procedures to minimise dust generation, with particular reference to control techniques and operational limits under adverse meteorological conditions.
  - iv. A waste minimisation strategy that aims to avoid production of waste and maximise reuse, recycling or reprocessing of potential waste material.
  - v. 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 direct contact details for site management.
  - vi. A construction complaints management and communication protocol approved by Council including complaints register, protocol for investigating and responding to complaints that seeks to resolve any issues directly with complainant and providing a response to the complainant, the method in which contact and protocol will be made available to the community which may include signage on site and on any project specific website, with the complaints register and lot to be made available to Council and the public on request.
  - vii. 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.
43. 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

44. 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*.
45. Documentation demonstrating the compliance with the conditions of the appropriate Resource Recovery Order and Resource Recovery Exemption must be maintained for any material received at the site and subsequently applied to land under the conditions of the Resource Recovery Order and Exemption. This documentation must be provided to Council officers or the Principal Certifying Authority on request.
46. Prior to the commencement of work, a 3m 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 shall not be stockpiled on the all weather vehicle access
47. All public trees that are required to be retained must be physically protected in accordance with the City of Newcastle Urban Forest Technical Manual 'Section 8.0 Protection Measures'.

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

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

48. All public footways, footpaving, kerbs, gutters and road pavement damaged during the works are to be immediately repaired following the damage, to a satisfactory state that provides for safe use by pedestrians and vehicles. Full restoration of the damage is to be carried out to Council's satisfaction prior to the completion of demolition work or prior to the issue of any occupation certificate in respect of development involving building work.
49. Appropriate acoustic treatment is to be implemented in accordance with the recommendations set out in the report prepared by Acoustic Logic, dated September 2019. Written final certification confirming the recommended acoustic treatment has been implemented in accordance with the requirements of the above report is to be submitted to the Principal Certifying Authority and Council prior to the issue of an Occupation Certificate.

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

- 49A. Prior to the issue of an Occupation Certificate an appropriately qualified consultant is to install and set out the ongoing operating requirements of a noise limiting device to meet the noise levels specified in the Acoustic Logic Noise Assessment, dated 31 January 2024, for Ground Floor Sports Bar/Gaming Lounge (known as "Lyrique Bar"). Written final certification confirming all treatments have been implemented in accordance with the requirements of the above report is to be submitted to the principal certifier and Newcastle City Council.**

*(Condition inserted under MA2024/00006)*

50. All works required in the road reserves under DA 2017/00700 - Stage 1 being completed prior to the issue of any Occupation Certificate for the premise the subject of this development application.
51. Any redundant existing vehicular crossing is to be removed at no cost to Council. The road reserve and kerb being restored to, Council's satisfaction, to match the existing infrastructure. Works are to be completed prior to the issuing of an Occupation Certificate for the proposed development.
52. The appropriate notation is to be made on a survey plan and accompanying instrument under Section 88B of the Conveyancing Act 1919 (NSW) setting out the terms of the required easements and such being lodged with Council for certification CEO and being registered with NSW Land Registry Services prior the issuing of an Occupation Certificate for the proposed development, it being noted that the instrument is to provide that the easement is unable to be released, varied or modified without the concurrence of The City of Newcastle.
53. A copy of the stormwater drainage design plans approved with the Construction Certificate with 'work as executed' levels indicated, shall be submitted to the Principal Certifying Authority and to The City of Newcastle prior to the issue of an Occupation Certificate. The plans shall be prepared by a Practising Professional Engineer or Registered Surveyor experienced in the design of stormwater drainage systems.
54. The water management measures as indicated on the submitted plans and Statement of Environmental Effects and/or as modified under the terms of this consent are to be implemented and the nominated fixtures and appliances are to be installed and operational prior to issue of an Occupation Certificate.
55. A Landscape Practical Completion Report is to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate. The report is to verify that all landscape works have been carried out in accordance with the comprehensive landscape design plan and specifications that were required to be included in documentation for a Construction Certificate application and is to verify that an effective maintenance program has been commenced.
56. A post construction dilapidation report prepared by a suitability qualified person shall be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate, to ascertain if any structural damage has occurred to the adjoining buildings, infrastructure and roads. The reports shall be forwarded to Council and will be made available in any private dispute between neighbours regarding damage arising from construction works.
57. Prior to issue of an Occupation Certificate, the food business must notify the relevant enforcement agencies, under the *Food Act 2003* (NSW) and (for licensed food businesses) under the *Food Regulation 2010* (NSW). Notification is to be provided to Council and the NSW Food Authority.

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

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

The minimum numeral height shall be 75mm.

59. The King Street loading dock proposed under DA 2017/00700 being completed prior to the issue of any Occupation Certificate for the premise the subject of this development application.
60. 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.

Note: A separate approval from Council must be obtained for all private structures within the public road reserve pursuant to Section 138 of the Roads Act 1993. A fee will be payable in this regard.

61. The developer being responsible for the provision of additional regulatory signage in Hunter and Perkins Streets adjacent to the site frontage and all adjustments to and/or relocation of existing regulatory signage necessary as part of this development, at no cost to Council and in accordance with Council requirements, such works being implemented prior to the issue of any occupation certificate.

Note: The provision of additional regulatory signage and alterations to existing regulatory signage will need to be referred to the Newcastle City Traffic Committee for approval prior to installation.

#### **CONDITIONS TO BE SATISFIED PRIOR TO COMMENCEMENT OF EXTENDED HOURS OF OUTDOOR TERRACE**

- 61A. Prior to the commencement of the extended trade for the outdoor terrace, the acoustic treatment, being the solid awning and barrier, is to be implemented in accordance with the recommendations set out in the report prepared by Acoustic Logic, dated 16 January 2024.

(Condition inserted under MA2022/00433)

- 61B. Written final certification confirming the recommended acoustic treatment has been implemented in accordance with the requirements of the above report is to be submitted to Council prior to the commencement of extended operational hours of the outdoor terrace subject to this consent.

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

(Condition inserted under MA2022/00433)

- 61C. *Prior to the commencement of the extended trade for the Ground Floor Sports Bar/Gaming Lounge (known as "Lyrique Bar") the acoustic measures, being the closing over of all louvers and installation a noise limiting device, are to be implemented in accordance with the recommendations set out in the report prepared by Acoustic Logic dated 31 January 2024.***

*(Condition inserted under MA2024/00006)*

- 61D. *Written final certification confirming the acoustic measures above have been implemented in accordance with the requirements of the above report is to be***



***submitted to Council prior to the commencement of extended operational hours of the Ground Floor Sports Bar/Gaming Lounge (known as "Lyrique Bar") subject to this consent.***

*(Condition inserted under MA2024/00006)*

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

62. A 'Section A' Site Audit Statement and Site Audit Report prepared by a NSW accredited site auditor certifying the site is suitable for the proposed land use is to be submitted to the Principal Certifying Authority and Council.
63. A long-term Site Management Plan is to be prepared and approved by the Site Auditor to address remaining site contamination risks and to be provided to the Principle Certifying Authority and Council prior to the issuing of Occupation Certificate
64. No flashing, chasing or scintillating lighting or promotional material of a visually intrusive nature is to be installed or displayed on the exterior of the premises.
65. No goods or advertising signs are to be displayed or allowed to stand on the public footpath or street.
66. A minimum of 29 of the proposed on-site parking bays are to be made available for the guests to the premises and such spaces under no circumstances being subdivided, leased or controlled by or on behalf of particular unit owners or residents.
67. Vehicles are to be loaded or unloaded standing wholly within the premises and within loading bays designated on the submitted plans or as otherwise provided in accordance with the conditions of this consent and under no circumstances are vehicles to be loaded or unloaded at the kerbside, across the public footpath or in a manner which obstructs vehicular access to the site.
68. The maximum capacity of the hotel including guest rooms, restaurants/café and bar/gaming areas are not to exceed 708. The maximum capacity of 708 persons at any time comprising the following:
  - The maximum patron numbers of the hotel combined ground floor is 400 (inclusive of any guests) in accordance with BCA (sanitary facilities/egress requirements)
  - The capacity of the Ground Floor Restaurant shall be limited to 160 patrons
  - the capacity of the Ground Floor Hotel Bar shall be limited to 120 patrons
  - the capacity of the Ground Floor Cafe shall be limited to 20 patrons
  - the capacity of the Ground Floor Sports Bar/Gaming Lounge shall be limited to 100 patrons
  - The maximum capacity of the Roof Terrace Bar (internal and external) shall be limited to 100 patrons (inclusive of any guests)
  - The maximum hotel guest capacity is 208 guests.
- 68A. The use of the outdoor terrace (associated with the Rooftop Bar) is to be restricted to 30 patrons between 10:00pm to 12:00am Monday to Sunday.

*(Condition inserted under MA2022/00433)*

- 68B. The sliding door of the outdoor terrace (associated with the Rooftop Bar) is to be kept closed between 10:00pm to 12:00am Monday to Sunday except to allow for entry or exit of patrons or unless in the case of an emergency.

(Condition inserted under MA2022/00433)

- 68C. No music or amplified sounds other than emergency PA announcements are to be played in the outdoor terrace (associated with the Rooftop Bar).

(Condition inserted under MA2022/00433)

- 68D. The awning on the outdoor terrace is to be retained in the fully extended position during the period between 10:00pm - 12:00 midnight to provide additional noise attenuation.

(Condition inserted under MA2022/00433)

- 68E. A sign must be displayed in a prominent position near the outdoor area stating the maximum number of persons that are permitted to occupy the outdoor area.

(Condition inserted under MA2022/00433)

- 68F. *The entry doors of the Ground Floor Sports Bar/Gaming Lounge (known as "Lyrique Bar") are to be closed between 10:00pm to 2:00am, except to allow for entry or exit of patrons or in the case of an emergency.***

**(Condition inserted under MA2024/00006)**

69. A sign is to be displayed in a prominent position (within the guest rooms, restaurant/café and bar areas and hotel portion of the building) specifying that the maximum capacity of the hotel portion of the premises is not to exceed the maximum capacities outlined in Condition 68.

70. All vehicular movement to and from the site is to be in a forward direction.

71. 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

72. The ongoing operation of the hotel is to be in accordance with the Plan of Management and any conditions for the lifetime of the development. All staff are to be made aware of and trained regarding the terms of the Plan of Management. The Plan of Management may only be amended in consultation with City of Newcastle and the Newcastle City Police District.

73. The hours of operation of the 'Loading Dock' are to be not more than from 7am to 6pm Monday to Friday and 8am to 6pm Saturday and Sunday unless a separate application to vary the hours of operation has been submitted to and approved by Council. The use of the loading dock will be subject to a booking system to ensure deliveries are suitably managed.

74. The maximum size vehicle accessing the proposed King Street loading dock being restricted to a medium rigid vehicle (MRV) as defined under AS 2890.2. Under no circumstances is a heavy rigid vehicle (HRV) or an articulated vehicle permitted to enter the loading dock area.

75. Waste management (recyclable and non-recyclable) is to be serviced from the King Street loading dock approved under Da 2017/00700 Stage 1. Under no circumstances are garbage bins to be presented to the street for kerbside collection or serviced from the street.
76. The hours of operation hours of operation are regulated as follows:
- (a) The use of the outdoor terrace associated with the Rooftop Bar is to be closed and not used from 10:00pm to 7:00am, Monday to Sunday.
- (aa) The hours of operation for the Ground Floor Sports Bar/Gaming Lounge (known as "Lyrique Bar") is approved to operate 10.00am – 12.00 midnight, Monday to Saturday and 10.00am – 10.00pm, Sunday.**
- (b) Notwithstanding (a) above, the use of the outdoor terrace may operate between 10:00pm and 12:00 midnight Monday to Saturday for a trial period of 12 months from the date of the commencement of the trial period. Council is to be informed in writing of the date of commencement of the trial hours.
- (bb) Notwithstanding (aa) above, the Ground Floor Sports Bar/Gaming Lounge (known as "Lyrique Bar") may operate between 12:00 midnight and 2:00am, Monday to Saturday and 10:00pm and 12:00 midnight, Sunday for a trial period of 12 months from the date of the commencement of the trial period. Council is to be informed in writing of the date of commencement of the trial hours.**
- (c) The applicant may apply to Council (by way of further development application) prior to the expiration of the trial period, but not earlier than a 9-month period from the commencement of the trial, to make the extended hours outlined in Condition 76 b) above permanent. Any decision to make hours permanent will be based on the performance of the operator during the trial period and may include (but not limited to) factors such as:
- evidence to be furnished by the operator as to whether the trial has actually occurred;
  - Any justified complaints received and investigated by NSW Liquor and Gaming, NSW Police and/or Council;
  - Comments and advice received from the Newcastle Police Area Command and as a result of the new development application being referred to them;
  - The performance of the operator or during the trial period with respect to compliance with the plan of management.
- (d) If the Applicant does not obtain development consent in respect of the Development on a permanent basis (after the trial period has concluded), the operational hours of the outdoor terrace revert to the hours approved under Condition 76(a).
- (dd) If the Applicant does not obtain development consent in respect of the Development on a permanent basis (after the trial period has concluded), the operational hours of the Ground Floor Sports Bar/Gaming Lounge (known as "Lyrique Bar") will revert to the hours approved under Condition 76(aa).**
- (e) If an application to make the trial hours permanent is lodged within the 12-month trial period, the trial hours will continue to apply until such time as the application is finally determined.

77. No music or amplified sound other than the emergency PA announcements are to be played through speakers in the outdoor terrace associated with the Rooftop Bar.
78. The use and occupation of the premises, including all plant and equipment installed thereon, is not to give rise to any offensive noise and/or give rise to the emission of any 'air impurity', as defined under the Protection of the Environment Operations Act 1997 (NSW).

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

79. An appropriately qualified acoustic consultant different to that who produced the acoustic assessment for DA2019/01150, shall be engaged and paid for by the Applicant to undertake independent monitoring and assessment of the noise emissions during periods of extended trade of the outdoor terrace, within 3-months of this determination and every three months thereafter until the end of the trial period (i.e. quarterly). The assessment shall include conducting measurements from the nearby residential receivers. A report is to be prepared and submitted to Council within 14-days of the monitoring and must include recommendations should the assessment identify an exceedance of the noise levels predicted under this consent.
- i) Should the development not be operating at capacity during the assessment period (s), the measured noise levels are to be adjusted for the maximum approved number of patrons (using energy-based summation).
  - ii) The date of the audit shall not be communicated to any person associated with the premises. Council to be notified of the date of any audit.
  - iii) The acoustic audit shall confirm that the requirements in Acoustic Logic Rooftop Bar Noise Assessment dated 16 January 2024 are being complied with at the nearest noise sensitive receiver location/s. This may include the boundary, balcony, window or elevated window and any other location as directed by Council.

Note: Should such recommendations involve any alterations to the building, approval from Council may be required through the submission of a s.4.55 modification application

(Condition inserted under MA2022/00433)

80. The Plan of Management is to be amended in accordance with the conditions of this consent, including the following:
- a) All acoustic and management measures proposed to be implemented to minimise potential noise impacts from the premises, including the relevant

recommendations of the Acoustic Report, prepared by Acoustic Logic (Revision 1), dated 16/01/2024.

- b) Ensure the manner in which the business of the premises is conducted and/or the behaviour of persons entering and leaving the premises does not cause undue disturbance to the amenity of the neighbourhood. In this regard, the management shall be responsible for the control of noise and litter generated by persons and/or premises operations.
- c) Record in a Register, the full details of any disturbance complaint/s made by a person to management or staff in respect to the manner in which the business of the premises is conducted and/or the behaviour of persons entering or leaving the premises. Such recording will include time, date, nature of the complaint/s, complainant's details (if provided) and all actions undertaken by management/ staff to resolve such complaints.
- d) The final Plan of Management, as outlined as a condition of this consent, incorporating security management and responsible service of alcohol being implemented at all times and updated in response to complaints lodged through consultation with NSW Liquor and Gaming, NSW Police and / or Council.
- e) A copy of the Plan of Management is to be kept on the premises and made available for inspection on the request of Liquor and Gaming, Police, Council and / or any members of the public.

Note: Any further amendments or proposed variation to the approved Plan of Management require approval from Council through the submission of a s.4.55 modification application.

(Condition inserted under MA2022/00433)

**80A. The Plan of Management for the Lyrique Bar, dated November 2024 is to be amended in accordance with the conditions of this consent, including the following:**

- a) **All acoustic and management measures proposed to be implemented to minimise potential noise impacts from the premises, including the relevant recommendations of the Noise Assessment prepared by Acoustic Logic, dated 31 January 2024.**
- b) **One (1) uniformed licensed security person is to be employed from 8:00pm until 30 minutes after closing of the Lyrique Bar, Thursday to Sunday.**
- c) **Ensure the manner in which the business of the premises is conducted and/ or the behaviour of persons entering and leaving the premises does not cause undue disturbance to the amenity of the neighbourhood. In this regard, the management shall be responsible for the control of noise and litter generated by persons and/or premises operations.**
- c) **Record in a Register, the full details of any disturbance complaint/s made by a person to management or staff in respect to the manner in which the business of the premises is conducted and/or the behaviour of persons entering or leaving the premises. Such recording will include time, date, nature of the complaint/s, complainant's details (if provided) and all actions undertaken by management/ staff to resolve such complaints.**
- d) **The final Plan of Management, as outlined as a condition of this consent, incorporating security management and responsible service of alcohol being implemented at all times and updated in response to complaints lodged through consultation with NSW Liquor and Gaming, NSW Police and / or Council.**

***e)A copy of the Plan of Management is to be kept on the premises and made available for inspection on the request of Liquor and Gaming, Police, Council and / or any members of the public.***

***Note: Any further amendments or proposed variation to the approved Plan of Management require approval from Council through the submission of a s.4.55 modification application.***

***(Condition inserted under MA2024/00006)***

81. A complaints register must be maintained and stored on the premises. All noise complaints are to be registered and identify what course of remedial action has been taken. This register is to be publicly accessible at all times to Liquor and Gaming, Police, Council and / or any members of the public.

***(Condition inserted under MA2022/00433)***

- 81A. A telephone number must be displayed on a sign at the Lyrique Bar's entrance (Lyrique Lane) entrance for any person who wishes to make a complaint.***

***(Condition inserted under MA2024/00006)***

**END OF CONDITIONS**

## ADVISORY MATTERS

- Any proposed business identification sign or advertising sign should be designed in accordance with the provisions of Newcastle Development Control Plan 2012 and be the subject of a separate Development Application approved prior to erection or placement in position.
- It is recommended that, prior to commencement of work, the free national community service 'Dial before you Dig' be contacted on 1100 or by fax on 1200 652 077 regarding the location of underground services in order to prevent injury, personal liability and even death. Inquiries should provide the property details and the nearest cross street/road.
- Any necessary alterations to public utility installations are to be at the developer/demolisher's expense and to the requirements of both Council and any other relevant authorities. Council and other service authorities should be contacted for specific requirements prior to the commencement of any works.
- Prior to commencing any building works, the following provisions of Division 6.2 of the *Environmental Planning and Assessment Act 1979* are to be complied with:
  - a) A Construction Certificate is to be obtained; and
  - b) A Principal Certifier is to be appointed for the building works and Council is to be notified of the appointment; and
  - c) Council is to be given at least two days notice of the date intended for commencement of building works.
- 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 must 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* (NSW) 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.
- Prior to the occupation or use of a new building, or occupation or use of an altered portion of, or an extension to an existing building, an Occupation Certificate is to be obtained from the Principal Certifying Authority appointed for the proposed development. An application for an Occupation Certificate must contain the information set out in Clause 149 of the *Environmental Planning and Assessment Regulation 2000* (NSW).
- 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* (NSW) is to be submitted to Council 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.

- 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.
- Failure to comply with the conditions of consent constitutes a breach of the *Environmental Planning and Assessment Act 1979* (NSW), which may be subject to a penalty infringement notice ('on-the-spot fine') or prosecution.
- The proposed development will require the provision of additional street numbers to ensure quick and accurate location by delivery, utility and emergency services, and the public delivery of services and goods. The allocated house numbers are:

Unit/ Dwelling/ Lot Number on plan	Council Allocated Street Addresses			
	House Number	Street Name	Street Type	Suburb
Ground Floor (Proposed Level 1)				
RB.01	5/185	Hunter	Street	Newcastle
RB.02	4/185	Hunter	Street	Newcastle
RB.03	3/185	Hunter	Street	Newcastle
RB.04	2/185	Hunter	Street	Newcastle
LB.01	1/185	Hunter	Street	Newcastle
Level 1 (Proposed Level 2)				
B2.01	101/185	Hunter	Street	Newcastle
B2.02	102/185	Hunter	Street	Newcastle
B2.03	103/185	Hunter	Street	Newcastle
B2.04	104/185	Hunter	Street	Newcastle
B2.05	105/185	Hunter	Street	Newcastle
B2.06	106/185	Hunter	Street	Newcastle
B2.07	107/185	Hunter	Street	Newcastle
B2.08	108/185	Hunter	Street	Newcastle
B2.09	109/185	Hunter	Street	Newcastle
B2.10	110/185	Hunter	Street	Newcastle
B2.11	111/185	Hunter	Street	Newcastle
B2.12	112/185	Hunter	Street	Newcastle
B2.13	113/185	Hunter	Street	Newcastle
B2.14	114/198	Hunter	Street	Newcastle
B2.15	115/185	Hunter	Street	Newcastle
B2.16	116/185	Hunter	Street	Newcastle
B2.17	117/185	Hunter	Street	Newcastle
B2.18	118/185	Hunter	Street	Newcastle



B2.19	119/185	Hunter	Street	Newcastle
B2.20	120/185	Hunter	Street	Newcastle
Level 2 (Proposed Level 3/3A/3B)				
B3A.01	201/185	Hunter	Street	Newcastle
B3A.02	202/185	Hunter	Street	Newcastle
B3A.03	203/185	Hunter	Street	Newcastle
B3A.04	204/185	Hunter	Street	Newcastle
B3A.05	205/185	Hunter	Street	Newcastle
B3A.06	206/185	Hunter	Street	Newcastle
B3A.07	207/185	Hunter	Street	Newcastle
B3A.08	208/185	Hunter	Street	Newcastle
B3A.09	209/185	Hunter	Street	Newcastle
B3A.10	210/185	Hunter	Street	Newcastle
B3A.11	211/185	Hunter	Street	Newcastle
B3A.12	212/185	Hunter	Street	Newcastle
B3.13	213/185	Hunter	Street	Newcastle
B3.14	214/185	Hunter	Street	Newcastle
B3.15	215/185	Hunter	Street	Newcastle
B3.16	216/185	Hunter	Street	Newcastle
B3.17	217/185	Hunter	Street	Newcastle
B3.18	218/185	Hunter	Street	Newcastle
B3.19	219/185	Hunter	Street	Newcastle
B3.20	220/185	Hunter	Street	Newcastle
B3B.01	221/185	Hunter	Street	Newcastle
B3B.02	222/185	Hunter	Street	Newcastle
B3B.03	223/185	Hunter	Street	Newcastle
B3B.04	224/185	Hunter	Street	Newcastle
B3B.05	225/185	Hunter	Street	Newcastle
B3B.06	226/185	Hunter	Street	Newcastle
B3B.07	227/185	Hunter	Street	Newcastle
B3B.08	228/185	Hunter	Street	Newcastle
B3B.09	229/185	Hunter	Street	Newcastle
B3B.10	230/185	Hunter	Street	Newcastle
B3B.11	231/185	Hunter	Street	Newcastle
B3B.12	232/185	Hunter	Street	Newcastle
Level 3 (Proposed Level 4/4A)				
B4.01	301/185	Hunter	Street	Newcastle
B4.02	302/185	Hunter	Street	Newcastle
B4.03	303/185	Hunter	Street	Newcastle
B4.04	304/185	Hunter	Street	Newcastle
B4.05	305/185	Hunter	Street	Newcastle
B4.06	306/185	Hunter	Street	Newcastle

B4.07	307/185	Hunter	Street	Newcastle
B4.08	308/185	Hunter	Street	Newcastle
B4.09	309/185	Hunter	Street	Newcastle
B4.10	310/185	Hunter	Street	Newcastle
B4.11	311/185	Hunter	Street	Newcastle
B4.12	312/185	Hunter	Street	Newcastle
B4.13	313/185	Hunter	Street	Newcastle
B4.14	314/185	Hunter	Street	Newcastle
B4.15	315/185	Hunter	Street	Newcastle
B4.16	316/185	Hunter	Street	Newcastle
B4.17	317/185	Hunter	Street	Newcastle
B4.18	318/185	Hunter	Street	Newcastle
B4.19	319/185	Hunter	Street	Newcastle
B4.20	320/185	Hunter	Street	Newcastle
Level 4 (Proposed Level 5/5A)				
B5.01	401/185	Hunter	Street	Newcastle
B5.02	402/185	Hunter	Street	Newcastle
B5.03	403/185	Hunter	Street	Newcastle
B5.04	404/185	Hunter	Street	Newcastle
B5.05	405/185	Hunter	Street	Newcastle
B5.06	406/185	Hunter	Street	Newcastle
B5.07	407/185	Hunter	Street	Newcastle
B5.08	408/185	Hunter	Street	Newcastle
B5.09	409/185	Hunter	Street	Newcastle
B5.10	410/185	Hunter	Street	Newcastle
B5.11	411/185	Hunter	Street	Newcastle
B5.12	412/185	Hunter	Street	Newcastle
B5.13	413/185	Hunter	Street	Newcastle
B5.14	414/185	Hunter	Street	Newcastle
B5.15	415/185	Hunter	Street	Newcastle
B5.16	416/185	Hunter	Street	Newcastle
B5.17	417/185	Hunter	Street	Newcastle
B5.18	418/185	Hunter	Street	Newcastle
B5.19	419/185	Hunter	Street	Newcastle
B5.20	420/185	Hunter	Street	Newcastle
Level 5 (Proposed Level 6)				
B6.01	501/185	Hunter	Street	Newcastle
B6.02	502/185	Hunter	Street	Newcastle
B6.03	503/185	Hunter	Street	Newcastle
B6.04	504/185	Hunter	Street	Newcastle
B6.05	505/185	Hunter	Street	Newcastle
B6.06	506/185	Hunter	Street	Newcastle

B6.07	507/185	Hunter	Street	Newcastle
B6.08	508/185	Hunter	Street	Newcastle
B6.09	509/185	Hunter	Street	Newcastle
B6.10	510/185	Hunter	Street	Newcastle
B6.11	511/185	Hunter	Street	Newcastle
B6.12	512/185	Hunter	Street	Newcastle
RB.05	513/185	Hunter	Street	Newcastle

**END OF CONDITIONS**

## **SCHEDULE 2**

### **NSW Subsidence Advisory General Terms of Approval**

#### **General**

#### **Plans, Standards and Guidelines**

1. These General Terms of Approval (GTAs) only apply to the development described in the plans and associated documentation relating to DA2019/01150 and provided to Subsidence Advisory NSW.  
Any amendments or subsequent modifications to the development may render these GTAs invalid.  
If the proposed development is amended or the development consent modified, Subsidence Advisory NSW must be notified to determine if any variations to these GTAs are required.
2. This approval expires 5 years after the date the approval was granted if construction work has not physically commenced.

#### **PRIOR TO COMMENCEMENT OF CONSTRUCTION**

#### **Prescribed Design Parameters**

3. The proposed structure(s) is to be designed to be “safe, serviceable and any damage from mine subsidence shall be limited to ‘very slight’ in accordance with AS2870 (Damage Classification) and readily repairable” using the subsidence parameters outlined below:
  - a. Maximum vertical subsidence: 100 mm
  - b. Maximum Horizontal Strains (over length of structure): (+/-): 0.5 mm/m
  - c. Maximum Horizontal Strain (over 15m): 1mm/m
  - d. Maximum Tilt: 2 mm/m
  - e. Maximum Radius of Curvature: 10 km
4. Submit an “Engineering Impact Statement” prior to commencement of detailed design for acceptance by SA NSW, which shall identify the:
  - a. Mine Subsidence Parameters used for the design.
  - b. Main building elements and materials.
  - c. Risk of damage due to mine subsidence
  - d. Design measures proposed to control the risks.
  - e. Provide certification that the design will ensure the improvement remains “safe, serviceable and any damage from mine subsidence shall be limited to ‘slight’ in accordance with AS2870 (Damage Classification), and readily repairable”.
  - f. Comment on the:
    - likely building damage in the event of mine subsidence.
    - sensitivity of the design to greater levels of mine subsidence.
5. The design submitted for approval under Section 22 of the Coal Mine Subsidence Compensation Act 2017 shall incorporate the design methodology contained in the “Engineering Impact Statement”, for acceptance by SA NSW prior to commencement of construction. It shall include certification by a qualified structural engineer to the effect that the improvements will remain “safe, serviceable and any damage from mine subsidence shall be limited to ‘very slight’ damage in accordance with AS2870 (Damage Classification), and readily repairable” taking into consideration the mine subsidence parameters outlined above.

6. The final design is to be submitted for acceptance by Subsidence Advisory NSW prior to the commencement of any construction work and shall:
- a. Be developed from design accompanying the DA, dated 30 June 2017.
  - b. Include sufficient drawing plans, long-sections, elevations and details, to fully describe the work and proposed mine subsidence mitigation measures.
  - c. Include design mitigation measures to reduce the transfer of horizontal strain into building structures.
  - d. Include design mitigation measures to relieve excessive strains into building structures.
  - e. Include an additional grade for tilt due to mine subsidence, in excess of the minimum Code requirements for structures including pipes, gutters and wet areas.
  - f. For underground pipes or conduits allow for flexible joints, flexible bedding surround and flexible building connections and penetrations.
  - g. Ensure there is sufficient capacity in any storage structure for tilt due to mine subsidence.
  - h. Locate underground structures to facilitate ease of repair and replacement.
  - i. Ensure internal finishes are installed in accordance with relevant codes and standards and industry best practice guidelines with additional provision for mine subsidence.
  - j. Ensure there is suitable provision for articulation jointing in building elements. All control joints including articulation for mine subsidence are to be shown on the design plans and elevations.
  - k. Ensure there is provision for isolation joints between adjoining structures. For example, between a building and adjacent paving.
  - l. All roads, driveways and pavement areas, as shown on the approved plans, are to be designed as flexible structures with an asphalt surface. If a concrete surface course is required, it shall be designed to include expansion and crack control joints or sacrificial sections to minimise the risk of damage from mining subsidence.

## **POST CONSTRUCTION**

7. Upon completion of construction, work-as-executed certification by a qualified engineer will be required by Subsidence Advisory NSW confirming that construction was in accordance with the plans accepted by Subsidence Advisory NSW.

## **END OF CONDITIONS**

### **SCHEDULE 3**

#### **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.
- The submission raised in the assessment of the application have been taken into consideration.

#### **REASONS WHY THE CONDITIONS HAVE BEEN IMPOSED**

The following conditions are applied to:

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