

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

DATE OF DETERMINATION	6 May 2021
PANEL MEMBERS	Alison McCabe (Chair), Sandra Hutton, Susan Budd and John MacKenzie
APOLOGIES	None
DECLARATIONS OF INTEREST	Juliet Grant declared a conflict of interest as her employer is working on a different application for the same site.

Papers circulated electronically on 7 April 2021.

MATTER DETERMINED

PPSHCC-60 - Newcastle – DA2018/01197.02 at 10 Dangar Street, Wickham – modification to approved mixed use building (as described in Schedule 1)

PANEL CONSIDERATION AND DECISION

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

The Panel had the benefit of a Council and applicant briefing on this matter. The key changes between this modification application and the original approved DA relate to:

- additional basement level and replacement of above ground carparking with commercial use;
- ancillary changes to residential levels arising from reorientation to the core;
- increase in FSR and height; and
- facade changes.

These changes result in a further breach of the height control from RL 46.7 to RL 49.450 – a height of 47.65m, being 2.65m above the 45m limit. The proposal also results in an increase in FSR that breaches the underlying control by a further 2549m² a change from 5.1 to 5.87:1 (17.55% variation). The Panel notes that these changes are predominantly contained within the approved building envelope. The Panel notes clause 4.4 permits a FSR of 6:1. However clause 7.10 reduces this to a FSR of 5.1.

The Panel raised the following matters with the applicant and Council:

- Landscape detail at podium level and depth of soil and planting and response to UDCG comments;
- Detail of the facade and difference between photomontage and elevation and UDCG comments;
- Waste management arrangements;
- Conditions and response to public art; and
- Carparking numbers.

The Panel requested further detail on the above matters. The applicant prepared a further submission and provided additional detail and amended plans. The Panel had the benefit of a supplementary report from Council responding to the applicant's submission.

The Panel is of the view that the changes outlined in the supplementary report do not require renotification.

The Panel is of the view that introduction of a commercial use to the lower three (3) levels is a good planning outcome, given the location of the site adjacent to the Newcastle Interchange. The general bulk scale and massing of the development is acceptable. Given the site's location and its proximity to public transport, the Panel is satisfied that the amount of carparking is appropriate for the development.

The Panel is satisfied that the development is substantially the same development as originally approved.

An amended set of modified conditions was attached to the supplementary report. These were modified from those in the initial report, and reflect the additional detail and amended materials and correction of typographical errors.

Development application

The Panel determined to approve the modification to development application No 2018/01197.01 pursuant to section 4.55 of the *Environmental Planning and Assessment Act 1979* subject to the modifications of the conditions as outlined in Schedule 2.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel determined to approve the application for the reasons outlined in the Council assessment report.



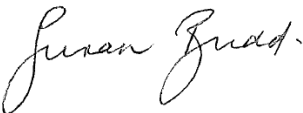

CONDITIONS

The development application was approved subject to the modifications of the conditions outlined in Schedule 2. The conditions reflect those in the supplementary memo received 21 April 2021 and the following changes:

- Amendment to condition 1 to include references to Attachment H;
- Amendment to condition 4(a) to include reference to a minimum value of 1% of the capital cost;
- Reinstatement of reference to deferred commencement consent condition;
- Addition of condition 38a restricting height of the building;
- Amend condition 91 to be consistent with condition 7;
- Amend condition 94 to be consistent with condition 4a;
- Date of modification to conditions amended to be consistent with determination date (to be inserted).

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel notes that no written submissions were made during public exhibition.

PANEL MEMBERS	
 Alison McCabe (Chair)	 Sandra Hutton
 Susan Budd	 John MacKenzie

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSHCC-60 - Newcastle – DA2018/01197.02
2	PROPOSED DEVELOPMENT	Modification to DA2018/01197 – addition of third basement level, extension of the basement building envelope to facilitate servicing, increase in office space, floor to ceiling height of the office levels 1-3 reconfiguration of ground floor parking, ramp location, end of trip facilities and the relocation of lift core
3	STREET ADDRESS	10 Dangar Street Wickham NSW 2293
4	APPLICANT/OWNER	Dangar Street Wickham Pty Ltd C/- KDC Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Section 4.55(2) Modification Application
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (State and Regional Development) 2011 State Environmental Planning Policy (Infrastructure) 2007 State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 State Environmental Planning Policy No 55 – Remediation of Land State Environmental Planning Policy (Coastal Management) 2018 Newcastle Local Environmental Plan 2012 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Newcastle Development Control Plan 2012 Section 94A Development Contributions Plan 2009 Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil Coastal zone management plan: Nil The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality The suitability of the site for the development Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Council assessment report: 7 April 2021 Additional information provided by the applicant: 16 April 2021 Addendum Council assessment memorandum: 21 April 2021 Written submissions during public exhibition: Nil
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing: 18 November 2020 <ul style="list-style-type: none"> <u>Panel members</u>: Alison McCabe (Chair) and Sandra Hutton <u>Council assessment staff</u>: Holly Hutchens, Damian Jaeger, Amy Ryan and Tracey Webb Site inspections: <ul style="list-style-type: none"> Alison McCabe (Chair): 22 November 2020 Sandra Hutton: 8 February 2021 Final briefing to discuss Council's recommendation: 14 April 2021 <ul style="list-style-type: none"> <u>Panel members</u>: Alison McCabe (Chair), Sandra Hutton, Susan Budd and John MacKenzie <u>Council assessment staff</u>: Holly Hutchens, Rajnesh Prakash, Amy Ryan, Priscilla Emmett, Elle Durrant and Tracey Webb

		<ul style="list-style-type: none"> ○ <u>Department staff</u>: Carolyn Hunt and Lisa Foley • Applicant Briefing: 14 April 2021 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Alison McCabe (Chair), Sandra Hutton, Susan Budd and John MacKenzie ○ <u>Applicant representatives</u>: Melissa Thomas, Richard Webster, Minkyu Lim, Michael Lee and David Desson ○ <u>Council assessment staff</u>: Holly Hutchens, Rajnesh Prakash, Amy Ryan, Priscilla Emmett, Elle Durrant and Tracey Webb ○ <u>Department staff</u>: Carolyn Hunt and Lisa Foley <p><u>Note</u>: Applicant briefing was requested to respond to the recommendation in the Council assessment report</p>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council assessment report

SCHEDULE 2

CONDITIONS OF CONSENT DA2018/01197.02

SCHEDULE 1

1. ~~Written approval/certification from Transport for NSW regarding the matters contained in Tab A of their concurrence letter dated 27 February 2019 and written approval/certification from Sydney Trains regarding the matters contained in Attachment A of their concurrence letter dated 26 February 2019 are to be provided to Council.~~

~~The above evidence or information must be submitted within 12 months of the granting of this deferred commencement consent. This Deferred Commencement Consent does not operate from the conditions appearing in Schedule 2 until Council provides formal notification that it is satisfied that compliance has been achieved with the conditions appearing in Schedule 1.~~

Schedule 1, Condition 1 satisfied 22 September 2020.

SCHEDULE 2

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
Cover Sheet	DA-0001 Rev: 8	Team 2 Architects	15/04/2021
Context Plan	DA - 0010 Rev: 2	Team 2 Architects	19/01/2021
Future Hannell St Development Setbacks	DA - 0011 Rev: 2	Team 2 Architects	15/04/2021
Future Charles St Development Setbacks	DA - 0012 Rev: 2	Team 2 Architects	15/04/2021
Building Height Analysis Plan	DA – 0013 Rev: 1	Team 2 Architects	19/01/2021
Building Height Analysis	DA – 0014 Rev: 1	Team 2 Architects	15/04/2021
Basement 3 GA	DA – 1000 Rev: 7	Team 2 Architects	19/01/2021
Basement 2 GA	DA – 1001 Rev: 7	Team 2 Architects	19/01/2021
Basement 1 GA	DA – 1002 Rev: 7	Team 2 Architects	19/01/2021
Ground Floor GA	DA – 1003 Rev: 7	Team 2 Architects	06/04/2021
Level 1-3 Typical GA	DA – 1004 Rev: 7	Team 2 Architects	15/04/2021
Level 4 Podium GA	DA – 1005 Rev: 2	Team 2 Architects	19/01/2021
Level 5 – 12 Typical GA	DA – 1006 Rev: 2	Team 2 Architects	19/01/2021
Level 13 GA	DA – 1007 Rev: 2	Team 2 Architects	19/01/2021
Roof GA	DA – 1008 Rev: 3	Team 2 Architects	19/01/2021
Approved DA Comparison	DA – 1500 Rev: 1	Team 2 Architects	19/01/2021
Approved DA Comparison Plans – 02	DA – 1501 Rev: 1	Team 2 Architects	19/01/2021
Approved DA Comparison Plan – 03	DA – 1502 Rev: 1	Team 2 Architects	19/01/2021

North Elevation	DA – 2000 Rev: 7	Team 2 Architects	15/04/2021
West Elevation	DA – 2001 Rev: 7	Team 2 Architects	15/04/2021
South Elevation	DA - 2002 Rev: 7	Team 2 Architects	15/04/2021
East Elevation	DA – 2003 Rev: 7	Team 2 Architects	15/04/2021
North Elevation DA Comparison	DA – 2500 Rev: 2	Team 2 Architects	15/04/2021
South Elevation DA Comparison	DA – 2501 Rev: 2	Team 2 Architects	15/04/2021
East Elevation DA Comparison	DA – 2502 Rev: 2	Team 2 Architects	15/04/2021
West Elevation DA Comparison	DA – 2503 Rev: 2	Team 2 Architects	15/04/2021
Building Section AA	DA – 3000 Rev: 7	Team 2 Architects	15/04/2021
Building Section BB	DA – 3001 Rev: 7	Team 2 Architects	15/04/2021
Materials Schedule	DA – 4000 Rev: 7	Team 2 Architects	19/01/2021
Callout- North elevation	DA – 4000a Rev: 1	Team 2 Architects	15/04/2021
Visual Impact Analysis 01	DA – 4001 Rev: 7	Team 2 Architects	19/01/2021
Visual Impact Analysis 02	DA – 4002 Rev: 7	Team 2 Architects	19/01/2021
GFA Diagram 01	DA – 5000 Rev: 6	Team 2 Architects	19/01/2021
GFA Diagram 02	DA – 5001 Rev 2	Team 2 Architects	19/01/2021
Statement of Environmental Effects	18227.2	KDC Pty Ltd	27 January 2021
Acid Sulfate Soil Management Plan	Project Ref: 39961.02	Douglas Partners	19 January 2021
Acoustic Assessment	Project Ref: 2181324.1	Acoustic Logix	12/10/18
Accessibility Assessment Report	18/0221	Building Control Group	16/10/18
BCA Assessment Report	18/0221		16/10/18
Civic Engineering Drawings	Rev: D Sheets No C1 to C14. Project No CC180306 Rev: E	ACOR Consultants	11.12.2020
SEPP 65 Design Verification Statement		PBD Architects	19/10/189
Traffic and Parking Assessment	Ref: 20040102A – 200924	MLA Transport Planning	24 September 2020
Addendum Traffic Statement	Ref: 20040103A – 201218	MLA Transport Planning	14 April 2021
Preliminary Site Investigation	Project No 39961.02	Douglas Partners	October 2018
Remediation Action Plan	Project No 39961.02	Douglas Partners	November 2020
Demolition Management Plan		Multipart Property	Undated
Crime Risk Assessment	Ref No: 18227	KDC Consultant	October 2018
Landscape Cover Sheet	Job No BB 1220	Black Beetle	16 December 2020

Landscape Ground Floor	LAL P01 Rev 2	Black Beetle	16 December 2020
Landscape Level 4 Podium	LAL P02	Black Beetle	15 April 2021
Landscape Level 13	LAL P03	Black Beetle	15 April 2021
Landscape Level 13	LAL P04	Black Beetle	15 April 2021
Referral letter	S961133461	WaterNSW	Nil
Concurrence letter	CNR -13242	Transport Sydney Trains	5 February 2021
Concurrence letter	CD20/07965	Transport for NSW Customer Strategy and Technology	4 February 2021
Concurrence letter	SF2014/054009 DSN	Transport for NSW	3 February 2021

Condition amended May 2021.

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.

CONDITIONS REGARDING REQUIREMENTS OF STATE AUTHORITIES

2. Separate approval is to be obtained from WaterNSW, in accordance with the referral letter reference number S961133461.

Condition amended on 6 May 2021.

3. The development is to comply with the conditions of concurrence issued by Transport for NSW of their concurrence letter dated 3 February 2021, 4 February 2021 and the conditions of concurrence issued by Sydney Trains dated 5 February 2021.

Condition amended on 6 May 2021.

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

- 4a). A public art feature is to be designed for the site or surrounding area in consultation with Newcastle City Council. The public artwork is to have a minimum value of 1% of the capital cost of the development. The final details of all artworks within the site and associated costing are to be submitted to Council's Public Art Reference Group for written approval prior to the issue of a Construction Certificate, the written approval be obtained prior to the commencement of above-ground works/ground level slabs and the approved artwork(s) be installed prior to the use of the first Occupation Certificate.

The required public artwork shall include a mural (or similar) installation, which shall be installed on the external elevation of the ground floor of the southern and western walls (for a length of at least 50% of each wall).

This feature is to provide visual interest for pedestrians and interpret or reflect the local setting, landscape setting and/or cultural setting of the Newcastle area. The feature is to be designed to ensure long-term durability and be resistant to vandalism.

Condition 4 a) amended on 6 May 2021.

- 4b). **Condition 4 b) deleted on 6 May 2021.**

5. ***Condition relocated as condition 83 a) on 6 May 2021.***

6. The proposed awning is to be designed in a manner that is consistent with Element 7.10 'Street

Awnings and Balconies of the Newcastle Development Control Plan 2012. The design will need to consider the existing Ausgrid power poles and the impact on any RMS Signs or infrastructure (Separate approvals maybe require from Ausgrid/RMS). Under awning lighting is to be provided to the area's Lighting category in accordance with AS1158. The design of the awning should allow for street tree planting. Full details are to be included in documentation for any Construction Certificate application.

Note: A separate application and approval under Section 138 of the *Roads Act 1993* is required for awnings extending over public roads.

7. On-site parking accommodation is to be provided for 198 car spaces (86 spaces for residential units, 10 spaces are to be for visitor parking, 17 spaces for retail and 85 spaces for commercial spaces), 19 motorbikes, 179 secured bicycle spaces (Class 2), 1 small rigid vehicle loading bay, 2 light commercial/utility vehicle loading bays and 1 carwash / loading bay and such be set out generally in accordance with the minimum parking layout standards indicated in Element 7.03 'Traffic, Parking and Access' of Council's adopted Newcastle DCP 2012.

During off-peak retail commercial business hours, 10 of the commercial/retail car parking spaces shall be shared as residential visitor parking. The parking spaces are to be allocated as indicated in the approved architectural plans DA1000 - DA1003. The applicant's traffic and parking consultant shall provide written verification that the disabled parking spaces meet the requirements associated with any required adaptable housing and also to meet the Building Code of Australia for commercial/retail use. Full details are to be included in documentation for a Construction Certificate application.

Condition 7 amended on 6 May 2021.

8. Traffic management devices in the form of a safety mirrors, Stop and Give Way to pedestrian signs and Line markings is to be installed within the property and as recommended in the reports prepared by The Transport Planning Partnership Ref No. 18179 dated 18/01/2019. Such devices are to be constructed in accordance with AS/NZS 2890.1:2004: Parking facilities - Off-street car parking. Full details are to be included in documentation for a Construction Certificate application.
9. Letterboxes, landscaping and any other obstructions to visibility are to be kept clear of or limited in height to 1.2m in the 2 metre by 2.5 metre splay within the property boundary each side of the driveway entrance in accordance with AS/NZS 2890.1:2004: Parking facilities - Off-street car parking and as recommended in the reports prepared by The Transport Planning Partnership Ref No. 18179 dated 18/01/2019. Full details are to be included in documentation for any Construction Certificate application.
10. Roof water from the proposed new work is to be directed to the proposed underground water reuse tanks and being reticulated there from to new toilets cisterns and cold water washing machine taps for Ground Level and Levels 1 & 4 and landscaped areas on Ground Level and Podium Level 4, with a mains water top up being installed to maintain between 10% and 15% of the tank capacity. Alternatively, an electronically activated mechanical valve device is to be installed to switch any new toilet cisterns and laundry taps to mains water when the tank falls below 10% capacity. The water tank and plumbing are to be installed in accordance with Australian Standard AS 3500, the relevant plumbing regulations and the requirements of the Hunter Water Corporation. Full details are to be provided with the Construction Certificate application.
11. The ground floor level of the proposed building is to be not below 2.68m AHD and being indicated on the plans for any Construction Certificate application. The ground floor levels are to be certified by a registered Surveyor prior to the placement of the floor slab and a copy of the Surveyor's Certificate is to be forwarded to the Principal Certifying Authority.
12. The whole of the proposed structure below 2.68m AHD is to be constructed in materials and finishes that are resistant to damage from floodwaters/tidal waters. Any new machinery or

equipment, electrical fixtures (such as power points, light fittings and switches), storage units or similar items likely to be damaged by floodwaters/tidal waters being installed above the said height or alternatively being of materials and functional capability resistant to the effects of floodwaters/tidal waters. Full details are to be included in documentation for a Construction Certificate application.

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

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

- a) Likely flood behaviour
- b) Flood warning systems
- c) Education awareness program
- d) Evacuation and evasion procedures
- e) Evacuation routes and flood refuges and
- f) Flood preparedness and awareness procedures for residents and visitors

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

14. Erosion and sediment control measures are to be implemented prior to the commencement of works and be maintained during the period of construction in accordance with the details set out on an Erosion and Sediment Control Plan that is to be submitted for approval with the Construction Certificate application. Controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover.
15. 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.
16. An electronic copy of a dilapidation report, prepared by a suitability qualified person, shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate. The dilapidation report shall document and photograph the current structural condition of the adjoining buildings, infrastructure and roads.
- 16 a). A wind tunnelling report is to be prepared by an appropriate qualified and experience engineer. This report is to be prepared in accordance with AS1170.2 and should consider the impact on the building, the environment and pedestrian movements surrounding the development. Architectural and landscape plans will need to reflect the recommendations of the wind tunnelling report and amended plans and the wind tunnelling report is to be provided to the Principal Certifier prior to issue of any Construction Certificate (excluding any construction certificate for remediation works or demolition). A copy of the wind tunnelling report is to be

provided to Council.

Note: Should amendments to the design be required this will result in a further Section 4.55 Modification under the *Environmental Planning and Assessment Act 1979*.

Condition 16 a) inserted on 6 May 2021.

17. A design verification statement from a qualified designer shall be submitted to the Certifying Authority. The statement shall confirm the Construction Certificate plans and specifications achieve or improve the design quality of the development for which consent is granted, having regard to the design quality principles set out in Part 2 of *State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development*.

Full details are to be included in the documentation for the first Construction Certificate for the residential flat development.

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

18. Temporary ground anchors are to be designed and installed along the road reserve and adjoining properties to protect the existing properties. The design of the temporary ground anchors is to be carried out by qualified and practicing structural and geotechnical engineers. Approval is to be attained from the relevant Roads Authority for installation of the temporary ground anchors prior to the start of any bulk excavation works. The temporary ground anchors are to be destressed and any timber is to be removed to the satisfaction and requirements of the relevant Roads Authority. Full details are to be included in documentation for a Construction Certificate application.
19. A structural engineer is to determine the location and depth of the proposed underground tank (72 KL) and certify that it will not adversely affect any building foundation footings or slabs when the tank is empty. Stormwater Management Plan is to be designed in accordance with current *NDCP Section 7.06 Stormwater Management* and The City of Newcastle's *Stormwater and Water Efficiency Technical Manual*. Full details are to be included with documentation for a construction certificate.
20. All onsite stormwater retention/detention and water quality treatment systems are to be individually identified and sign posted in accordance with Council's Stormwater and Water Efficiency for Development Technical Manual (Updated 2013). Full details are to be included in documentation for a Construction Certificate application.
21. On site refuge is to be provided for the proposed development. The minimum refuge level is to be the level of the PMF (Local Catchment Flood Level RL3.01m Australian Height Datum). On site refuge is to be designed to cater for the number of people reasonably expected to be on the development site. Full details are to be included in documentation for a Construction Certificate application.
22. The developer is to design and construct the following works at no cost to Council and in accordance with Council's City Centre Public Domain Manual guidelines (Wickham Masterplan pavement design & Council specifications) and Australian Standards:
 - a) Public Domain Works - (Hannell St, Dangar St, Charles St and Station St).
 - i. Design and installation of new footpath and streetscape works along all the frontages (includes any pavement works required adjoining the Newcastle Train Station Through Link).
 - ii. Design and install kerb extensions, associated drainage and civil works on both sides on Dangar St at corner of Charles St.
 - iii. Design and installation of a raised pedestrian crossing at corner of Station St and Charles St. This includes design of appropriate street lighting, associated drainage and

civil works.

- iv. Remove existing and install new kerb and gutter, kerb ramp and repair road along the frontage. Sandstone to be protected at all times.
- v. Install (12) new street trees and grass verge areas in accordance with Council requirements and adjust service pit levels to match new footpath level. Note: footpath to achieve maximum cross fall of 2.5%.
- vi. Installation of new driveway and removal of redundant driveway and associated roadworks.
- vii. Install any required parking signs, line markings (including cycle way markings), mandatory signage and any civil works associated with road and on-street parking infrastructure.
- viii. Installation of any new street furniture including bicycle racks or rings and new seats and bins.
- ix. Design of street lighting along all frontages and under awning lighting.
- x. Installation of new drainage on the street and development drainage connections as required
- xi. Review of the shopfront alignment to the east, north and south at ground level after consideration of the desirability of providing some outdoor breakout or outdoor dining areas associated with the retail uses.

Note: Approval is required by the Manager of Regulatory Services at Newcastle Council prior to the release of the Section 138 application.

Universal Design principles are to be applied to the development to allow for entries to be designed for universal access and levels to be adjusted within the site.

Detailed public domain plan including civil design & details, survey, cross sections (footpath path being designed with 2.5% cross fall), longitudinal and street lighting design are to be submitted to Council for review and approval as part of the S138 Road Act application.

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

23. The minimum footpath width along Hannell Street frontage is to be as indicated in the architectural plan Dwg No. DA102 (minimum 3.5m at north eastern corner). The public accessible areas are to be designed to ensure that the footway grades comply with the relevant Australian standards. Full details are to be included in the documentation for a Construction Certificate application.
24. A 1.2m x 1.2m footpath splay is to be provided at the corner of Dangar Street and Charles Street on the ground level as a road reserve. The architectural plans are to clearly indicate the splay. Full details are to be included in the documentation for a Construction Certificate application.

Note: Detailed survey plan being prepared is to be submitted with an accompanying Subdivision Certificate Application for Council certification and such plan is to be registered with the NSW Government Land & Property Information prior to issue of any Occupation Certificate.

25. Kerbing or dwarf walls having a minimum height of 100mm are to be constructed along the edge of all garden or lawn areas adjacent to driveways and parking bays sufficient to discourage the encroachment of vehicles thereon. Full details are to be included in documentation for a Construction Certificate application.

26. The visitor parking bays are to be constructed in paving bricks or in a suitable alternative visually unobtrusive paving material which contrasts in colour and texture with that used in the construction of the driveway. Full details are to be included in documentation for a Construction Certificate application.
27. All proposed driveways, parking bays, loading bays and vehicular turning areas are to be constructed with a basecourse of adequate depth to suit design traffic, being sealed with either bitumen seal, asphaltic concrete, concrete or interlocking pavers and being properly maintained. Full details are to be included in documentation for a Construction Certificate application.
28. All stormwater runoff from the proposed development being managed in accordance with the requirements of Section 7.06 'Stormwater' of Newcastle Development Control Plan, as indicated on the stormwater management concept plans and stormwater management report prepared by ACOR Consulting Engineers Project No. CC180306 Dwg No's. C01 – C15 Issue E dated 11/12/2020. Stormwater from the proposed underground water reuse tank are to be reticulated there from to new toilets cisterns and cold water washing machine taps for Ground Level and Levels 1 & 4 and landscaped areas on Ground Level and Podium Level 4. Full details are to be included in documentation for any Construction Certificate application.

Condition 28 amended on 6 May 2021.

29. All proposed planting and landscape elements indicated on the submitted landscape concept plan or otherwise required under the conditions of this consent are required to be detailed on a landscape plan and specification. The landscape plan shall include details of soil volumes/depth which are compliant with the controls specified within the Apartment Design Guidelines (4P Planting on Structures). The plan and specifications is to be prepared in accordance with the provisions of Newcastle Development Control Plan 2012 and is to include details of the following:
- a) cross sections through the site where appropriate
 - b) proposed contours or spot levels
 - c) botanical names
 - d) quantities and container size of all proposed trees
 - e) shrubs and ground cover
 - f) details of proposed soil preparation
 - g) mulching and staking
 - h) treatment of external surfaces and retaining walls where proposed
 - i) drainage, location of taps and
 - j) appropriate maintenance periods.

The plan is to be prepared by a qualified landscape designer and be included in documentation for a Construction Certificate application.

30. 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. Details are to be included in documentation for a Construction Certificate application.

31. The applicant is to comply with all requirements of the Hunter Water Corporation regarding the connection of water supply and sewerage services, including the payment of any required cash contribution towards necessary amplification of service mains in the locality as a result of the increased intensity of land use proposed. The car wash bay is to be connected to the Hunter Water sewer pipe system and the area is to be bunded to prevent waters from draining into City's road drainage system. A copy of the Corporation's certificate of compliance (refer s50 Hunter Water Act 1991) is to be included in documentation for a Construction Certificate application.
32. A group type mailbox is to be provided at the street frontage in accordance with the requirements of Australia Post, clearly displaying individual unit numbers and the required house number. Full details are to be included in the documentation for a Construction Certificate application.
33. A commercial vehicular crossing is to be constructed across the road reserve, in accordance with the following criteria:
 - a) Constructed in accordance with Council's A1300 - Driveway Crossings Standard Design Details.
 - b) Letterboxes, landscaping and any other obstructions to visibility should be kept clear of or limited in height to 1.2 metre, in the 2 metre by 2.5 metre splay within the property boundary each side of the driveway entrance.
 - c) The proposed driveway shall be a minimum of 3 metres clear of the trunk of any tree within the public reserve.
 - d) The proposed driveway shall be a minimum of 750mm clear of the centre of any pole or obstruction within the public reserve and 1 metre clear of any drainage pit.

These works are not approved until consent under Section 138 of the *Roads Act 1993* has been granted by Council. An application under Section 138 must be lodged and consent obtained, or other satisfactory arrangements confirmed in writing from Council, before the issue of a Construction Certificate.

Note: the driveway application can be done with the Section 138 Type 2 application for the public domain works.

34. A separate application must be lodged and consent obtained from Council for all works within the road reserve pursuant to Section 138 of the *Roads Act 1993*, before the issue of a Construction Certificate. The consent must be obtained, or other satisfactory arrangements confirmed in writing from Council, before the issue of a Construction Certificate.
35. The car parking and vehicular access 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
36. Prior to the release of the Construction Certificate the applicant shall submit a comprehensive waste management report in accordance with the better practice guide for Waste Management in Multi-unit Dwellings by the Department of Environment and Climate Change June 2008. The report shall address the storage and disposal of commercial and residential waste and pedestrian safety for residents accessing the bin storage area on ground level. The report shall include a list of recommendations, including but not limited to: specifying collection vehicle type and height clearance at the entry for the vehicle type; insulated chute and/or additional garbage storage areas that are located in close proximity to the residential units. The recommendations of the report shall be included on the relevant construction certificate drawings.
37. All new impervious surfaces, including driveways and paved areas are to be drained to the nominated discharge controls, full details are to be included in documentation for a Construction Certificate application.

38. Prior to the release of the Construction Certificate the applicant shall submit amended architectural plans showing the rounding/curving of the southwestern corner to provide a similar treatment to others curved corners which are indicated in the architectural plans, allowing for improved sight lines and pedestrian flow around the edges of the building. The curved wall shall extend from ground to the top of the podium at level 3. The western ground floor window to the retail use fronting Charles Street shall be enlarged to extend to the ground floor level (and may also be enlarged laterally, but not reduced laterally).

38 a). Prior to the release of the relevant construction Certificate the Principal Certifier shall ensure that the approved construction certificate plans nominate a maximum RL height of 47.450 as per the approved Development Application Plans.

Condition 38 a) inserted on 6 May 2021.

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

39. Any proposed paving works within the public footway are to be in accordance with the requirements of Council's specifications and City Centre Public Domain Manual (Wickham masterplan streetscape design).

Note: It will be necessary for the Developer to notify water, telecommunications, gas and electricity authorities of the proposed paving works in order to enable the various authorities to carry out and complete any necessary repairs and/or amplification to their respective services before such works are commenced.

40. Groundwater is not to be discharged into adjoining roads stormwater system, sewerage system etc. without the controlling authority's approval and/or owner's consent/s. Approval from the controlling authority and any requirements of the approving authority is to be complied with prior to the commencement of any extraction of groundwater.

41. 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.

42. Prior to the commence of works the applicant shall prepare an Aboriginal Archaeological Survey Report for 10 Dangar Street, Wickham. The recommendations of the Aboriginal Archaeological Survey Report are to be applied to the proposed site, including obtaining an Aboriginal Heritage Impact Permit under the *National Parks and Wildlife Act 1974* prior to any impact occurring.

42. a). The Applicant must ensure that if any unexpected archaeological deposits or relics not identified and considered in the supporting documents for the approval are discovered, work must cease in the affected area(s) and the Heritage Council of NSW must be notified as required by s146 of the Heritage Act 1977. Additional assessment and approval may be required prior to the works continuing in the affected areas(s) base on the nature of the discovery.

Condition 42 a) inserted on 6 May 2021.

43. 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.

44. Any excavated material to be removed from the site is to be assessed, classified, transported and disposed of in accordance with the Department of Environment and Climate Change's (DECC) 'Waste Classification Guidelines Part 1: Classifying Waste'.

45. 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*.
46. 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.
47. Prior to any site works commencing, the Developer preparing a Construction Environmental Management Plan (CEMP) 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 CEMP are to be provided to the Principal Certifying Authority and the CEMP is to be maintained on site during all site works and be made available to Authorised Officers upon request. The CEMP is to include but not be limited to:
- A site management strategy, identifying and addressing issues such as environmental health and safety, site security, and traffic management.
 - 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.
 - A dust management strategy, detailing procedures to minimise dust generation, with particular reference to control techniques and operational limits under adverse meteorological conditions.
 - A waste minimisation strategy that aims to avoid production of waste and maximise reuse, recycling or reprocessing of potential waste material.
 - A community relations plan that aims to inform local residents and other local stakeholders of the proposed nature and timeframes for construction activities together with contact details for site management.
 - 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.
48. 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).

49. Building demolition is to be planned and carried out in accordance with Australian Standard 2601:2001 - The Demolition of Structures.
50. A Hazardous Substances Management Plan is to be prepared by a competent person for the building(s) or parts of the building(s) proposed to be demolished in accordance with Australian Standard 2601:2001 - The Demolition of Structures. A copy of the Hazardous Substances Management Plan is to be provided to Council (marked to Attention: Compliance Services) and the demolisher prior to commencement of work.
51. 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.
52. 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.
53. 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.
54. 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.
55. The demolisher is to ensure that all demolition material is kept clear of the public footway and carriageway as well as adjoining premises.
56. 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).

57. 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.

58. 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.

59. 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.

60. 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.

61. 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.

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

construction work.

Note: Council's 'PREVENT POLLUTION' sign can be obtained by presenting your development application receipt at Council's Customer Enquiry Counter at 282 King Street Newcastle.

63. 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 4th Edition - Vol. 1 (the 'Blue Book') published by Landcom, 2004. Controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover.
64. 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).
- 64 a). A Registered Surveyor's certificate detailing the setting out of the proposed building on the site, including the relationship of the set out building to property boundaries, is to be submitted to the Principal Certifier before construction is commenced.
Condition 64 a) inserted on 6 May 2021.
- 64 b). Certification is to be prepared by a Registered Surveyor and submitted to the Principal Certifier at the stages of construction indicated:
 - a) On completion of ground floor construction, confirming that the floor levels are in accordance with the approved levels.
 - b) On completion of each subsequent floor level, confirming that the floor levels are in accordance with the approved levels.
 - c) When the roof has been completed, confirming that the building does not exceed the approved levels.**Condition 64 b) inserted on 6 May 2021.**
65. All building work must be carried out in accordance with the provisions of the National Construction Code.
66. In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, such a contract of insurance is to be in force before any building work authorised to be carried out by this consent commences.
67. If the soil conditions require it, retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil must be provided and adequate provision must be made for drainage.
68. All roof and surface waters are to be conveyed to the street drainage system by way of a sealed pipe system, extending through the footway to Council requirements, in accordance with Element 7.06 'Stormwater' of Newcastle Development Control Plan.
69. The visitor parking spaces are to be allocated as indicated in the approved architectural plans DA1000 - DA1003 are to be clearly indicated by means of signs and/or pavement markings. The residential visitor spaces (10) shall remain as common property under any future strata scheme. During off-peak business hours (10) of the commercial/retail tenancy car parking spaces shall be shared as residential visitor parking during off-peak retail/commercial business hours

Condition 69 amended on 6 May 2021.

70. 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.
71. The vehicular entrance and exit driveways and the direction of traffic movement within the site are to be clearly indicated by means of reflectorised signs and pavement markings.
72. 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.
73. 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.
74. 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.
75. The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
76. ***Condition 76 deleted on 6 May 2021.***
77. All parking and loading bays are to be permanently marked out on the pavement surface, with loading bays and visitor parking facilities being clearly indicated by signs.
78. The proposed customer/staff parking bays are to be permanently marked out on the pavement surface and being clearly indicated by means of signs and/or pavement markings.
79. Erosion and sediment control measures are to be implemented prior to the commencement of works and be maintained during the period of construction in accordance with the details set out on the Erosion and Sediment Control Plan submitted with the application, and with the below requirements:

Control over discharge of stormwater and containment of run-off and pollutants leaving the site must be undertaken through the installation of erosion control devices such as catch drains, energy dissipaters, level spreaders and sediment control devices such as hay bale barriers, filter fences, filter dams and sediment basins and controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover. Erosion and sediment control measures are to be designed in accordance with the requirements of the Managing Urban Stormwater: Soils and Construction 4th Edition - Vol. 1 (the 'Blue Book') published by Landcom, 2004.
80. 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.
81. 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.
82. ***Condition 82 deleted on 6 May 2021.***

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

83. 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.

- 83 a).** A total monetary contribution of **\$1,759,448.00** is to be paid to the City of Newcastle (CN), pursuant to Section 7.12 of the Environmental Planning and Assessment Act 1979, such contribution to be payable prior to the issue of the first occupation certificate in respect of the proposed development.

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

Note:

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

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

Indexation quarters	Approximate release date
September	Late October
December	Late January
March	Late April
June	Late July

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

Condition 5 relocated and inserted as condition 83 a) on 6 May 2021.

84. Appropriate acoustic treatment is to be implemented in accordance with the recommendations set out in the report prepared by Acoustic Logic, dated 12 October 2018. 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. The acoustic treatment shall also ensure that noise emissions from all plant and equipment meets all regulatory requirements.

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

85. The publicly accessible areas around the frontages of the site are to be created as a public right of footway or carriageway. A detailed survey plan is to be submitted with an accompanying Subdivision Certificate Application for Council certification and such plan is to be registered with the NSW Government Land & Property Information prior to issue of any occupation certificate.
86. A 1.2m x 1.2m footpath splay is to be provided at the corner of Dangar St and Charles St on the ground floor as a road reserve. A detailed survey plan is to be submitted with an accompanying Subdivision Certificate Application for Council certification and such plan is to be registered with the NSW Government Land & Property Information prior to issue of any occupation certificate.

Note: All associated survey and legal work is to be undertaken by the Developer at the Developers expense. The land is to be dedicated to Council as a Road Reserve at no cost to Council.

87. A design verification statement from a qualified designer shall be submitted to the Principal Certifying Authority prior to the issue of an Interim or Final Occupation Certificate, whichever occurs first. The statement shall confirm the development has been constructed in accordance with the quality principles set out in Part 2 of *State Environmental Planning Policy No. 65 - Design Quality of Residential Flat Development*.

Note: 'Qualified Designer' means a person registered as an architect in accordance with the *Architects Act 2003*. This condition is imposed in accordance with Clauses 154A of the *Environmental Planning and Assessment Regulation 2000*.

88. 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.
89. All commitments listed in the relevant BASIX certificate for the development are to be satisfactorily completed prior to the issue of an Occupation Certificate. Should there be any changes to the specifications of the dwelling that have implications for compliance with the approved certificate, except where restricted or excluded by any other condition of consent, an amended BASIX Certificate can be relied upon as having complied with this condition. A copy of any amended BASIX Certificate is to be provided to Council within fourteen days of receipt.
90. All works within the road reserve required by this consent are to be completed prior to the issue of a Final Occupation Certificate.
91. 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 a Final Occupation Certificate for the proposed development.

91 a). On-site parking accommodation is to be provided for a minimum of 198 car spaces (86 spaces for residential units, 10 spaces are to be for residential visitor parking, 17 spaces for retail and 85 spaces for commercial spaces), 19 motorbikes, 179 secured bicycle spaces (Class 2), 1 small rigid vehicle loading bay, 2 light commercial/utility vehicle loading bays and 1 carwash / loading bay. The visitor parking spaces, including the 10 shared commercial/retail visitor car parking spaces are under no circumstances to be subdivided, leased, or controlled by or on behalf of particular unit owners or residents.

Condition 91 a) inserted on 6 May 2021.

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

Condition 91 b) inserted on 6 May 2021.

92. 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.

92 a). Remediation of contamination being carried out in accordance with the submitted Remediation Action Plan (RAP) prepared by Douglas Partners Pty Ltd dated November 2020.

Condition 98 amended and inserted on 6 May 2021.

92 b). Prior to the issuing of the Occupation Certificate or occupation of the premises, a Validation Report confirming the site achieves the contamination remediation goals given in the report Remediation Action Plan prepared by Douglas Partners and dated November 2020 is to be submitted to the Principal Certifying Authority and Council.

Condition 99 amended and inserted on 6 May 2021.

93. A Landscape Practical Completion Report is to be submitted to the Principal Certifying Authority prior to the issue of the Final Occupation Certificate. The report is to verify that all landscape works have been carried out in accordance with the comprehensive landscape design plan and specifications that were required to be included in documentation for a Construction Certificate application and is to verify that an effective maintenance program has been commenced.

94. The public art feature/s as required by condition 4 a) are to be installed prior to the issue of the First Occupation Certificate.

Condition 94 amended on 6 May 2021.

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

The minimum numeral heights shall be:

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

CONDITIONS TO BE SATISFIED DURING THE OPERATION AND USE THE DEVELOPMENT

96. The hours of operation or trading of the retail and commercial premises are to be not more than from:

DAY	START	FINISH
Monday	7.00 am	6.00 pm
Tuesday	7.00 am	6.00 pm
Wednesday	7.00 am	6.00 pm
Thursday	7.00 am	6.00 pm
Friday	7.00 am	6.00 pm
Saturday	7.00 am	6.00 pm
Sunday	8.00 am	6.00 pm

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

97. The development being carried out under the provisions of an Acid Sulfate Soil Management Plan (ASSMP) prepared in accordance with the New South Wales Acid Sulfate Soil Management Advisory Committee's "Acid Sulphate Soil Manual".

98. ***Condition amended and relocated as condition 92 a) on 6 May 2021.***

99. ***Condition amended and relocated as condition 92 b) on 6 May 2021 .***

100. The driveway crossing, parking areas and stormwater management system are to be properly maintained for the life of the development.

100. a) The 10 car parking spaces being shared with the commercial/retail tenancies as residential visitor parking during off-peak retail/commercial business hours and the 10 residential visitor parking spaces, and such spaces under no circumstances being subdivided, leased or controlled by or on behalf of particular unit owners or residents.

Condition 100 a) inserted on 6 May 2021.

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

Should 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.

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

Should Council consider that unreasonable levels of air impurities have been emitted from the premises, the owner/occupier will be required to engage a suitably qualified consultant to recommend measures to control emissions of air impurities to an acceptable level and such measures being implemented within a nominated time period. Furthermore, written certification from the suitably qualified consultant will be required to be submitted to Council confirming that air impurity emissions from the premises do not interfere unreasonably with the amenity of neighbouring premises and/or other sensitive receptors before the expiration of the nominated period.

103. 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.

104. Any liquid wastes from the premises, other than stormwater are to be either discharged to the sewers of the Hunter Water Corporation in accordance with an approved Trade Waste Agreement or collected and disposed of by a licensed waste transport contractor in accordance with the Department of Environment and Climate Change 'Waste Classification Guidelines Part 1: Classifying Waste'.

105. The applicant is to contact CN GIS Specialist, Strategy and Engagement Team to obtain finalised unit numbering.

Condition 105 amended on 6 May 2021.

ADVISORY MATTERS

- It is recommended that, prior to commencement of work, the free national community service 'Dial before you Dig' be contacted on 1100 or by fax on 1200 652 077 regarding the location of underground services in order to prevent injury, personal liability and even death. Inquiries should provide the property details and the nearest cross street/road.
- Any necessary alterations to public utility installations are to be at the developer/demolisher's expense and to the requirements of both Council and any other relevant authorities. Council and other service authorities should be contacted for specific requirements prior to the commencement of any works.
- It is an offence under the provisions of the *Protection of the Environment Operations Act 1997* to act in a manner causing, or likely to cause, harm to the environment. Anyone allowing material to enter a waterway or leaving material where it can be washed off-site may be subject to a penalty infringement notice ('on-the-spot fine') or prosecution.
- 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.

END OF CONDITIONS

Schedule 3 deleted and included as referral attachment on 6 May 2021.

SCHEDULE 4

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* 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.
- 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, 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.
- proposed development standard variation made under Clause 4.6 of the *Newcastle Local Environmental Plan 2012* has considered and accepted. The proposed building height variation is considered acceptable in the particular circumstances of this case.
- Issues raised in a submission have been taken into account in the assessment report.

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;

Amended on 6 May 2021.