
Application No:	RE2024/00002
Land:	Lot 31-32 DP 864001 Lot A & B DP 388647 Lot 1 DP 77846 Lot 96, 98 & 100 DP 1098095 Lot 1 & 2 DP331535 Lot 1 DP 723967 Lot 1 DP 819134
Property Address:	105, 109, 111 & 121 Hunter Street Newcastle 3 Morgan Street Newcastle 22 Newcomen Street Newcastle 66-74 King Street Newcastle
Proposed Development:	Section 8.2(1) Review of MA2023/00175 - Concept Development Application - Staged development comprising of retail, commercial, residential and shop top housing - changes to approved building envelopes for Stages 3 and 4

SCHEDULE 1

REASONS FOR CONDITIONS

The conditions of this consent have been imposed in accordance with Section 80A of the *Environmental Planning and Assessment Act 1979* (NSW). The conditions relate to any matter referred to in Section 79C(1) of relevance to the development the subject of the consent and are imposed to ensure that the development is undertaken in an orderly manner, with acceptable impacts on the natural and built environment.

Plans and Documentation

1. The development shall be undertaken substantially in accordance with the details and specifications set out in:

Original Documents:

- a) Statement of Environmental Effects prepared by SJB Planning dated June 2017;
- b) Heritage Impact Assessment Addendum, Ref: 17-012 dated 13 June 2017, prepared by City Plan Services, and Statement of Heritage Impact (Project No. 14 0181 Issue B, dated October 2015), prepared by TKD Architects;
- c) Archaeological Considerations, dated 9 June 2017, prepared by Umwelt Australia; Comments on Archaeological Consent Conditions dated 9 June 2017, prepared by Umwelt Australia, and Aboriginal and Historical Archaeology Report Number 3303/R01/V6, dated October 2015, prepared by Umwelt Australia;
- d) Addendum to Preliminary Site Investigation (Contamination), Project No. 39826.09, dated 29 May 2017, prepared by Douglas Partners, and Report on Preliminary Site Investigation (Contamination) Project No. 39826.08, Revision 6, dated October 2015, prepared by Douglas Partners;

- e) Summary of Potential 'Ground' Issues, Project No. 39826.09, dated 8 June 2017, prepared by Douglas Partners;
- f) Infrastructure Services Report, Ref: SYD0296 Rev T3, dated 8 June 2017, prepared by ADP Consulting Engineering;
- g) Capital Investment Value Report, Ref: 71130.102037.000 dated 14 June 2017, prepared by Altus Group;
- h) Transport Impact Assessment, Ref N124070, Issue D dated 13 June 2017, prepared by GTA Consultants;
- i) Construction Management Plan, Rev A dated 8 June 2017, prepared by Parkview;
- j) Addendum to Social Plan, Ref: 2126423, dated 28 April 2017, prepared by GHD, and Social Impact Assessment, dated October 2015, prepared by GHD;
- k) Clause 4.6 - Exceptions to Development Standards - Height of Buildings (cl 4.3), prepared by SJB Planning;
- l) Site Survey, Ref 07/158, Sheets 1- 10, 12-17, 19-26 and 28 dated 15 July 2008; Sheet 11 dated 26 March 2014; Sheet 18 dated 15 July 2008; and Sheet 27 dated 26 March 2014 prepared by Monteath and Powys;
- m) Design and SEPP 65 Report, Version 00, dated 10 May 2017, prepared by SJB Architects;
- n) Visual Impact and Street Views Analysis, Version 00, dated 4 May 2017, prepared by SJB Architects and Addendum View Analysis, dated November 2017, prepared by SJB Urban; Indicative Public Domain Strategy, Dwg Nos. 13077-DA01-DA-10 Rev F, dated June 2017, prepared by Aspect Studios;
- o) Shadow Diagrams, Version 00, dated 4 May 2017, prepared by SJB Architects;

Modified and/or Additional Documents:

- p) Statement of Support, SJB Planning, October 2019;
- q) Traffic Impact Assessment Advice; Ref. 19SYT0055, 18 October 2019, Prepared by TTM;
- r) Quantitative Assessment Changes; SJB Planning; October 2019;
- s) Addendum Heritage Impact Statement, Ref. 19-004, dated 03 October 2019, prepared by City Plan Services;
- t) View Impact and Street View Analysis, SJB Architects, 02 October 2019;
- u) Architectural Plans prepared by SJB Architects, Job No. 5614, listed as follows, except where specifically amended by the conditions of consent as contained in this Notice of Determination:

Drawing No.	Rev.	Name of Plan	Date
DA-0001	03	Contents	19.09.2019
DA-0101	03	Location Plan	19.09.2019
DA-0102	03	Site Analysis Plan	19.09.2019
DA-0103	03	Block Plan	19.09.2019
DA-0200	03	Floor Plan Basement 01	19.09.2019
DA-0201	03	Floor Plan Level 01	19.09.2019
DA-0202	03	Floor Plan Level 02	19.09.2019
DA-0203	03	Floor Plan Level 03	19.09.2019
DA-0204	03	Floor Plan Level 04	19.09.2019
DA-0205	03	Floor Plan Level 05	19.09.2019
DA-0206	03	Floor Plan Typical	19.09.2019
DA-0501	05	Building Envelope Elevation North & East	02.02.2022
DA-0502	05	Building Envelope Elevation South & West	02.02.2022

Drawing No.	Rev.	Name of Plan	Date
DA-0503	04	Building Envelope Elevation Wolfe St East & West	02.02.2022
DA-0504	04	Building Envelope Elevation South & West	02.02.2022
DA-0601	04	Section C & D	02.02.2022
DA-0602	04	Section E & F	02.02.2022
DA-0603	03	Section H	19.09.2019
DA-0604	03	Section J	19.09.2019
DA-2901	04	Envelope Plan	02.02.2022
DA-2902	03	Privately Owned Public Access	19.09.2019
DA-2903	03	Indicative Staging Plan	19.09.2019
DA-2904	03	FSR Plan	19.09.2019

- v) Addendum to Heritage Impact Statement for Newcastle East End Blocks 3 & 4 Demolition DA, prepared by City Plan dated 20 April 2023

(Amended under DA2017/00701.01 - 15 March 2019)
 (Amended under DA2017/00701.02 - 24 April 2020)
 (Amended under DA2019/01150.04 - 04 May 2021)
 (Amended under MA2021/00295 - 17 February 2022)
 (Amended under DA2023/00336 - 23 April 2023)

- 1A. The development shall be undertaken substantially in accordance with the details and specifications set out within condition 1 of this consent except where amended for Stage 3 and Stage 4 by the details and specifications set out in:

- a) Section 8.2 Review Planning Report, Ref. V5 - Revised 12 October 2024, prepared by Urbis
- b) Addendum to Traffic and Parking Studies, Ref. 22064, prepared by CJP Consulting Engineers, dated 11 June 2024
- c) East End Stage 3 and 4 Visual Impact Assessment, Version A, prepared by Urbis, dated April 2023
- d) East End Newcastle View Sharing & Visual Impact Assessment, Version A, prepared by Urbis dated February 2024
- e) Response to RFI dated 26 September 2024 View A and View B, Rev A, prepared by Urbis dated October 2024
- f) Heritage Impact Statement Newcastle East End Blocks 3 & 4 (Demolition & Development DAs), Revision 02, dated 20 April 2023, prepared by City Plan
- g) Addendum to Heritage Impact Statement, Ref. H-22001, prepared by City Plan, dated 10 September 2024
- h) Design with Country Endorsement Report and Letter, prepared by Dhiira
- i) SEPP65 Design Statement East End Stage 3 & 4, prepared by SJB, dated 20 March 2024
- j) Newcastle East End Stage 3 - 4 Landscape Development Application Design Report, prepared by COLA Studio, dated April 2023
- k) Architectural Plans prepared by SJB, Job No. 5614, listed as follows, except where specifically amended by the conditions of consent as contained in this Notice of Determination:

Drawing No.	Rev.	Name of Plan	Date
DA-0201	05	Floor Plan Level 01	23.02.2024
DA-0202	05	Floor Plan Level 02	23.02.2024
DA-0203	05	Floor Plan Level 03	23.02.2024
DA-0204	05	Floor Plan Level 04	23.02.2024

Drawing No.	Rev.	Name of Plan	Date
DA-0205	05	Floor Plan Level 05	23.02.2024
DA-0206	05	Floor Plan Typical	23.02.2024
DA-0501	07	Building Envelope Elevation North & East	23.02.2024
DA-0502	07	Building Envelope Elevation South & West	23.02.2024
DA-0601	06	Section C & D	23.02.2024
DA-0604	05	Section J	23.02.2024
DA-2901	05	Envelope Plan	23.02.2024
DA-2902	04	Privately Owned Public Access	23.02.2024
DA-2904	06	FSR Plan	01.10.2024

In the event of any inconsistency between the plans/supporting documents referred to in Condition 1 of this consent in relation to Stage 3 and Stage 4 and the plans/supporting documents referred to above, the plans/supporting documents referred to above prevail.

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.

(Inserted under RE2024/00002 - DATE)

Administrative Conditions

1B 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: TBA24-01822, dated 04 October 2024

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

(Inserted under RE2024/00002 - DATE)

Staging

2. A separate development application is to be submitted to and approved by the consent authority in respect of each stage of the development.

Site Works

3. Earthworks and the demolition of structures shall be generally undertaken only in stages in conjunction with the development application for each stage for the proposed development, except for Stage 3 and 4 where demolition of non-heritage and non-contributory (i.e., neutral, or Contributory 2 items by the City of Newcastle Heritage Technical Manual) is otherwise approved. However, any earthworks required for site infrastructure, road works, drainage or the like, may be carried out (with consent) in advance of a particular stage, if the relevant areas are subsequently stabilised and grassed or landscaped so that no major areas of earth and soil are left exposed

(Amended under DA2023/00336 - 23 April 2023)

Floor Area

4. This consent permits a maximum gross floor area of 64,750m² over all stages, calculated in accordance with the definition of gross floor area contained in Newcastle Local Environmental Plan 2012. Of the total gross floor area, not less than 8100m² shall comprise retail space and not less than 1160m² shall comprise business/office space which is generally apportioned to each stage as identified in the approved documentation and as depicted on Floor Plans of this consent.

Allocation of gross floor area across the site shall generally be:

Block 1: 27,466m²
Block 2: 12,954m²
Block 3: 10,916m²
Block 4: 13,414m²

(Amended under DA2017/00701.01 - 15 March 2019)
(Amended under DA2017/00701.02 - 24 April 2020)
(Amended under RE2024/00002 - DATE)

5. This consent permits a maximum floor space ratio on the total site of 3.90:1, with the maximum floor space ratio for each stage to be in accordance with the 'FSR Plan' prepared by SJB Architects (Job No. 5614, Drawing No. DA-2904, Revision 06, dated 01.10.2024) and is generally apportioned to each stage as identified in the approved documentation and is summarised below:

Stage 1: 4.19:1
Stage 2: 3.55:1
Stage 3: 3.24:1
Stage 4: 4.35:1

(Amended under DA2017/00701.01 - 15 March 2019)
(Amended under DA2017/00701.02 - 24 April 2020)
(Amended under RE2024/00002 - DATE)

6. This consent permits maximum building heights **for Stage 1 and Stage 2** as shown and referenced as 'Staged DA Building Envelope' on the Building Envelope Plans prepared by SJB Architects (Job No. 5614, dated 02.02.2022) including:

- a) Drawing No. DA-0501, Revision 05, Elevation North and East;
- b) Drawing No. DA-0502, Revision 05, Elevation South and West;
- c) Drawing No. DA-0503, Revision 04, Elevation Wolfe Street East + West;
- d) Drawing No. DA-0504, Revision 04, Elevation South and West

(Amended under DA2017/00701.01 - 15 March 2019)
(Amended under DA2017/00701.02 - 24 April 2020)
(Amended under DA2019/01150.04 - 04 May 2021)
(Amended under MA2021/00295 - 17 February 2022)
(Amended under RE2024/00002 - DATE)

- 6A. This consent permits maximum building heights for Stage 3 and Stage 4 as shown and referenced on the Building Envelope Plans prepared by SJB Architects (Job No. 5614, dated 23.02.2024) including:

- a) Drawing No. DA-0501, Revision 07, Elevation North and East;
- b) Drawing No. DA-0502, Revision 07, Elevation South and West;
- c) Drawing No. DA-0601, Revision 06, Section C & D;
- d) Drawing No. DA-0604, Revision 05, Section J;
- e) Drawing No. DA-2901, Revision 05, Envelope Plan

In the event of any inconsistency between the plans/supporting documents referred to in Condition 6 of this consent in relation to Stage 3 and Stage 4 and the plans/supporting documents referred to above, the plans/supporting documents referred to above prevail.

(Inserted under RE2024/00002 - DATE)

- 6B. This consent permits maximum building height of RL 24.50 for the 'Laing Street Café' site as marked in red and highlighted yellow on the Building Envelope Plan prepared by SJB Architects (Job No. 5614, Drawing No. DA2901, Revision 05, dated 23.02.2024). Where any inconsistency exists between the floor plans and elevations for this consent

in regards to the building envelope permitted for the 'Laing Street Café', the floor plans shall prevail.

(Inserted under RE2024/00002 - DATE)

Built Form

7. Roof gardens and communal spaces (both enclosed and open) shall be incorporated within new buildings and their prospective sites of each of Stage 1-4 of the development.
8. Architectural plans which are submitted in respect of the southern building on Block 4 shall detail the provision of a vertical opening in the building's northern facade, similar to that proposed on the King Street facade, to demonstrate a reduction the building's bulk and to provide improved cross ventilation to the central courtyard.
9. A colours and materials schedule shall accompany the development application for each stage of the development. A colour palette utilising primarily warm earthy tones and mid-toned neutrals shall be utilised, with the use of more vibrant primary colours limited to smaller accents at ground level to assist with the visual identification of entries and retail boutiques.
10. **Condition deleted under RE2024/00002 - DATE**
11. Where carparking extends above ground level and is visible from a pedestrian thoroughfare or street, elevations and photomontages are to accompany the development application for that stage, to demonstrate that the carpark is screened or is integrated effectively within the building design and streetscape.
12. Where the building envelope is above a retained heritage facade, then it shall be set back in accordance with Newcastle DCP 2012, being 6 metres, unless otherwise justified or approved through a separate development consent for separate stage of the concept development area.

(Amended under DA2017/00701.01 - 15 March 2019)
13. With the exception of the Thorn Street and Laing Street frontages of Block 3, where the building envelope exceeds the maximum street wall height identified in the Newcastle DCP 2012, then the section of any building above that height shall be set back in accordance with the DCP, being 6 metres, unless otherwise justified or approved through a separate development consent for separate stage of the concept development area.

(Amended under DA2017/00701.01 - 15 March 2019)

European Built Heritage

14. This development consent does not grant consent to any proposed physical works (including as proposed within the concept plan to which this consent applies) to heritage items and contributory items within the site. Separate consent must be obtained for physical works to heritage items and contributory items. Heritage contributory items will need to be subject to a detailed assessment of each development application which is to be accompanied by:
 - a) A Conservation Management Plan to be prepared for all listed heritage items and contributory items to guide the cultural significance of the items and architectural design of adaptations, alterations and additions and new buildings. The Conservation Management Plan must robustly consider all options for retention, (including interiors), viability of existing use and adaptive reuse. It is necessary for justification for demolition or removal to be supported by a detailed assessment and investigation, rather than simple statements that the structural systems are unsatisfactory, that services are outdated or regarding general unsuitability.

and

- b) A Statement of Heritage Impact that:
 - i. responds to the recommendations (Section 6.0) of the Statement of Heritage Impact submitted for the Staged Concept Plan (TKD, October 2015) and any other conditions within this development consent;
 - ii. addresses the relevant statutory and non-statutory controls including but not limited to NLEP 2012 and NDCP 2012;
 - iii. is informed by the Conservation Management Plan;
 - iv. pursues opportunities for the interpretation of the precinct through the design of any new elements and public art.

(Amended under DA2023/00336 - 23 April 2023)

Aboriginal and Historical Archaeology

- 15. The recommendations and considerations within the '*Aboriginal and Historical Archaeology Report*' (Umwelt, October 2015) including Section 5.0 'Key Constraints and Opportunities' are to be addressed within each of the future development applications submitted in accordance within the staged concept plan.
- 16. The development application for each stage of development shall be accompanied by:
 - a) A detailed Historical Archaeological Assessment prepared by a suitably qualified and experienced historical archaeologist for assessing relics of local and State significance. The archaeologist assessment should identify all impacts to the archaeological resource and prepare appropriate mitigation measures for each stage of the development appropriate to the significance of the archaeology present. Archaeological test excavation(s) should be considered to better inform the archaeological potential on the site and the presence or absence of State significant relics. The results of any archaeological test excavation should be used to better inform the design of the development and assist with the retention of State significant relics. In the event that the Archaeological Assessment identifies the potential for State significant archaeological relics within the project area, the applicant must consider how to appropriately manage these remains.
 - b) A detailed intra and extra site comparative analysis of the potential archaeological resource present within the development area.
 - c) Mitigation measures that consider archaeological features and deposits that may continue across the Staged Development Areas in the following hierarchical order:
 - i. The whole of the development area;
 - ii. Within each Newcastle Archaeological Management Plan (AMP) Unit that is being impacted; and
 - iii. For each proposed staged development area within each AMP unit.
 - d) An assessment of whether Aboriginal cultural heritage values are known or are likely to occur in the area of a proposed development application, which should be undertaken by the suitably qualified person. The initial assessment of the likelihood of Aboriginal cultural heritage values should include the following:
 - iv. A search of the Aboriginal Heritage Information Management System (AHIMS) database and any other sources of information available
 - v. Determination of whether the development application includes landscape features that indicate the likely presences of Aboriginal objects
 - vi. A site inspection
 - vii. Consultation with the Aboriginal community.

Where Aboriginal objects are known or are likely to occur in the area of the development application, further investigation should be undertaken by a suitably qualified person. The identification of cultural heritage values should be in consultation with OEH regional officers and informed by the '*Guide to Investigating Assessing and Reporting on Aboriginal Cultural Heritage in NSW*' (DECCW, 2001).

Car Parking and Access

17. The development application for each stage shall be accompanied by a detailed Traffic and Parking Impact Assessment prepared by an appropriately qualified professional. The assessment shall incorporate a review of traffic data and the road network, if required to account for any road networks changes affecting the capacity of the road network at the date of lodgement of the development application.

18. On-site car parking is to be provided for a minimum of **735** vehicles across the four (4) stages of the development and shall be generally in accordance with the details indicated on the submitted plans and documentation, except as otherwise provided by the conditions of consent.

(Amended under DA2017/00701.01 - 15 March 2019)

(Amended under RE2024/00002 - DATE)

19. The number of car parking spaces shall be provided within each stage in accordance the requirements of Section 7.03 of Newcastle Development Control Plan 2012 (NDCP 2012) or the applicable standard at the date of lodgement of the application for each stage. The submitted plans and Traffic and Parking Impact Assessment for each stage shall detail the number and location of spaces required in accordance with this condition:

- a) 100% of car spaces required for residents are to be provided on site;
- b) A minimum of 25% of the required number of residential visitor parking spaces shall be provided for residential visitor parking. These spaces are not to be subdivided, leased or controlled by or on behalf of particular unit owners or residents. Spaces cannot be allocated or deferred to different Blocks/stages unless there is a specific condition that allows this and has formed part of a separate development consent. The remaining 75% is to be accommodated both on-street in existing time restricted parking spaces and off-street in publicly available car parking.

- c) Stages 1 to 4 of the development shall each provide on-site car parking for commercial and retail staff and their patrons as follows:

Stage 1:	26 spaces
Stage 2:	10 spaces
Stage 3:	42 spaces (comprising 10 spaces for Stage 1; 11 spaces for Stage 2; 17 spaces for Stage 3; and 4 spaces for Stage 4)
Stage 4:	5 spaces

The remaining parking being accommodated both on-street in existing time restricted parking spaces and off-street in publicly available car parking.

- d) 42 carparking spaces are to be provided for the hotel located within Stage 1 of the development, comprising 34 guest and 8 staff spaces which may otherwise be reduced if justified or approved through a separate development consent or modification after a minimum of two (2) years operations.
- e) An additional 5 hotel parking spaces and 11 residential visitor parking spaces from Stage 1 are to be included in Stage 3, in addition to compliance with Section 7.03

of Newcastle Development Control Plan 2012 (NDCP 2012) or the applicable standard at the date of lodgement of the application for this stage.

(Amended under DA2017/00701.01 - 15 March 2019)

(Amended under DA2017/00701.02 - 24 April 2020)

(Amended under RE2024/00002 - DATE)

20. Bicycle parking and motorcycle parking shall be provided in accordance with the requirements of Section 7.03 of NDCP 2012 or the applicable standard at the date of lodgement of the application. Provision shall also be made for end of trip facilities including showers, change rooms and lockers.
- 20A. 26 visitor bicycle parking spaces are to be provided with Stage 3 and Stage 4 of the development. Visitor bicycle parking is required to be provided at grade near key access points to the development, and in locations with good passive surveillance.

(Inserted under RE2024/00002 - DATE)

21. Detailed plans shall accompany a development application for each respective stage of the development confirming that the car parks are 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.
22. The location of carpark and service access shall be generally as shown in the 'Servicing and Car Parking Plan' contained as Figure 31 of the Statement of Support prepared by SJB Planning, dated May 2018.
(Amended under DA2017/00701.01 - 15 March 2019)
23. Detailed plans demonstrating the location and operation of service areas shall accompany the development application for each stage.
24. Detailed plans shall accompany a development application for each respective stage of the development confirming that sight line distances for access locations promote safe vehicle movements and are in accordance with the relevant Australian Standards (including AS2890.1:2004). Plans shall also demonstrate compliance of access with the requirements of Section 7.03 of NDCP 2012.
25. Detailed plans shall accompany a development application for each respective stage of the development confirming that letterboxes, landscaping and any other obstructions to visibility are to be kept clear of or limited in height to 1.2m in the 2 metre by 2.5 metre splay within the property boundary each side of proposed driveway entrances in accordance with AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking.

Waste Servicing

26. Waste servicing for Blocks 1-4 shall be undertaken on site, where new buildings are proposed, unless it can be demonstrated that on street arrangements are acceptable to the consent authority and will not conflict with vehicular/pedestrian movements and availability of on street parking. Details of the location and configuration of waste servicing and storage areas shall accompany a development application for each stage of the development.
27. Any stage of the development which is reliant on the proposed changes to the traffic circulation in Laing Street and Morgan Street (including the use of these streets as shareways) will require the approval of Council's Traffic Committee. Documentation and plans detailing the proposed changes to the traffic circulation, signage or line markings shall be submitted with the development application for the respective stage in which it is to be undertaken.

Service Infrastructure

28. The development application for each stage shall be accompanied by documentation from service and telecommunication providers which details the available network capacity and upgrades required and which confirms that satisfactory arrangements can be made for the provision of services to the development, including the payment of any contributions towards necessary upgrades.
29. Provision is to be made on the site within each respective stage of development for the installation of a 'kiosk' type electricity substation, should such be required by the electricity authority, and any such 'kiosk' shall be shown on the plans in accordance with that authority's requirements.
30. The development application for each stage shall be accompanied by hydraulic modelling of the local drainage network to identify any deficiencies which will need to be addressed by augmentation or upgrades to the network.
31. A gas demand and supply assessment shall be submitted in conjunction with the development application for each stage.
32. In the event that a public or private utility service or infrastructure item is encountered during the demolition stage of the development the developer shall consult the relevant utility service provider and negotiate an appropriate commercial arrangement for the termination of that service and if required, relocation of that service to a location suitable for the service provider. The developer shall be responsible of the obtaining of any necessary approvals.
33. The development application for each stage shall be accompanied by a Condition Assessment of Roads and Related infrastructure and a Condition Assessment of General Street infrastructure.

Construction Impacts

34. Prior to commencement of site works for each respective stage of development, except for the demolition associated with Stage 3 and 4, the developer is to submit to Council for approval 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.

(Amended under DA2023/00336 - 23 April 2023)

35. The development application for each stage shall be accompanied by a detailed Construction Management Plan (CMP) to ensure the provision for safe, continuous movement of traffic and pedestrians within the road reserve. The CMP shall include, but not be limited to:
 - a) Details of the manner in which disruption to all surrounding areas (including Hunter Street Mall) will be mitigated;
 - b) Location of material storage and temporary storage sheds;
 - c) Details of site fencing/hoarding, excavation and shoring; and
 - d) Measures to minimise potential odour associated with the operation of machinery or other potential odour sources.
36. The Construction Management Plan shall include a Traffic Management Plan which shall include, but not be limited to:

- a) Details of site personnel parking, including consideration of public transport options to minimise on street parking;
 - b) Location of construction zones and delivery access, including pedestrian/traffic management;
 - c) Proposed traffic control measures which will be in place during the construction phase of each stage of the development to minimise the impacts of construction vehicles on traffic efficiency and road safety within the vicinity; and
 - d) Construction hours, including hours for deliveries.
37. The Construction Traffic Management Plan shall 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*'.
38. The Construction Management Plan shall include a Noise and Vibration Management program prepared by a suitably qualified acoustical consultant which details:
- a) Potential construction noise and vibration impacts;
 - b) Measures for minimising the impact of the construction phase on the amenity of the neighbourhood, generally in accordance with '*AS 2436-2010 - Guide to Noise and Vibration Control in Construction, Demolition and Maintenance Sites*' and the Environment Protection Authority's '*Interim Construction Noise Guideline*' and '*Assessing Vibration: a technical guideline*'; and
 - c) Measures to mitigate dust impacts arising from demolition and construction activities.
- 38A. The Environment Management Plan for stages three and four shall include a specific Construction Complaints Management and Communication Protocol with the objective to facilitate positive relationships and respectful communication, for Council's approval. It must at minimum include:
- a) Relevant information from a Community Engagement Plan required under Condition 58 f) of this consent (for the relevant stage) relating to keeping the community informed of construction related project stage progress and potential impacts;
 - b) A direct phone number made readily available to the public and neighbours for enquiries and complaints;
 - c) A complaints register and protocol for investigating and responding that includes seeking to resolve any issues directly with complainant and providing a response to the complainant;
 - d) The method in which the number and protocol will be made available to the community which may include signage on site and on any project specific website; and
 - e) That the complaints register and log is to be made available to Council and the public on request.

(Inserted under DA2017/00701.02 - 24 April 2020)

Acoustic Impacts

39. The development application for each stage must provide a report from a suitably qualified acoustical consultant assessing the impacts of existing urban noise levels on the buildings proposed in the respective stage. The report shall include acoustic measures to ensure internal noise levels within the proposed buildings are in accordance with Australian Standard '*AS 2107 – 2000 Acoustics – Recommended design sound levels and reverberation times for building interiors*'.

Section 94 Contributions

40. All public domain works within private property are to be fully funded by the developer and completed within the applicable stage.

41. Pursuant to Section 7.12 of the Environmental Planning and Assessment Act 1979 development applications for any stage will be required to pay the applicable contribution as detailed in the *'The City of Newcastle Section 94A Development Contributions Plan 2009'* or any other relevant contributions plan that may be applicable to the application.

Note: The contribution which will be payable for each stage of the development under Section 7.12 of the Environmental Planning and Assessment Act, 1979 will include a contribution towards the undertaking of public domain works within the Newcastle City Centre and may include works identified in the 'Indicative Public Domain Strategy' which are not located within private property and which include the development of Market Square, conversion of Morgan and Laing Streets to share ways, Comen Lane and Morgan Street steps, together with any future local road network upgrades and/or traffic management measures, which are identified in the plan. Alternatively, the developer may enter into a Voluntary Planning Agreement for the undertaking of 'works in kind' in lieu of payment or part payment of a contribution

(Amended under DA2017/00701.02 - 24 April 2020)

Public Domain

42. The development application for Stage 3 and Stage 4 shall include a public right of carriageway over the publicly accessible private land, in accordance with the 'Privately Owned Public Access' plan prepared by SJB Architects (Job No. 5614, Drawing No. DA2902, Revision 04, dated 23.02.2024) and be inclusive of an associated public lift located between Newcomen and Laing Streets. A survey plan detailing the constructed finished levels shall be submitted to and approved by Council prior to issue of any Occupation Certificate or Subdivision Certificate for stage 4, whichever occurs first.

(Amended under RE2024/00002 - DATE)

- 42A. Before the issue of the first Occupation Certificate for Stage 3 and Stage 4 (i.e., whether for part or whole of a building), a notation is to be made on a survey plan and accompanying instrument under Section 88B of the *Conveyancing Act 1919* setting out the terms of the required public right of carriageway to be created over the publicly accessible private land, and be inclusive of an associated public lift located between Newcomen and Laing Streets, and such is to be lodged with the Newcastle City Council for certification and be subsequently registered with NSW Land Registry Services.

Note: The instrument is to provide that the required public right of carriageway to be created over the publicly accessible private land is unable to be released, varied or modified without the concurrence of Newcastle City Council.

(Inserted under RE2024/00002 - DATE)

43. The development application for each stage must address the relevant principles and design requirements of the following documents:
- a) *'Indicative Public Domain Strategy'* (Aspect Studios);
 - b) *'Hunter Street Plan'* prepared for Newcastle City Council, (Aspect Studios) (as adopted);
 - c) *'City of Newcastle's Technical Manual City Centre Public Domain'* (September 2014); and
 - d) *'Newcastle East End Stage 3 -4 Landscape Development Application Design Report'* (Cola Studio April 2023)

(Amended under RE2024/00002 - DATE)

44. Through-site connections on privately owned land shall be a minimum of 5m in width and shall be clear of obstructions, except for the pedestrian only link between Newcomen and Laing Streets which shall be a minimum of 3m in width, and the Market Square and Morgan Street which shall be 2.4m in width, clear of obstructions. Such through-site links shall be located as shown on the 'Privately Owned Public Access Plan' prepared by SJB Architects (Drawing No. DA-2902 Revision 04 dated 23.02.2024).
(Amended under DA2017/00701.01 - 15 March 2019)
(Amended under DA2017/00701.02 - 24 April 2020)
(Amended under RE2024/00002 - DATE)
45. Condition deleted under DA2017/00701.02.
46. The developer is responsible for the construction of footpath paving for the entire street frontage of the development for the full width of the verge at no cost to Council.

(Amended under DA2017/00701.02 - 24 April 2020)
47. Each stage of the development shall be accompanied by a Landscape Plan prepared by an appropriately qualified professional which provides details of landscaping, street tree planting, paving and other public domain works and/or works within private property, to be implemented at no cost to Council.
48. The provision of street trees, lighting, furniture, pavement finishes and landscaping through all stages shall be in accordance with the '*City Centre Public Domain Technical Manual*' and the '*Street Tree Selection Manual*' and be implemented at no cost to Council.
49. Any development application which includes the provision of public spaces, must demonstrate:
- a) That all public spaces are designed to be interactive and child friendly, and provide multi-purpose furniture and landscape features;
 - b) How interpretive and public art works may be integrated as part of the public domain;
 - c) How integration of key public spaces within and to surrounding areas, particularly community services and facilities will be achieved; and
 - d) A program of actions for future events to occur within the public realm which will encourage social integration, activate the public domain, connect the existing local community with future community and establish a unique local character.

Safety and Security

50. A formal crime risk assessment (Crime Prevention through and Environmental Design) will be required to be prepared for each stage with a particular emphasis on publicly accessible areas, including at night.
51. The development application for any stage which includes a licensed premises must provide details of each licensed premises proposed, the location and scale of which shall be confirmed in consultation with the NSW Police and Council.

Accessibility

52. Development Applications for new buildings on the site will be accompanied by adaptable building solutions addressing access for people with disabilities and the elderly.

Signage

53. The location of signage shall be detailed as part of the development application for each stage and should reflect an overall consistent graphic design approach. the design

approach should encourage front-lit signage, and prohibit poorly designed and highly intrusive signage, including moving LED displays and the like and be in general accordance with the relevant Council DCP at the date of lodgement of the application.

Adaptable Housing

54. Ten percent (10%) of residential units within each stage of the development (except for Stage 1 where 8% of units) are to be developed as adaptable housing

(Amended under DA2017/00701.03 - 10 November 2020)

Energy Efficiency

55. Development applications for each stage shall be supported by a concept Green Travel Plan. Consideration shall also be given to the inclusion of a car sharing scheme within Stage 1 of the development.
56. Development applications for each stage shall be supported by an environmental sustainability plan and associated report demonstrating the use of sustainable technologies to be incorporated into the development for the life of the buildings to reduce the environmental impact of the development and ongoing use of the development. The report is to consider but not be limited to the use of PV solar generation, roof gardens, rainwater capture and utilisation and other measures for reducing the environmental footprint in the development of the future site specific designs for new buildings in Stages 1-4.

Social Impact

57. Any residential component within the development is to provide for a range of dwelling sizes and dwelling types. Consideration shall be given to the inclusion of seniors housing and affordable housing schemes.
58. The development application for Stage 1 shall be accompanied by a Strategic Social Plan as outlined in the Social Impact Assessment prepared by GHD dated October 2015 which will specifically address, but not be limited to:
- a) Assessment of potential impacts on local residents, businesses and organisations;
 - b) Details of how the design of the development considers future residential amenity, safety, security and aesthetics;
 - c) Details of how social issues will be addressed during the proposed development stage and in continuum as each stage progresses;
 - d) Details of upfront community benefits (both short-term and long-term);
 - e) Details of the community consultation process with key stakeholders (including, but not limited to, Renew Newcastle, Newcastle Police, Newcastle Chamber of Commerce), government authorities and the local community to address stakeholder and community issues; and
 - f) Preparation of a Community Engagement Plan to keep the community informed of project stage progress and potential impacts.

Contamination

59. The development application for each stage must provide a detailed contamination investigation in accordance with the Environment Protection Authority's (EPA) 'Guidelines for Consultants Reporting on Contaminated Sites'.
60. If the detailed contamination investigation identifies remediation works that are required, then a Remedial Action Plan prepared in accordance with the Environment Protection Authority's (EPA) 'Guidelines for Consultants Reporting on Contaminated Sites' is to be submitted to the relevant consent authority with the development application for each stage.

Acid Sulfate Soils

61. Future development applications for each stage shall be accompanied by further detailed investigations to confirm the extent of Acid Sulfate Soils on the site and the implications for the proposed development. If the acid sulfate soil assessment identifies the presence of acid sulfate soils, then an Acid Sulfate Soil Management Plan prepared in accordance with the NSW Acid Sulfate Soil Management Advisory Committee's '*Acid Sulfate Soil Manual*' is to be submitted to the relevant consent authority with the development application for each stage.
62. Any disturbance of acid sulfate soils through excavation or dewatering should be conducted in accordance with the Acid Sulfate Soil Management Plan.

Geotechnical Constraints/Mine Subsidence

63. The development application for each stage shall be accompanied by a detailed geotechnical investigation, except for the demolition associated with Stage 3 and 4, which identifies ground constraints and identifies engineering design and management strategies for building works and earthworks.

(Amended under DA2023/00336 - 23 April 2023)

64. The development application for each stage, except for the demolition associated with Stage 3 and 4, shall be accompanied by property details, drawings, geotechnical reports and commentary on how the risk of mine subsidence and damage to improvements will be managed. The Geotechnical Report shall include a grouting strategy of any mine workings, which will require the approval of the Subsidence Advisory NSW. The Geotechnical investigation must include reporting on at least one (1) borehole to below the floor of the coal seam. The investigation is to include confirmation of the depth of the coal seam, heights of workings, floor conditions and thickness of competent rock as well as providing details of the pillar dimensions used in any analysis. The report must be to the satisfaction of the Subsidence Advisory NSW and include the measured deviation from vertical and ISG coordinates of any boreholes

(Amended under DA2023/00336 - 23 April 2023)

Stormwater

65. Development applications for each stage shall be accompanied by a Stormwater Management Plan which includes details of connections to the existing drainage infrastructure, any infrastructure upgrades and details of stormwater harvesting for re-use within the development. Calculations to show the stormwater harvesting volumes proposed to meet the requirements of NDCP 2012 for retention volume shall also be detailed on the plans.

Flood Mitigation

66. The minimum floor level for the ground level of the development should be RL 2.6 metres AHD. Similarly, vehicular access to any basement parking areas should also be at or above RL 2.6metres AHD.
67. A flood assessment prepared by a qualified hydraulic engineer shall accompany the development application for each stage of the project.

Surrender of consent

68. Development consent for Staged Concept Development Application No.2015/10182 is to be surrendered. A Notice of Surrender of Development is to be submitted within 28 days of the date of this consent.

Advisory

- The concept approval does not preclude any legislative requirements related to Integrated Development.
- No Aboriginal objects may be harmed without an approval from heritage NSW under the National parks and Wildlife Act 1974.

(Inserted under RE2024/00002 - DATE)

- If any Aboriginal object(s) are discovered and/or harmed in, or under the land, while undertaking the proposed development activities, the proponent must:
 - Not further harm the object(s)
 - Immediately cease all work at the particular location
 - Secure the area so as to avoid further harm to the Aboriginal object(s)
 - Notify NSW Environment Lin as soon as practical by calling 131 555 or emailing: info@environment.nsw.gov.au, providing any details of the Aboriginal object(s) and its location
 - Not recommence any work at the particular location unless authorised in writing by Heritage NSW

(Inserted under RE2024/00002 - DATE)

- If harm to Aboriginal objects cannot be avoided, an application for an Aboriginal Heritage Impact permit must be prepared and submitted to Heritage NSW before work may continue.

(Inserted under RE2024/00002 - DATE)

- In the event that skeletal remains are unexpectedly encountered during the activity, work must stop immediately, the area secured to prevent unauthorised access and NSW Police and Heritage NSW contacted.

(Inserted under RE2024/00002 - DATE)

END OF CONDITIONS

SCHEDULE 1

Subsidence Advisory NSW Conditions of Approval

Application No:	TBA24-01822
DA:	RE2024/00002
Applicant:	NEWCASTLE CITY COUNCIL
Lot and DP:	31&32//864001, A&B//388647, 1//77846, 100//1098095, 1&2//331535, 98//1098034, 96//1098068, 1//723967, 1//819134
Site Address:	121-137 HUNTER ST NEWCASTLE
Mine Subsidence District:	NEWCASTLE
Proposal:	EAST END STAGE 3 AND 4 MIXED USE DEVELOPMENT
Date:	4 October 2024

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 RE2024/00002 and provided to Subsidence Advisory NSW. Any amendments or subsequent modifications to the development renders these GTAs invalid.								
2.	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.								
PRIOR TO COMMENCEMENT OF CONSTRUCTION									
3.	<p>Prescribed Design Parameters – Serviceability</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> <tr> <td>a) Maximum Vertical Subsidence:</td><td>50 mm</td></tr> <tr> <td>b) Maximum Horizontal Strains (+/-):</td><td>1 mm/m</td></tr> <tr> <td>c) Maximum Tilt:</td><td>3 mm/m</td></tr> <tr> <td>d) Minimum Radius of Curvature:</td><td>10 km</td></tr> </table>	a) Maximum Vertical Subsidence:	50 mm	b) Maximum Horizontal Strains (+/-):	1 mm/m	c) Maximum Tilt:	3 mm/m	d) Minimum Radius of Curvature:	10 km
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b) Maximum Horizontal Strains (+/-):	1 mm/m								
c) Maximum Tilt:	3 mm/m								
d) Minimum Radius of Curvature:	10 km								
4.	<p>Investigation and remediation of mine workings</p> <p>Complete the remaining investigation and remediation of the mine workings in accordance with Douglas Partners 'Report on Grouting and Verification Plan – Newcastle East End Development – Stages 2 to 4 Hunter Street and King Street, Newcastle'; project 39826.14; dated 11 March 2019.</p>								

5.	<p>Grout Verification Output Report</p> <p>On completion of grouting submit a <i>Grout Verification Report</i> in accordance with Attachment E 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>
6.	<p>Structural Engineer Certification</p> <p>Prior to commencement of works, submit an Engineering Impact Statement to Subsidence Advisory NSW for acceptance. The engineering impact statement must identify the following</p> <ol style="list-style-type: none"> Mine subsidence parameters used for the design Main building elements and materials Risk of damage due to mine subsidence Design measures proposed to control the risks Provide certification that the design will ensure the improvement meets the requirements of Condition 3. Comment on the: <ul style="list-style-type: none"> likely building damage in the event of mine subsidence. sensitivity of the design to greater levels of mine subsidence. <p>OR</p> <p>Prior to commencement of works, submit a Mine Subsidence Design Structural Engineer Certification Form (nsw.gov.au) (Attachment F of the Subsidence Advisory Merit Policy).</p>
7.	<p>No buildings, structures or other improvements are to be built over or adjacent to any drifts, shaft or other mine entry unless Subsidence Advisory accepts the risk of mine subsidence has been eliminated.</p>
8.	<p>Submit Final Design</p> <p>Prior to commencement of works, submit a final design incorporating the design methodology contained in the Engineering Impact Statement or Mine Subsidence Structural Engineer Certification Form, to Subsidence Advisory for acceptance.</p> <p>Certification by a structural engineer is to confirm that the requirements of Condition 3 are met.</p>
POST CONSTRUCTION	
9.	<p>Survey Monitoring</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>
10.	<p>Certification of Works</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 Engineering Impact Statement or Mine Subsidence Structural Engineer Certification Form have been certified by an engineer, details of this certification should be included with the builder/certifier's post construction certification.</p>

(Inserted under RE2024/00002 - DATE)