

Development Consent – Key Sites

Section 4.38 of the Environmental Planning and Assessment Act 1979

As delegate of the Minister for Planning and Public Spaces under delegation executed on 9 March 2020, I approve the Development Application referred to in Schedule 1, subject to the conditions specified in Schedule 2.

These conditions are required to:

- prevent, minimise, or offset adverse environmental impacts;
- set standards and performance measures for acceptable environmental performance;
- require regular monitoring and reporting; and
- provide for the ongoing environmental management of the development

Anthea Sargeant
Executive Director
Regions, Industry and Key Sites

Sydney

18/6/20

File: SSD 9827

SCHEDULE 1

Application Number:	SSD 9827
Applicant:	Horizon Newcastle Pty Ltd
Consent Authority:	Minister for Planning and Public Spaces
Site:	45 Honeysuckle Drive, Newcastle (Lot 4, DP 1238761)
Development:	<p>Construction of a mixed use development known as “Horizon at Lee 5”, including:</p> <ul style="list-style-type: none"> • construction of three 8 and 9 storey buildings containing 440 101 apartments and four retail and commercial tenancies • residential gross floor area of 13,107 13,238 13,828.1 13,318.5m² and commercial premises GFA of 527.5 560m² • 483 486 211 basement car parking spaces • public domain including Steel Street Floodway works, waterfront promenade tie in works, Cottage Creek tie in works and Honeysuckle Drive improvements

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Summary of Modifications

SSD 9827	Approved by Executive Director Regions, Industry and Key Sites under delegation of the Minister for Planning and Public Spaces on 18 June 2020
SSD 9827 MOD 1	Approved by Director Key Sites Assessments on 22 September 2020, for: <ul style="list-style-type: none"> Design and administrative changes including deletion of requirement to provide two publicly accessible through site links
SSD 9827 MOD 2	Approved by Director Regional Assessments on 24 August 2021 for: <ul style="list-style-type: none"> Modifications to amend car parking requirements, increase gross floor area by 241.6m², minor changes to the basement and ground floor levels and correct calculation of apartment mix
SSD 9827 MOD 3	Approved by Team Leader Regional Assessments on 13 October 2022 for: <ul style="list-style-type: none"> Modification for internal apartment changes reducing total number of apartments from 110 to 101 and an increase in gross floor area by 169m² Correction of an administrative error relating to residential gross floor area
SSD 9827 MOD 4	Approved by Team Leader Regional Assessments on 14 September 2023 for: <ul style="list-style-type: none"> Increase residential car parking spaces from 167 to 192 spaces and reduce bicycle spaces from 110 to 101 spaces Reallocation of one residential visitor parking space to a service/loading space Additional storage on Levels 1 to 6 in the eastern building and Level 7 in the central building Minor design amendments to Apartment 801/45

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DEFINITIONS

Applicant	Horizon Newcastle Pty Ltd, or any person carrying out any development to which this consent applies
BCA	Building Code of Australia
BC Act	<i>Biodiversity Conservation Act 2016</i>
Certifying Authority	A person who is authorised by or under section 6.17 of the EP&A Act to issue Part 6 certificates
Conditions of this consent	Conditions contained in Schedule 2 of this document
Construction	The demolition and removal of buildings or works, the carrying out of works for the purpose of the development, including bulk earthworks, and erection of buildings and other infrastructure permitted by this consent.
Council	City of Newcastle Council
Day	The period from 7 am to 6 pm on Monday to Saturday, and 8 am to 6 pm on Sundays and Public Holidays
Demolition	The deconstruction and removal of buildings, sheds and other structures on the site
Department	NSW Department of Planning, Industry and Environment
Development	The development described in the EIS and Response to Submissions, as modified by the conditions of this consent.
EIS	The Environmental Impact Statement titled Horizon at Lee 5 Mixed Use Development, prepared by ADW Johnson dated August 2019, submitted with the application for consent for the development, including any additional information provided by the Applicant in support of the application
Environment	Includes all aspects of the surroundings of humans, whether affecting any human as an individual or in his or her social groupings
EPA	NSW Environment Protection Authority
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
EPL	Environment Protection Licence under the POEO Act
Feasible	Means what is possible and practical in the circumstances
Incident	An occurrence or set of circumstances that causes or threatens to cause material harm and which may or may not be or cause a non-compliance Note: "material harm" is defined in this consent
Land	Has the same meaning as the definition of the term in section 1.4 of the EP&A Act
Material harm	Is harm that: <ul style="list-style-type: none"> • involves actual or potential harm to the health or safety of human beings or to the environment that is not trivial, or • results in actual or potential loss or property damage of an amount, or amounts in aggregate, exceeding \$10,000, (such loss includes the reasonable costs and expenses that would be incurred in taking all reasonable and practicable measures to prevent, mitigate or make good harm to the environment)
Minister	NSW Minister for Planning and Public Spaces (or delegate)
Non-compliance	An occurrence, set of circumstances or development that is a breach of this consent
OEH	NSW Office of Environment and Heritage
Operation	The use of the mixed use buildings upon completion of construction.

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PA	Means a planning agreement within the meaning of the term in section 7.4 of the EP&A Act.
Planning Secretary	Planning Secretary under the EP&A Act, or nominee
POEO Act	<i>Protection of the Environment Operations Act 1997</i>
Reasonable	Means applying judgement in arriving at a decision, taking into account: mitigation benefits, costs of mitigation versus benefits provided, community views, and the nature and extent of potential improvements.
Response to Submissions	The Applicant's response to issues raised in submissions received in relation to the application for consent for the development under the EP&A Act.
RMS	NSW Roads and Maritime Services
TfNSW	Transport for New South Wales

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SCHEDULE 2

ADMINISTRATIVE CONDITIONS

OBLIGATION TO MINIMISE HARM TO THE ENVIRONMENT

A1. In addition to meeting the specific performance measures and criteria in this consent, all reasonable and feasible measures must be implemented to prevent, and if prevention is not reasonable and feasible, minimise, any material harm to the environment that may result from the construction and operation of the development, and any rehabilitation required under this consent.

TERMS OF CONSENT

- A2. The development may only be carried out:
- (a) in compliance with the conditions of this consent
 - (b) in accordance with all written directions of the Planning Secretary
 - (c) in accordance with the EIS and Response to Submissions
 - (d) in accordance with the approved plans in the table below.

Architectural Drawings prepared by Hill Thalys and CKDS Architecture			
Sheet No.	Revision	Name of Drawing	Date
DA-001	E	Cover Sheet	23/01/20
DA-002	E	Site Context and Planning Controls	23/01/20
DA-003	E	Site Situations and Local Connections	23/01/20
DA-006	E	Site Plan	23/01/20
DA-006	G	Site Plan	01/07/20
DA-006	F	Site Plan	28/03/22
DA-007	E	Site Analysis	23/01/20
DA-008	G	GFA Calculations	28/05/20
DA-008	I	GFA Calculations	16/07/20
DA-008	G	GFA Calculations	13/05/21
DA-008	J	GFA Calculations	13/09/23
DA-009	G	GFA Calculations	28/05/20
DA-009	I	GFA Calculations	16/07/20
DA-009	I	GFA Calculations	13/09/23
DA-010	A	Car Parking Generation Summary	19/05/23
DA-101	L	Basement Level 02	23/01/20
DA-101	N	Basement Level 02	01/07/20
DA-101	R	Basement Level 02	19/07/21
DA-101	I	Basement Level 02	19/05/23
DA-102	N	Basement Level 01	02/06/20
DA-102	O	Basement Level 01	01/07/20
DA-102	S	Basement Level 01	19/07/21
DA-102	U	Basement Level 01	19/05/23
DA-103	L	Ground Floor	28/05/20
DA-103	N	Ground Floor	01/07/20

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DA-103	O	Ground Floor	13/05/21
DA-104	L	Typical Floor Plan (L1-6)	23/01/20
DA-104	O	Typical Floor Plan (L1-6)	01/07/20
DA-104	C	Level 01	19/05/23
DA-105	K	Level 07	23/01/20
DA-105	N	Level 07	01/07/20
DA-105	C	Level 02	19/05/23
DA-106	L	Level 8 / Roof	23/01/20
DA-106	O	Level 8 / Roof	01/07/20
DA-106	C	Level 03	19/05/23
DA-107	A	Roof	23/01/20
DA-107	C	Roof	01/07/20
DA-107	C	Level 04	19/05/23
DA-108	C	Level 05	19/05/23
DA-109	D	Level 06	19/05/23
DA-110	B	Level 01	11/04/22
DA-110	O	Level 07	19/05/23
DA-111	B	Level 02	11/04/22
DA-111	P	Level 08 / Roof	19/05/23
DA-112	B	Level 03	11/04/22
DA-113	B	Level 04	11/04/22
DA-114	B	Level 05	11/04/22
DA-115	C	Level 06	08/07/22
DA-201	E	Typical Unit Plans	23/01/20
DA-202	E	Typical Unit Plans	23/01/20
DA-202	G	Typical Unit Plans	01/07/20
DA-203	E	Typical Unit Plans	23/01/20
DA-203	G	Typical Unit Plans	01/07/20
DA-204	E	Typical Unit Plans	23/01/20
DA-204	G	Typical Unit Plans	01/07/20
DA-205	B	Typical Unit Plans	11/04/22
DA-206	B	Typical Unit Plans	19/05/23
DA-301	H	Proposed Elevations	23/01/20
DA-301	I	Proposed Elevations	01/07/20
DA-302	H	Proposed Elevations	23/01/20
DA-302	I	Proposed Elevations	01/07/20
DA-302	K	Proposed Elevations	19/05/23
DA-303	H	Proposed Elevations	23/01/20

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DA-303	I	Proposed Elevations	01/07/20
DA-304	H	Proposed Elevations	23/01/20
DA-304	I	Proposed Elevations	01/07/20
DA-401	H	Sections A & B	23/01/20
DA-401	I	Sections A & B	01/07/20
DA-402	F	Section C	23/01/20
DA-402	G	Section C	01/07/20
DA-501	F	Elevation Studies	23/01/20
DA-502	F	Elevation Studies	23/01/20
DA-503	F	Elevation Studies	23/01/20
DA-504	E	Elevation Studies	23/01/20
DA-505	E	Elevation Studies	23/01/20
DA-506	E	External Materials and Colours	23/01/20
DA-507	A	Signage Details	23/01/20
DA-508	A	Signage Details	23/01/20
DA-700	F	Area Schedule	23/01/20
DA-700	G	Area Schedule	01/07/20
DA-700	G	Area Schedule	19/02/21
DA-700	I	Area Schedule	08/07/22
DA-704	F	Solar Analysis	28/03/22
DA-705	F	Solar Analysis	28/03/22
DA-706	F	Cross Ventilation Analysis	28/03/22
DA-707	F	Cross Ventilation Analysis	28/03/22
Landscape Drawings prepared by Jane Irwin Landscape Architecture			
Sheet No.	Revision	Name of Drawing	Date
LA-01	F	Landscape Concept Plan	07/02/20
LA-02	D	Landscape Sections 01	16/05/19
LA-02	D	Landscape Sections 02	22/01/20
LA-03	D	Landscape Sections 03	22/01/20

- A3. Consistent with the requirements in this consent, the Planning Secretary may make written directions to the Applicant in relation to:
- (a) the content of any strategy, study, system, plan, program, review, audit, notification, report or correspondence submitted under or otherwise made in relation to this consent, including those that are required to be, and have been, approved by the Planning Secretary; and
 - (b) the implementation of any actions or measures contained in any such document referred to in condition A3(a).
- A4. The conditions of this consent and directions of the Planning Secretary prevail to the extent of any inconsistency, ambiguity or conflict between them and a document listed in condition A2(c) ~~or Error! Reference source not found.~~ In the event of an inconsistency, ambiguity or conflict between any of the documents listed in condition A2(c) ~~and Error! Reference source not found.~~, the most recent document prevails to the extent of the inconsistency, ambiguity or conflict.

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LAPSING OF APPROVAL

A5. This consent will lapse five years from the date of consent unless the works associated with the development have physically been commenced.

LIMITS ON CONSENT

A6. This consent does not approve:

- (a) Strata subdivision
- (b) Retail premises including food and drink premises' fit-out and hours of operation. Future development application(s) must consider the impacts of hours of operation on the amenity of the dwellings on the site and adjoining properties.
- (c) Business premises' fit-out and hours of operation
- (d) Office premises' fit-out and hours of operation
- (e) Outdoor seating areas.

Separate development application(s) must be lodged and consent obtained for the above works and uses (except where exempt and complying development applies).

PRESCRIBED CONDITIONS

A7. The Applicant must comply with all relevant prescribed conditions of development consent under Part 6, Division 8A of the EP&A Regulation.

LONG SERVICE LEVY

A8. For work costing \$25,000 or more, a Long Service Levy must be paid. For further information please contact the Long Service Payments Corporation Helpline on 131 441.

LEGAL NOTICES

A9. Any advice or notice to the consent authority shall be served on the Planning Secretary.

EVIDENCE OF CONSULTATION

A10. Where conditions of this consent require consultation with an identified party, the Applicant must:

- (a) consult with the relevant party prior to submitting the subject document to the Planning Secretary for approval; and
- (b) provide details of the consultation undertaken including
 - (i) the outcome of that consultation, matters resolved and unresolved
 - (ii) details of any disagreement remaining between the party consulted and the Applicant and how the Applicant has addressed the matters not resolved.

STRUCTURAL ADEQUACY

A11. All new buildings and structures, and any alterations or additions to existing buildings and structures, that are part of the development, must be constructed in accordance with

- (a) the relevant requirements of the BCA;
- (b) any additional requirements of the Subsidence Advisory NSW where the building or structure is located on land within a declared Mine Subsidence District.

Notes:

- Under Part 6 of the EP&A Act, the Applicant is required to obtain construction and occupation certificates for the proposed building works.
- Part 8 of the EP&A Regulation sets out the requirements for the certification of the development.
- Under section 21 of the Coal Mine Subsidence Compensation Act 2017, the Applicant is required to obtain the Chief Executive of Subsidence Advisory NSW's approval before carrying out certain development in a Mine Subsidence District.

OPERATION OF PLANT AND EQUIPMENT

A12. All plant and equipment used on site, or to monitor the performance of the development must be:

- (a) maintained in a proper and efficient condition; and
- (b) operated in a proper and efficient manner.

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APPLICABILITY OF GUIDELINES

- A13. References in the conditions of this consent to any guideline, protocol, Australian Standard or policy are to such guidelines, protocols, Standards or policies in the form they are in as at the date of this consent.
- A14. However, consistent with the conditions of this consent and without altering any limits or criteria in this consent, the Planning Secretary may, when issuing directions under this consent in respect of ongoing monitoring and management obligations, require compliance with an updated or revised version of such a guideline, protocol, Standard or policy, or a replacement of them.

MONITORING AND ENVIRONMENTAL AUDITS

- A15. Any condition of this consent that requires the carrying out of monitoring or an environmental audit, whether directly or by way of a plan, strategy or program, is taken to be a condition requiring monitoring or an environmental audit under Division 9.4 of Part 9 of the EP&A Act. This includes conditions in respect of incident notification, reporting and response, non-compliance notification and independent environmental auditing.

Note: For the purposes of this condition, as set out in the EP&A Act, “monitoring” is monitoring of the development to provide data on compliance with the consent or on the environmental impact of the development, and an “environmental audit” is a periodic or particular documented evaluation of the development to provide information on compliance with the consent or the environmental management or impact of the development.

INCIDENT NOTIFICATION, REPORTING AND RESPONSE

- A16. The Department must be notified in writing to compliance@planning.nsw.gov.au immediately after the Applicant becomes aware of an incident. The notification must identify the development (including the development application number and the name of the development if it has one), and set out the location and nature of the incident.
- A17. Subsequent notification must be given and reports submitted in accordance with the requirements set out in Appendix 1.

NON-COMPLIANCE NOTIFICATION

- A18. The Department must be notified in writing to compliance@planning.nsw.gov.au within seven days after the Applicant becomes aware of any non-compliance. The PCA must also notify the Department in writing to compliance@planning.nsw.gov.au within seven days after they identify any non-compliance.
- A19. The notification must identify the development and the application number for it, set out the condition of consent that the development is non-compliant with, the way in which it does not comply and the reasons for the non-compliance (if known) and what actions have been, or will be, undertaken to address the non-compliance.
- A20. A non-compliance which has been notified as an incident does not need to also be notified as a non-compliance.

REVISION OF STRATEGIES, PLANS AND PROGRAMS

- A21. Within three months of:
- the submission of a compliance report under condition C33 or [Error! Reference source not found;](#)
 - the submission of an incident report under condition A17;
 - the submission of an Independent Audit under condition C37 or C39;
 - the approval of any modification of the conditions of this consent; or
 - the issue of a direction of the Planning Secretary under condition A2 which requires a review,
- the strategies, plans and programs required under this consent must be reviewed, and the Department must be notified in writing that a review is being carried out.
- A22. If necessary to either improve the environmental performance of the development, cater for a modification or comply with a direction, the strategies, plans and programs required under this consent must be revised, to the satisfaction of the Planning Secretary. Where revisions are required, the revised document must be submitted to the Planning Secretary for approval within six weeks of the review.

Note: This is to ensure strategies, plans and programs are updated on a regular basis and to incorporate any recommended measures to improve the environmental performance of the development.

EASEMENTS

- ~~A23. Within 24 months after the date of this consent, an easement under section 88A and/or restriction or public positive covenant under section 88E of the Conveyancing Act 1919 naming Council as the prescribed authority, which can~~

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~~only be revoked, varied or modified with the consent of Council, and which provides for public access within and through the pedestrian through site links must be registered on title.~~

CPTED ASSESSMENT

~~A24. Prior to the issue of the relevant Construction Certificate and to the satisfaction of the certifying authority, an updated Crime Prevention Through Environmental Design (CPTED) Assessment must be prepared for the common property for the approved buildings. The CPTED Assessment is to provide recommendations that are to be incorporated into the Construction Certificate drawings on measures to be adopted for passive surveillance, access control and other security and crime prevention.~~

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PART B – PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

NO WORKS PRIOR TO CONSTRUCTION CERTIFICATE

B1. Work must not commence until a Construction Certificate in respect of the work has been issued.

DESIGN AMENDMENTS

- B2. Prior to the issue of any Construction Certificate, the following amendments and details must be submitted to and approved by Planning Secretary and shall be incorporated into the relevant Construction Certificate drawings:
- (a) fencing and gates at the northern and southern ends of the two through-site links, as identified in notation 12 in Landscape Plan LA-01 are to be documented as 80x12mm x 1800mm high aluminium fins at 100mm spacing open in the direction of view to Hunter River.
 - (b) amended basement plans containing the following related to car parking spaces:
 - (i) a maximum of ~~183 186~~ **211** on-site car parking spaces comprising:
 - maximum ~~149 151 167~~ **192** residential car parking spaces, ~~comprising 1 space per 1-bedroom apartment and 1.4 spaces per 2 and 3 bedroom apartment~~
 - ~~adopting the above parking rates, a maximum 2 car parking spaces are to be allocated to any one apartment~~
 - **23 10** residential visitor car parking spaces
 - **11 9 shared use** commercial/residential visitor car parking spaces ~~including 1 service /loading space~~
 - **1 service/loading vehicle space**
 - (ii) each car parking space must not accommodate more than one vehicle.
 - (iii) the location of all residential visitor car parking spaces (including shared use commercial/residential spaces) to adjoin, be directly opposite from or adjacent to lift entrances on Basement Level 1.
 - (c) on-site provision for loading by medium rigid vehicles and Council's heavy rigid waste collection vehicles unless documentary evidence is submitted demonstrating the nominated Loading Zone on Honeysuckle Drive is approved by the Newcastle Traffic Committee.
 - (d) amended Site Analysis Plan DA-007 removing references to pedestrian through site links

EXTERNAL WALLS AND CLADDING

- B3. The external walls of all buildings including additions to existing buildings must comply with the relevant requirements of the BCA.
- B4. Before the issue of a Construction Certificate and an Occupation Certificate, the Applicant must provide the Certifying Authority with documented evidence that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the requirements of the BCA.
- B5. The Applicant must provide a copy of the documentation given to the Certifying Authority to the Planning Secretary within seven days after the Certifying Authority accepts it.

WAYFINDING SIGNAGE

- B6. Wayfinding signage in visually prominent areas shall be included in the Construction Certificate documentation to the satisfaction of the Certifying Authority. Signage must give directions and distance to nearby facilities such as tram stops, train station, busses, ferry and other key public facilities. Signage design and installation must be consistent with Honeysuckle Public Domain designs in the Precinct.

END OF TRIP FACILITIES

- B7. End-of-trip facilities for staff of the commercial and retail tenancies in accordance with the requirements of Newcastle Development Control Plan 2012 shall be incorporated into the Construction Certificate documentation. At least 6 lockers and 1 shower and ancillary change room shall be included which are secure with controlled access and located in a well-lit area close to the bicycle parking.

DEVELOPMENT CONTRIBUTIONS

- B8. A ~~total~~ monetary contribution ~~of \$1,782,055.77~~, comprising 3% of the cost of the development ~~of \$59,401,859~~, is to be paid to City of Newcastle (CN), pursuant to Section 7.12 of the *Environmental Planning and Assessment Act*

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1979, such contribution to be payable prior to the issue of the first Occupation Certificate for the proposed development. ~~An updated cost of development report is to be supplied to City of Newcastle to determine the amount of the contribution prior to the issue of any Construction Certificate~~

Certifiers are required to obtain a document from Council confirming the payment of infrastructure contributions prior to the issuing of an occupation certificate. An Occupation Certificate shall not be issued unless CN has confirmed in writing all contributions have been paid.

Deferred contributions prior to the issue of the first occupation certificate applies from publication in the Gazette (8 July 2020) until 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, in which case the monetary contribution must be paid before the issue of the first construction certificate after that date for any such building.

Note:

- a) This condition is imposed in accordance with the provisions of CN's Section 7.12 Newcastle Local Infrastructure Contributions Plan 2019 (Updated Dec 2020).
- b) The 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.
- c) An occupation certificate will not be issued for developments with any outstanding contributions.
- d) The amount of contribution payable under this condition will be calculated on the basis of the current rate as at the date of consent and is based on the most recent quarterly Consumer Price Index (CPI) release made available by the Australian Bureau of Statistics (ABS). The CPI index rate is expected to rise at regular intervals and therefore the actual contribution payable is indexed and recalculated at the CPI rate applicable on the day of payment.

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

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

Any party intending to act on this consent should contact CN's Customer Enquiry Centre on 4974 2000 or mail@ncc.nsw.gov.au for determination of the indexed amount of contribution on the date of payment.

~~B9. Prior to the issue of a Construction Certificate for works other than for demolition, ground works and mine subsidence, a bank guarantee is to be provided to CN for the full amount of the contribution and otherwise in accordance with the following requirements:~~

- ~~(a) The bank guarantee is to be issued by an Australian bank or a bank in Australia for the amount of the total contribution, plus an amount equal to thirteen (13) months interest.~~
- ~~(b) Any charges associated with establishing or operating the bank security are payable by the Applicant.~~
- ~~(c) The bank guarantee must carry specific wording identifying the exact obligation to which it relates (i.e. section 7.12 development contributions for development of proposed Lot 4 in Plan of Subdivision of Lot 40 DP1251908 under Development Consent No.9827)~~
- ~~(d) The bank unconditionally pays the guaranteed sum to CN if CN so demands in writing not earlier than 12 months from the provision of the guarantee.~~
- ~~(e) The bank must pay the guaranteed sum without reference to the Applicant or landowner or other person who provided the guarantee, and without regard to any dispute, controversy, issue or other matter relating to the development consent or the carrying out of development.~~
- ~~(f) The bank's obligations are discharged when payment to CN is made in accordance with the guarantee or when CN notifies the bank in writing that the guarantee is no longer required.~~

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~~(g) Where a bank guarantee has been deposited with CN, the guarantee shall not be cancelled until such time as the original contribution and accrued interest are paid.~~

Notes:

- ~~• This condition is imposed in accordance with the provisions of the City of Newcastle's Section 7.12 Newcastle Local Infrastructure Contributions Plan 2019.~~
- ~~• 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 provided below. Indexation quarters from the ABS are as follows:~~

Indexation quarters	Approx. 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~~

COMPLIANCE WITH THE BUILDING CODE OF AUSTRALIA (BCA)

B10. Details shall be provided to the satisfaction of the Certifying Authority, with the application for the relevant Construction Certificate, which demonstrate that the proposal complies with the prescribed conditions of consent under Clause 98 of the *Environmental Planning and Assessment Regulation 2000* in relation to the requirements of the Building Code of Australia (BCA).

STRUCTURAL DETAILS

B11. Prior to the issue of the relevant Construction Certificate, the Applicant shall submit to the satisfaction of the Certifying Authority structural drawings prepared and signed by a suitably qualified practising Structural Engineer that demonstrate compliance with:

- a) the relevant clauses of the BCA; and
- b) the development consent.

LIVEABLE HOUSING

B12. Prior to the issue of the relevant Construction Certificate, the Certifying Authority is to ensure that the building has been designed to accommodate a minimum of 20% of residential dwellings able to comply with Liveable Housing Australia's Liveable Housing Design Guidelines for silver standard dwellings and that the requirements are referenced on the relevant Construction Certificate drawings. In addition, information shall be provided confirming:

- a) car parking spaces allocated to the liveable dwellings comply with the Liveable Housing Design Guidelines
- b) the required number of apartments are able to be adapted for people with a disability in accordance with the BCA; and
- c) ~~compliance with Australian Standard AS2499 - Adaptable Housing.~~

ACCESS FOR PEOPLE WITH DISABILITIES

B13. The building must be designed and constructed to provide access and facilities for people with a disability in accordance with the Building Code of Australia. The Certifying Authority must ensure that evidence of compliance with this condition from an appropriately qualified person is provided and that the requirements are referenced on the relevant Construction Certificate drawings.

DESIGN VERIFICATION

B14. A 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

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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 Apartment Development*.

BASIX CERTIFICATION

- B15. The development must be implemented and all BASIX commitments thereafter maintained in accordance with BASIX Certificate No 1012649M_02 and an updated certificate issued if amendments are made. The BASIX certificate must be submitted to the Certifying Authority with all commitments clearly shown on the Construction Certificate plans.

COMPLIANCE WITH ACOUSTIC REPORT

- B16. The performance parameters, requirements, engineering assumptions and recommendations contained in the Acoustic Assessment Report (Reverb Acoustics dated April 2019), must be implemented as part of the detailed design assessment and implemented into the design drawings prior to the commencement of the use of the premises, to the satisfaction of the Certifying Authority.
- B17. In order to minimise noise impacts from port operations and traffic along Honeysuckle Drive to residents of the development, the window glazing requirements in Table 16 of the Acoustic Assessment Report are to be documented in the Construction Certificate application.
- B18. Prior to the issue of any Construction Certificate, the construction drawings and construction methodology must be assessed and certified by a suitably qualified acoustic consultant to be in accordance with the requirements of the aforementioned report.

MECHANICAL PLANT NOISE MITIGATION

- B19. Details of noise mitigation measures for all mechanical plant are to be detailed on the Construction Certificate drawings. Certification from an appropriately qualified acoustic engineer that the proposed measures will achieve compliance with the requirements of the NSW Industrial Noise Policy and other guidelines applicable to the development is required to be submitted to the Certifying Authority prior to the issue of the relevant Construction Certificate.

VEHICULAR ACCESS

- B20. The vehicular access driveways (including, but not limited to, the ramp grades and height clearances) are to be in accordance with the requirements of AS2890.1:2004 and AS2890.2:2002. Plans demonstrating compliance with these requirements must be submitted to the Certifying Authority prior to the issue of the relevant Construction Certificate.
- B21. All vehicles shall enter and leave the site in a forward direction
- B22. Car park entry/exits shall be designed in such a manner as to ensure that the future queuing areas and capacity requirements comply with Appendix D of AS 2890.1-2004.
- B23. Car parking is to be set out generally in accordance with the minimum parking layout standards indicated in Section 'Traffic, Parking and Access' of the Newcastle Development Control Plan 2012. Full details are to be included in documentation for a Construction Certificate application.
- B24. Traffic management devices in the form of *Stop* and *Give way to pedestrian* signs and line marking are to be installed at the entry of the proposed driveway within the property. 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.
- B25. The car park (including driveways, ramps, grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) shall 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* and AS2920.2-202 for heavy vehicles where applicable. Full details are to be included in documentation for a Construction Certificate application.

CAR PARKING

- B26. The development is subject to the following:
- (a) maximum ~~449~~ ~~151~~ ~~167~~ **192** residential car parking spaces,
~~comprising:(i) 1 space per 1 bedroom apartment~~

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- (ii) ~~1.4 spaces per 2 and 3 bedroom apartment~~
adopting the above car parking rates;
- (b) ~~a maximum of 2 car parking spaces are to be allocated to any one apartment.~~
- (b) ~~23 40 9~~ residential visitor car parking spaces
- (c) ~~44 9 shared use~~ commercial/residential visitor premises car parking spaces ~~including 1 service / loading space~~
- (d) 1 service/loading vehicle space
- (e) 11 motorcycle parking spaces.

B27. Residential visitor parking spaces must be allocated, marked out on the pavement surface, clearly signposted and designed and registered as common property on any Strata Plan. Full details are to be included in the Construction Certificate drawings/documentation.

BICYCLE PARKING

B28. The development shall provide a minimum of:

- (a) ~~140~~ 101 resident bicycle parking spaces
- (b) 14 visitor bicycle parking spaces
- (c) 6 commercial and retail bicycle parking spaces.

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

B29. The layout, design and security of bicycle facilities either on-street or off-street must be designed to comply with the minimum requirements of AS/NZS 2890.3:1993: *Parking facilities Part 3: Bicycle Parking Facilities*, except that.

- (a) all bicycle parking for occupants of residential buildings must be Class 1 bicycle lockers
- (b) all bicycle parking for staff/employees of any land uses must be Class 2 bicycle facilities
- (c) all bicycle parking for visitors of any land uses must be Class 3 bicycle rails.

HUNTER WATER NOTICE OF REQUIREMENTS

B30. An application shall be made to Hunter Water for a Certificate under Section 50 of the *Hunter Water Corporation Act 1991* prior to the issue of any Construction Certificate. 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.

B31. A copy of the Hunter Water Corporation's abovementioned Section 50 certificate of compliance is to be included in the documentation for a Construction Certificate application.

FLOOD MANAGEMENT

B32. On site refuge is to be provided for the proposed development. The minimum refuge level is to be the level of the Probable Maximum Flood (PMF) (Local Catchment Flood Level RL3.40 to Australian Height Datum). On site refuge is to be easily accessible to all building users and visitors, to be structurally designed to resist the forces of the PMF and designed to cater for the number of people reasonably expected to be on the development site. Openings such as fire doors, exhaust ducts, car park air intake, vents and the like that could potentially allow for flood waters to enter the basement (except for carpark and access) are to be designed at PMF level. Full details are to be included in documentation for a Construction Certificate application.

B33. The development is subject to the habitable and non-habitable Flood Planning Levels (FPLs) contained within the Flooding Assessment prepared by Northrop, Revision E dated 1 June 2020.

B34. Full details are to be provided in the documentation for a Construction Certificate application demonstrating:

- (a) the whole of the proposed building/structure below the flood planning level is to be constructed of water-resistant materials and finishes that are resistant to damage from floodwaters.
- (b) electrical fixtures such as power points, light fittings and switches must be sited above the FPL unless they are on a separate circuit (with earth leakage protection) to the rest of the building.

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- (c) any new machinery or equipment, storage items or similar likely to be damaged by a flood reaching a peak flood level at or below the FPL, shall be installed above the FPL unless they are of materials and have the functional capacity resistant to the effects of floodwaters.

FLOOD EMERGENCY RESPONSE PLAN

B35. An appropriate flood emergency response plan is to be prepared by a consulting engineer, who is experienced in flood management, and put in place by the Applicant prior to occupation of the site for the intended use. Such plan is to be effectively updated and maintained by the occupiers, is to include an education and awareness component for the workforce and residents 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
- 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.

STORMWATER MANAGEMENT AND WATER QUALITY

- B36. All stormwater runoff from the proposed development must be 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 and stormwater plans prepared by Northrop Consulting Engineers. Full details are to be included in documentation for any Construction Certificate application.
- B37. All stormwater retention/detention and water quality treatment systems are to be individually identified and sign posted in accordance with Newcastle Stormwater and Water Efficiency for Development Technical Manual (Updated July 2017). Full details are to be included in documentation for a Construction Certificate application.
- B38. All new impervious surfaces, including driveways and paved areas are to be drained to the nominated discharge controls. Full details are to be provided with the Construction Certificate application.

PRE-CONSTRUCTION DILAPIDATION REPORTS

B39. The Applicant is to engage a qualified structural engineer to prepare a Pre-Construction Dilapidation Report detailing the current structural condition of all retained existing and adjoining buildings, above ground infrastructure and roads within the 'zone of influence'. Any entry into private land is subject to the consent of the owner(s) and any inspection of buildings on privately affected land shall include details of the whole building where only part of the building may fall within the 'zone of influence'. The report shall be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate. A copy of the report is to be forwarded to the Department, Council and each of the affected property owners.

OUTDOOR LIGHTING

B40. The proposed lighting 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 AS 4282: 1997 *Control of the obtrusive effects of outdoor lighting*. Full details are to be included in the documentation for a Construction Certificate. Details demonstrating compliance with these requirements are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the relevant Construction Certificate.

LANDSCAPE PLAN AND DEEP SOIL ZONES

B41. The proposed planting and landscape elements indicated on the submitted landscape concept plans or otherwise required under the conditions of this consent being implemented and comprehensive landscape design plans and

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specifications in respect thereof being prepared by a qualified landscape designer and being submitted with a Construction Certificate application.

Note: The required comprehensive landscape design plan and specifications is to be in accordance with the provisions of the Newcastle Development Control Plan, 2012 and is to include cross sections through the site where appropriate, proposed contours or spot levels, botanical names, quantities and container size of all proposed trees, shrubs and ground cover, details of proposed soil preparation, mulching and staking as well as treatment of external surfaces and retaining walls where proposed, drainage, location of taps and the nominated maintenance periods.

PUBLIC DOMAIN

- B42. The Applicant is to design and construct the following works within Honeysuckle Drive public road reserve adjacent to the site, at no cost to Newcastle City Council and in accordance with the *Newcastle City Centre Public Domain Manual' guidelines*, and City of Newcastle's design specifications:
- i. Install new full width foot paving, streetscape works and driveway. The footpath is to be designed as a shared path to allow for use by both cyclists and pedestrians and is to be coordinated with the adjoining developments including 35 Honeysuckle Drive.
 - ii. Install new street trees and verge areas in accordance with Council's requirements and adjust service pit levels to match new footpath level.
 - iii. Required parking signs, line markings, mandatory signage and any civil works associated with road and on-street parking infrastructure including design of any approved Loading Zone.
 - iv. Install new street furniture, including bicycle racks or rings and new seats and bins.
 - v. Install street lighting along the frontage and under awning lighting
 - vi. Install new driveway crossing
 - vii. Divert existing 450mm diameter CN stormwater pipe around the site, into the Honeysuckle Road reserve and the Cottage Creek floodway area, to discharge directly to the Newcastle harbour.

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

WORKS ZONE

- B43. Any parking changes associated with the provision of the works zone will need to be consulted with and approval attained from Newcastle City Council prior to the issue of a Construction Certificate. Council's Traffic Section can be contacted to discuss the proposal (traffic@ncc.nsw.gov.au).

TRAFFIC COMMITTEE APPROVAL

- B44. Any proposed changes to the parking layout and road signs will need to be consulted with and approval attained from the Newcastle City Traffic Committee (NCTC).

MAIL BOXES

- B45. The group type mailbox is to be provided at the street frontage near each building entrance in accordance with the requirements of Australia Post, clearly displaying individual unit numbers and the building number. Full details are to be included in the documentation for a Construction Certificate application.

MECHANICAL VENTILATION

- B46. All mechanical ventilation systems shall be installed in accordance with Part F4.5 of the Building Code of Australia and shall comply with Australian Standards AS1668.2 and AS3666 *Microbial Control of Air Handling and Water Systems of Building*, to ensure adequate levels of health and amenity to an occupants of the building and to ensure environment protection. Details shall be submitted to the satisfaction of the Certifying Authority prior to the issue of the relevant Construction Certificate.

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STORAGE AND HANDLING OF WASTE

B47. The waste collection pick-up services proposed to be undertaken by Newcastle City Council for the development are to be approved by Council's Waste Management Services prior to the issue of a Construction Certificate. If the waste services cannot be provided by Council, then the Applicant will need to engage a private contractor garbage collection service. Full details are to be included in documentation for a Construction Certificate application.

INSTALLATION OF EFFICIENT TAPS, TOILETS AND URINALS

B48. All taps and shower heads installed must be water efficient with at least a 4-star rating under the Water Efficiency and Labelling Scheme (WELS). The details must be submitted for the approval of the Certifying Authority, prior to issue of the relevant Construction Certificate.

B49. All toilets installed within the development must be of water efficient dual-flush capacity with at least a 4-star rating under the Water Efficiency and Labelling Scheme (WELS). The details must be submitted for approval by the Certifying Authority, prior to the issue of the relevant Construction Certificate.

B50. New urinal suites, urinals and urinal flushing control mechanisms must use waterless technology. Where it is submitted that this is not feasible, it must be demonstrated that products have been selected with at least a 4-star rating under the Water Efficiency and Labelling Scheme (WELS).

B51. Systems must include "smart controls" to reduce unnecessary flushing. Continuous flushing systems are not approved. Details are to be submitted to and approved by the Certifying Authority, prior to the issue of the relevant Construction Certificate.

REFLECTIVITY

B52. The building materials used on the facades of the buildings shall have a maximum normal specular reflectivity of visible light of 20 per cent and shall be designed so as not to result in glare that causes any discomfort or threatens the safety of pedestrians or drivers. A report/statement demonstrating compliance with these requirements is to be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for above ground façade works.

GROUNDWATER AND DESIGN

B53. The design and construction of the building must prevent any take of groundwater after the authorisation from the Natural Resource Access Regulator (NRAR) within the Department of Industry – Lands and Water has lapsed by making any below-ground levels that may be impacted by any water table fully watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high water table elevations to prevent future inundation. Details demonstrating compliance with these requirements must be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

B54. Sufficient permanent drainage must be provided beneath and around the outside of the watertight structure to ensure that natural groundwater flow is not impeded and:

- i) Any groundwater mounding at the edge of the structure must be at a level not greater than 10% above the level to which the water table might naturally rise in the location immediately prior to the construction of the structure
- ii) Elevated water table must be more than 1 m below the existing natural ground surface to prevent water penetrating surface areas
- iii) Where the habitable part of the structure (not being footings or foundations) is founded in bedrock or impermeable natural soil then the requirement to maintain groundwater flows beneath the structure is not applicable.

B55. Construction methods and material used in construction must be designed to account for the likely range of salinity and pollutants which may be dissolved in groundwater and must not themselves cause pollution of groundwater. Details demonstrating compliance with these requirements must be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

HERITAGE INTERPRETATION PLAN

B56. Prior to the issue of any Construction Certificate, a Heritage Interpretation Plan must be prepared to the satisfaction of the Certifying Authority to articulate the storied layers of:- indigenous occupation, 19th century industrialisation, foreshore reclamation, and post-1941 portside wharfage, stevedoring and cargo transhipment.

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PART C - PRIOR TO COMMENCEMENT OF WORKS

NOTIFICATION OF COMMENCEMENT

- C1. The Department must be notified in writing of the dates of commencement of physical work and operation at least 48 hours before those dates.
- C2. If the construction or operation of the development is to be staged, the Department must be notified in writing at least 48 hours before the commencement of each stage, of the date of commencement and the development to be carried out in that stage.

DEMOLITION

- C3. Demolition work must comply with *Australian Standard AS 2601-2001 The demolition of structures* (Standards Australia, 2001). The work plans required by AS 2601-2001 must be accompanied by a written statement from a suitably qualified person that the proposals contained in the work plan comply with the safety requirements of the Standard. The work plans and the statement of compliance must be submitted to the Certifying Authority before the commencement of works.

COMMUNITY COMMUNICATION STRATEGY

- C4. A Community Communication Strategy must be prepared to provide mechanisms to facilitate communication between the Applicant, the relevant Council and the community (including adjoining affected landowners and businesses, and others directly impacted by the development), during the design and construction of the development and for a minimum of 12 months following the completion of construction.

The Community Consultation Strategy must:

- (a) Identify people to be consulted during the design and construction phases
- (b) Set out procedures and mechanisms for the regular distribution of accessible information about or relevant to the development
- (c) Provide for the formation of community-based forums, if required, that focus on key environmental management issues for the development
- (d) Set out procedures and mechanisms:
- (i) Through which the community can discuss or provide feedback to the Applicant
- (ii) Through which the Applicant will respond to enquiries or feedback from the community
- (iii) To resolve any issues and mediate any disputes that may arise in relation to construction and operation of the development, including any disputes regarding rectification or compensation.

The Community Communications Strategy must be submitted to the Secretary for approval no later than one month before the commencement of any work.

Work for the purposes of the development must not commence until the Community Communication Strategy has been approved by the Secretary, or within another timeframe agreed with the Secretary.

The Community Communication Strategy, as approved, by the Secretary, must be implemented for a minimum of 12 months following completion of construction.

CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN (CEMP)

- C5. Prior to the commencement of any works on site, a Construction Environmental Management Plan (CEMP) shall be submitted to the Certifying Authority. The CEMP shall address, but not be limited to, the following matters where relevant:
- a) hours of work
- b) 24 hour contact details of site manager and details of complaint handling
- c) traffic management
- d) construction noise and vibration management, prepared by a suitably qualified person
- e) management of dust to protect the amenity of the neighbourhood

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- f) erosion and sediment control
- g) measures to ensure that sediment and other materials are not tracked onto the roadway by vehicles leaving the Site
- h) details of specific measures
- i) works in accordance with any remedial works plan
- j) air quality management including issues associated with odour, minimising dust on site and prevention of dust from leaving the site during construction works
- k) incorporation of all acoustic management and treatments.

The CEMP must not include works that have not been explicitly approved in the development consent. In the event of any inconsistency between the consent and the CEMP, the consent shall prevail.

The Applicant shall submit a copy of the CEMP to the Planning Secretary and Council prior to the commencement of work.

CONSTRUCTION TRAFFIC MANAGEMENT PLAN

- C6. A Construction Traffic Management Plan (CTMP) 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.
- C7. The CTMP is to include 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 City Centre and utilise shuttle buses for the transportation of construction personnel and their equipment to the site.
- C8. The Plan is to be submitted to Newcastle City Council for approval prior to the commencement of works and is to be implemented during the construction phase.

CONSTRUCTION NOISE AND VIBRATION MANAGEMENT PLAN (CNVMP)

- C9. Prior to the commencement of construction activities, a detailed Construction Noise and Vibration Management Plan (CNVMP) shall be prepared by a suitably qualified person (who is eligible for membership of the Australian Acoustic Society, Institute of Engineers Australia or the Australian Association of Acoustic Consultants) and submitted to the Certifying Authority. The CNVMP shall include, but not be limited to:
 - a) identification of each work area, site compound and access route (both private and public)
 - b) identification of the specific activities that will be carried out and associated noise sources at the premises and access routes
 - c) identification of all potentially affected sensitive receivers
 - d) the construction noise objectives identified in accordance with the *Interim Construction Noise Guidelines* (DECC 2009) and Council's Construction Hours / Noise Code of Practice 1992
 - e) assessment of potential noise and vibration from the proposed construction methods (including noise from construction traffic) against the objectives identified in (d)
 - f) where the objectives are predicted to be exceeded an analysis of feasible and reasonable noise mitigation measures that can be implemented to reduce construction noise impacts
 - g) description of management methods and procedures and specific noise mitigation treatments that will be implemented to control noise and vibration during construction, including the early erection of operational noise control barriers
 - h) procedures for notifying residents of construction activities that are likely to affect their noise and vibration amenity
 - i) measures to monitor noise performance and respond to complaints.

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CONSTRUCTION WASTE MANAGEMENT PLAN (CWMP)

- C10. Prior to the commencement of any works on site, a detailed Construction Waste Management Plan (CWMP) prepared by a suitably qualified person, in consultation with Council, shall be submitted to the Certifying Authority. The CWMP shall address, but not be limited to, the following matters:
- recycling of demolition materials including concrete
 - removal of hazardous materials and disposal an approved waste disposal facility in accordance with the requirements of the relevant legislation, codes, standards and guidelines, prior to the commencement of any building works.
- C11. The Applicant shall submit a copy of the CWMP to the Planning Secretary and Council prior to commencement of work.
- C12. Details demonstrating compliance with the relevant legislative requirements, associated with the removal of hazardous waste, particularly the method of containment and control of emission of fibres to the air, are to be submitted to the satisfaction of the Certifying Authority prior to the removal of any hazardous materials.

VEHICULAR CROSSINGS

- C13. A commercial/industrial type vehicular crossing is to be constructed across the road reserve, in accordance with the following criteria:
- Constructed in accordance with Newcastle City Council's A374 – Driveway Crossings Standard Design Details.
 - 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 metre splay within the property boundary each side of the driveway entrance.
 - The proposed driveway shall be a minimum of 3 metres clear of the trunk of any tree within the public reserve.
 - The proposed driveway shall be a minimum of 750 mm clear of the centre of any pole or obstruction within the public reserve and 1 metre clear of any drainage pit.
 - Driveway cross-fall over the footpath is to be a maximum of 2.5%.

These works are not approved until consent under section 138 of the *Roads Act 1993* has been granted by Newcastle City Council. An application under section 138 of the *Roads Act 1993* must be applied for and approved before the commencement of works. The application for the driveway can be done with the Public Domain Works Roads Act 1993 Section 138 Type 2 application with Council.

WORKS WITHIN THE ROAD CORRIDOR

- C14. A separate application must be lodged and consent obtained from Newcastle City Council for all works within the road reserve pursuant to section 138 of the *Roads Act 1993*, before the commencement of works.

MINE SUBSIDENCE

- C15. Prior to and during works, the development is to comply with the approval and all conditions issued under section 15 of the *Mine Subsidence Compensation Act 1961* No.22, by Subsidence Advisory NSW. Any conditions issued as part of the approval/certification by Subsidence Advisory NSW will also form part of the consent conditions that the Applicant is required to comply with.

CERTIFIED PLANS

- C16. Certification is to be prepared by a Registered Surveyor and submitted to the Certifying Authority at the stages of the construction indicated:
- On completion of ground floor construction, confirming that the floor levels are in accordance with the approved levels
 - On completion of each subsequent floor level, confirming that the floor levels are in accordance with the approved levels
 - When the roof has been completed, confirming that the building does not exceed the approved levels.

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INSURANCE

- C17. In the case of residential building work for which the Home Building Act 1989 (NSW) requires there to be a contract of insurance in force in accordance with Part 6 of that Act, such as contract of insurance is to be in force before any building work authorised to be carried out by this consent commences.

EROSION AND SEDIMENT CONTROL

- C18. Erosion and sediment control measures are to be implemented prior to the commencement of works and 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. The Erosion and Sediment Control Plan shall satisfy the requirements of *Managing Urban Stormwater: Soils and Construction 4th Edition - Vol. 1* (the "Blue Book") published by Landcom, 2004 and Newcastle City Council's Technical Manual: Stormwater and Water Efficiency for Development 2013. Controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover.

DE-WATERING MANAGEMENT PLAN

- C19. Prior to construction works commencing the developer is to submit to Council for approval a de-watering management plan. The plan is to be prepared by an appropriately qualified environmental consultant and demonstrate that water pollution will not occur as a result of dewatering activities. Should the use of stormwater infrastructure of Newcastle City Council be proposed for de-watering purposes, de-watering is not to commence until Council is notified and agreement is provided such that Council can confirm it is satisfied with the proposed impacts and reduced capacity upon its stormwater assets during dewatering activities.

GROUNDWATER EXTRACTION LICENCE

- C20. Prior to construction works commencing, a temporary groundwater extraction licence must be obtained from the Natural Resource Access Regulator (NRAR), within the Department of Industry – Lands and Water.
- C21. An authorisation must be obtained for the take of groundwater as part of the activity. Groundwater must not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the Development Application.
- C22. Groundwater testing of samples taken from outside the footprint of the proposed construction, with the intent of ensuring as far as possible the natural and contaminant hydrochemistry of the potential dewatered groundwater is understood, must be conducted on a suitable number of samples and tested at a certified laboratory.
- C23. Details of sampling locations and the protocol used, together with the test results must be accompanied by laboratory test certificates. As assessment of the results must be done by suitably qualified persons with the intent of identifying the presence of any contaminants and comparison of the data against accepted water quality objectives or criteria for the intended dewatering purpose. In the event of adverse quality findings, a plan must be developed to mitigate the impacts of the hydrochemistry on the dewatered groundwater.
- C24. The method of disposal of pumped water must be nominated (i.e. reinjection, drainage to the stormwater system or discharge to sewer) and a copy of the written permission from the relevant controlling authority must be provided in a report to be provided to the Natural Resource Access Regulator with the application for the authorisation. The disposal of any contaminated pumped groundwater (sometimes called tailwater) must comply with the provisions of the *Protection of the Environment Operations Act 1997* and any requirements of the relevant controlling authority.
- C25. Contaminated groundwater (i.e. above appropriate NEPM 2013 thresholds) must not be reinjected into any aquifer. The reinjection system design and treatment methods to remove contaminants, if proposed, must be nominated and included in a report to be provided to the Natural Resource Access Regulator with the application for authorisation. The quality of any pumped water that is to be reinjected must be demonstrated to be compatible with, or improve, the intrinsic or ambient groundwater in the vicinity of the site.

GROUNDWATER MANAGEMENT AND MONITORING PLAN

- C26. Prior to construction works commencing, the developer is to prepare a groundwater management and monitoring plan. The plan is to be prepared by an appropriately qualified environmental consultant in accordance with the requirements of Department of Industry – Lands and Water.

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CONTACT TELEPHONE NUMBER

C27. Prior to the commencement of the works, the Applicant shall forward to the Certifying Authority a 24 hour telephone number to be operated for the duration of the construction works.

UTILITY SERVICES

C28. Prior to the commencement of work the Applicant is to obtain written approval from the utility authorities (electricity supply authority, an approved telecommunications carrier and an approved gas carrier, where relevant) in connection with the relocation and/or adjustment of the services affected by the construction of the underground structure. Any costs in the relocation, adjustment or support of services are to be the responsibility of the Applicant.

C29. Prior to the commencement of work the Applicant is to obtain written advice from an electricity supply authority, an approved telecommunications carrier and an approved gas carrier (where relevant) that satisfactory arrangements are in place to ensure provision of adequate services.

BARRICADE PERMIT

C30. Where construction/building works require the use of a public place including a road or footpath, approval under section 138 of the *Roads Act 1993* for a Barricade Permit is to be obtained prior to the commencement of work. Details of the barricade construction, area of enclosure and period of work are required to be submitted to the satisfaction of the relevant road authority.

HOARDING

C31. An application is to be made to and approved by Newcastle City 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.

ACCESS TO INFORMATION

C32. At least 48 hours before the commencement of construction until the completion of all works under this consent, or such other time as agreed by the Planning Secretary, the Applicant must:

- (a) make the following information and documents (as they are obtained or approved) publicly available on its website:
 - (i) the documents referred to in condition A2 of this consent;
 - (ii) all current statutory approvals for the development;
 - (iii) all approved strategies, plans and programs required under the conditions of this consent;
 - (iv) regular reporting on the environmental performance of the development in accordance with the reporting arrangements in any plans or programs approved under the conditions of this consent;
 - (v) a comprehensive summary of the monitoring results of the development, reported in accordance with the specifications in any conditions of this consent, or any approved plans and programs;
 - (vi) a summary of the current stage and progress of the development;
 - (vii) contact details to enquire about the development or to make a complaint;
 - (viii) a complaints register, updated monthly;
 - (ix) audit reports prepared as part of any independent environmental audit of the development and the Applicant's response to the recommendations in any audit report;
 - (x) any other matter required by the Planning Secretary; and
- (b) keep such information up to date, to the satisfaction of the Planning Secretary.

COMPLIANCE REPORTING

C33. Compliance Reports of the project must be carried out in accordance with the Compliance Reporting Requirements outlined in the Compliance Reporting Post Approval Requirements (2020).

C34. Compliance Reports must be submitted to the Department in accordance with the timeframes set out in the Compliance Reporting Post Approval Requirements (2020), unless otherwise agreed to by the Planning Secretary.

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- C35. The Applicant must make each Compliance Report publicly available 60 days after submitting it to the Planning Secretary, unless otherwise agreed by the Planning Secretary.
- C36. Notwithstanding the requirements of the Compliance Reporting Post Approval Requirements (2020), the Planning Secretary may approve a request for ongoing annual operational compliance reports to be ceased, where it has been demonstrated to the Planning Secretary's satisfaction that an operational compliance report has demonstrated operational compliance.

INDEPENDENT ENVIRONMENTAL AUDIT

- C37. Independent Audits of the development must be conducted and carried out in accordance with the Independent Audit Post Approval Requirements (2020).
- C38. Proposed independent auditors must be agreed to in writing by the Planning Secretary prior to the commencement of an Independent Audit.
- C39. The Planning Secretary may require the initial and subsequent Independent Audits to be undertaken at different times to those specified above, upon giving at least 4 weeks' notice (or timing) to the Applicant of the date upon which the audit must be commenced.
- C40. In accordance with the specific requirements in the Independent Audit Post Approval Requirements (2020), the Applicant must:
- (a) review and respond to each Independent Audit Report prepared under Condition C37 of this consent, or Condition C39 where notice is given by the Planning Secretary;
 - (b) submit the response to the Planning Secretary; and
 - (c) make each Independent Audit Report, and response to it, publicly available 60 days after submission to the Planning Secretary.
- C41. Independent Audit Reports and the Applicant's response to audit findings must be submitted to the Planning Secretary within 2 months of undertaking the independent audit site inspection as outlined in the Independent Audit Post Approvals Requirements (2020) unless otherwise agreed by the Planning Secretary.
- C42. Notwithstanding the requirements of the Independent Audit Post Approvals Requirements (2020), the Planning Secretary may approve a request for ongoing independent operational audits to be ceased, where it has been demonstrated to the Planning Secretary's satisfaction that independent operational audits have demonstrated operational compliance.

REMEDIAL ACTION PLAN AND SITE AUDIT STATEMENT

- C43. A Site Audit Statement must be prepared in accordance with the *Contaminated Land Management Act 1997* and completed by a site auditor accredited by the EPA to issue site audit statements. The site audit must determine the nature and extent of contamination, and the appropriateness of the Remediation Action Plan, and determine if the land can be made suitable for retail and residential uses by implementation of the Remediation Action Plan.

COMPLIANCE

- C44. The Applicant must ensure that all of its employees, contractors (and their sub-contractors) are made aware of, and are instructed to comply with, the conditions of this consent relevant to activities they carry out in respect of the development.

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PART D – DURING CONSTRUCTION

DEMOLITION

- D1. Demolition work must comply with *Australian Standard AS 2601-2001* The demolition of structures (Standards Australia, 2001). The work plans required by AS 2601-2001 must be accompanied by a written statement from a suitably qualified person that the proposals contained in the work plan comply with the safety requirements of the Standard. The work plans and the statement of compliance must be submitted to the PCA before the commencement of works.

WORKS IN ACCORDANCE WITH PLANS

- D2. The Applicant must carry out all works on the site which form part of this development in accordance with the:
- CEMP approved under **Condition C5**. The CEMP must document and incorporate all of the following Plans required under this consent
 - CTMP approved under **Condition C6**
 - CNVMP approved under **Condition C9**
 - CWMP approved under **Condition C10**
 - De-Watering Plan under **Condition C19**
 - Groundwater Management and Monitoring Plan under **Condition C26**
 - Groundwater Extraction Licence under **Condition C20**.

HOURS OF CONSTRUCTION

- D3. Construction, including the delivery of materials to and from the site, may only be carried out between the following hours:
- Between 7 am and 6 pm, Mondays to Fridays inclusive; and
 - between 7 am and 3:30pm, Saturdays.
- D4. No work may be carried out on Sundays or public holidays.
- D5. Activities may be undertaken outside of these hours if required:
- by the Police or a public authority for the delivery of vehicles, plant or materials; or
 - in an emergency to avoid the loss of life, damage to property or to prevent environmental harm.
- D6. Notification of such activities must be given to affected residents before undertaking the activities or as soon as is practical afterwards.
- D7. Rock breaking, rock hammering, sheet piling, pile driving and similar activities may only be carried out between the following hours:
- 9.00 am to 12.00 pm, Monday to Friday;
 - 2.00 pm to 5.00 pm Monday to Friday; and
 - 9.00 am to 12.00 pm, Saturday.

CONSTRUCTION NOISE AND VIBRATION MANAGEMENT

- D8. The development shall be constructed with the aim of achieving the construction noise management levels detailed in the *Interim Construction Noise Guideline* (Department of Environment and Climate Change, 2009). All feasible and reasonable noise mitigation measures shall be implemented and any activities that could exceed the construction noise management levels shall be identified and managed in accordance with the CEMP.
- D9. If the noise from a construction activity is substantially tonal or impulsive in nature (as described in Chapter 4 of the *NSW Industrial Noise Policy*), 5dB(A) must be added to the measured construction noise level when comparing the measured noise with the construction noise management levels.
- D10. Wherever practical, and where sensitive receivers may be affected, piling activities are completed using bored piles. If driven piles are required, they must only be installed where outlined in the CEMP.

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- D11. Vibration caused by construction at any residence or structure outside the subject site must be limited to:
- for structural damage vibration to heritage buildings, *German Standard DIN 4150 Part 3 Structural Vibration in Buildings Effects on Structure*
 - for human exposure to vibration, the evaluation criteria presented in *British Standard BS 6472- Guide to Evaluate Human Exposure to Vibration in Buildings* (1Hz to 80 Hz) for low probability of adverse comment
 - vibratory compactors must not be used closer than 30 metres from residential buildings unless vibration monitoring confirms compliance with the vibration criteria specified above these limits apply unless otherwise outlined in the CNVMP required under **Condition C9** and submitted to the satisfaction of the Certifying Authority.

EROSION AND SEDIMENT CONTROL

- D12. Any seepage or rainwater collected on-site during construction, must be either re-used or disposed of, so as not to cause pollution. Seepage or rainwater shall not be pumped to the street stormwater system unless separate approval is given in writing by Council.

SURVEY CERTIFICATE

- D13. A Survey Certificate prepared by a Registered Surveyor must be submitted at the completion of the building works certifying the location of the building in relation to the boundaries of the allotment.

UTILITIES

- D14. The Applicant shall be responsible for all public utility adjustment / relocation works, necessitated by the development and as required by the various public utility authorities and / or their agents.

WORK COVER REQUIREMENTS

- D15. To protect the safety of work personnel and the public, the work site shall be adequately secured to prevent access by unauthorised personnel, and work shall be conducted at all times in accordance with relevant Work Cover requirements.

COVERING OF LOADS

- D16. All vehicles involved in the excavation and / or demolition process and departing from the property with materials, spoil or loose matter must have their loads fully covered before entering the public roadway.

VEHICLE CLEANSING

- D17. Prior to the commencement of work, suitable measures are to be implemented to ensure that sediment and other materials are not tracked onto the roadway by vehicles leaving the Site. It is an offence to allow, permit or cause materials to pollute or be placed in a position from which they may pollute waters.

DUST CONTROL MEASURES

- D18. Adequate measures shall be taken to prevent dust from affecting the amenity of the neighbourhood during construction. These measures must include, but are not limited to:
- restricting topsoil removal
 - regularly and lightly watering dust prone areas (note: prevent excess watering as it can cause damage and erosion)
 - alter or cease construction work during periods of high wind and erect green or black shade cloth mesh or similar products 1.8 m high around the perimeter of the site and around every level of the building under construction.

ALL BUILDING MATERIALS, PLANT AND EQUIPMENT

- D19. 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.

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NO OBSTRUCTION OF PUBLIC WAY

D20. The public way must not be obstructed by any materials, vehicles, refuse skips or the like, under any circumstances. Non-compliance with this requirement will result in the issue of a notice by the Planning Secretary to stop all work on site.

HOARDING

D21. The following hoarding requirements shall be complied with:

- a) No third-party advertising is permitted to be displayed on the subject hoarding/fencing
- b) The construction site manager shall be responsible for the removal of all graffiti from any construction hoardings or the like within the construction area within 48 hours of its application.

PROTECTION OF STREET TREES

D22. No street trees are to be trimmed or removed unless it forms part of this development consent or prior written approval from Council is obtained or is required in an emergency to avoid the loss of life or damage to property.

D23. All street trees shall be protected at all times during construction. Any tree on the footpath, which is damaged or removed during construction due to an emergency, shall be replaced, to the satisfaction of Council.

BUNDING

D24. The Applicant shall store all chemicals, fuels and oils used on-site in appropriately banded areas in accordance with the requirements of all relevant Australian Standards, EPL requirements and/or EPA's *Storing and Handling Liquids: Environmental Protection – Participants Handbook*.

SITE NOTICE

D25. A site notice(s) shall be prominently displayed at the boundaries of the site for the purposes of informing the public of project details including, but not limited to the details of the Builder, Certifying Authority and Structural Engineer. The notice(s) is to satisfy all but not be limited to, the following requirements:

- a) The notice is to be able to be read by the general public from a public road or other public place adjacent to the site
- b) The notice is to be rigid, durable and weatherproof and is to be displayed throughout the works period
- c) The approved hours of work, the name of the site/project manager, the responsible managing company (if any), its address and 24 hour contact phone number for any inquiries, including construction/noise complaint are to be displayed on the site notice
- d) The notice(s) is to be mounted at eye level on the perimeter hoardings/fencing and is to state that unauthorised entry to the Site is not permitted.

CONTACT TELEPHONE NUMBER

D26. The Applicant shall ensure that the 24 hour contact telephone number is continually attended by a person with authority over the works for the duration of the development.

APPROVED PLANS TO BE ON-SITE

D27. A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the site at all times and shall be readily available for perusal by Council, Heritage Council, the Department or the Certifying Authority.

STOCKPILE MANAGEMENT

D28. The Applicant must ensure that:

- a) stockpiles of excavated materials do not exceed 4 metres in height
- b) stockpiles of excavated material are constructed and maintained to prevent cross contamination

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- c) suitable erosion and sediment controls are in place for stockpiles.

EXCAVATION

- D29. If the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- protect and support the adjoining premises from possible damage from the excavation
 - where necessary, underpin the adjoining premises to prevent any such damage.

Note: The above requirements do not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to the requirements not applying.

- D30. 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'.
- D31. 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.
- D32. 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.

ACID SULPHATE SOIL

- D33. The development must be carried out in accordance with the details set out in the Acid Sulphate Soil Management Plan prepared by ADE Consulting Group dated 3 May 2019.

GROUNDWATER MONITORING

- D34. Daily measurements of water levels from monitoring bores outside basement support walls, weekly measurements of groundwater and discharge water quality, and weekly measurements of pumped volumes must be recorded by the Applicant throughout the construction phase of the development and provided to the Natural Resource Access Regulator in raw data form.

IMPACTS OF BELOW GROUND (SUB SURFACE) WORKS – NON ABORIGINAL OBJECTS

- D35. If during the course of construction the Applicant becomes aware of any previously unidentified heritage object(s), all work likely to affect the object(s) must cease immediately and the OEH Heritage Division must be notified immediately and consulted with regard to the recommencement of works. This protocol must be included in the induction for all construction workers on site.

IMPACTS OF BELOW GROUND (SUB SURFACE) WORKS – ABORIGINAL OBJECTS

- D36. If during the course of construction the Applicant becomes aware of any previously unidentified Aboriginal object(s), all work likely to affect the object(s) must cease immediately and the OEH Heritage Division informed in accordance with section 89A of the *National Parks and Wildlife Act 1974*. Relevant works must not recommence until written authorisation from the OEH Heritage Division is received by the Applicant. This protocol must be included in the induction for all construction workers on the site.

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PART E – PRIOR TO OCCUPATION OR COMMENCEMENT OF USE

OCCUPATION CERTIFICATE

- E1. An Occupation Certificate must be obtained from the Certifying Authority and a copy submitted to the Department prior to commencement of occupation or use of the whole or any part of the approved new buildings.

SITE VALIDATION

- E2. Within 6 months of the completion of remediation works on site (including validation of remediation-related construction works), and prior to the issue of any Occupation Certificate, the Applicant shall submit a detailed Site Audit Summary report and Site Audit Statement and Validation Report to the Planning Secretary, Certifying Authority and Council.
- E3. The Site Audit Statement and Site Audit Report must be prepared in accordance with the *Contaminated Land Management Act 1997* and completed by a site auditor accredited by the EPA to issue site audit statements. The reports must be provided to the Accredited Certifier and City of Newcastle Council certifying that the site is suitable for the approved land uses.
- E4. The site auditor must also verify that any excavated material re-used or disposed off-site has been appropriately classified, validated, managed and the relevant approvals obtained in accordance with the relevant legislation and any relevant approved materials/management plans.
- E5. On completion of remediation works, the relevant requirements of Clauses 17 and 18 of State Environmental Planning Policy – Remediation of Land, being notification to the Council, shall be complied with.

PUBLIC DOMAIN, VEHICULAR CROSSING AND ROAD RESERVE WORKS

- E6. Prior to the issue of any Occupation Certificate, the construction works in the road reserve are to be implemented and completed to the satisfaction of Newcastle City Council.
- E7. All public footways, foot paving, kerbs, gutters and road pavement damaged during the works are to be immediately repaired following 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 the satisfaction of Newcastle City Council prior to the completion of the demolition works or prior to the issue of any Occupation Certificate.
- E8. Any redundant existing vehicular crossing (or section of) is to be removed at no cost to Council and the public footway and kerb being restored to match the existing infrastructure and be completed prior to the issue of any Occupation Certificate for the proposed development.

LANDSCAPE PRACTICAL COMPLETION REPORT

- E9. A Landscape Practical Completion Report is to be submitted to the Certifying Authority by the consultant responsible for the landscape design plan 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.

VEHICLE ENTRANCES, PARKING AND LOADING

- E10. The vehicular entrance and exit driveways and the direction of traffic movement within the site are to be clearly indicated by means of reflectorized signs and pavement signs. The traffic and parking signs, line markings and required traffic and safety devices as indicated in the approved architectural plans and traffic report is to be completed prior to occupation of the buildings.
- E11. 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 prior to occupation of the buildings.

E11A. The shared use commercial/residential visitor car parking spaces must be allocated, marked out on the pavement surface and clearly signposted. The signpost must state that spaces are to be used only for commercial parking between 7am to 7pm each day.

- E12. Any stacked car parking spaces are to be assigned to and used by a common residential unit or commercial tenancy.

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STORMWATER

- E13. A copy of the stormwater drainage design plans approved with the Construction Certificate with 'work as executed' levels indicated, shall be submitted to the Certifying Authority and the City of Newcastle prior to the issue of any Occupation Certificate. The plans shall be prepared by a Practising Professional Engineer or Registered Surveyor experienced in the design of stormwater drainage systems.

MAINTENANCE MANUAL FOR WATER QUALITY DEVICES

- E14. Prior to the issue of any Occupation Certificate, a Maintenance Manual for all water quality devices is to be prepared in accordance with City of Newcastle's Technical Manual: Stormwater and Water Efficiency for Development (Updated April 2019). The Manual is to address maintenance issues concerning the water quality devices including routine monitoring and regular maintenance and be kept on site at all times. Establishment and maintenance of the water quality devices in accordance with the Manual prepared is to be completed prior to occupation of the site.

WATER AUTHORITY COMPLIANCE

- E15. A section 50 Compliance Certificate under the *Hunter Water Corporation Act 1991* must be obtained from Hunter Water. The Section 50 Certificate must be submitted to the Certifying Authority prior to issue of any Occupation Certificate.

ENVIRONMENTALLY SUSTAINABLE DEVELOPMENT

- E16. Environmentally Sustainable Development measures are to be completed/installed in accordance with **Conditions B48 – B51**. Evidence shall be submitted to the Certifying Authority demonstrating compliance with these conditions prior to the issue of an Occupation Certificate.

GREEN TRAVEL PLAN

- E17. Prior to the issue any Occupation Certificate, the Green Travel Plan lodged (Seca Solution Pty Ltd, Version 3 dated 7 February 2020) shall be updated to include the following inclusions and clarifications;
- (a) establish mode share targets and outline robust actions to achieve those targets
 - (b) identify and appoint a Travel Plan Coordinator to oversee the implementation of the Travel Plan
 - (c) nominate the party/parties responsible for implementing the actions in the Travel Plan and its ongoing monitoring and review, including the delivery of actions and associated mode share targets
 - (d) include an annual monitoring, reporting and review process, supported by a Travel Survey to determine if mode share targets and other actions of the Travel Plan are being achieved, and determine a process for the delivery of any post-occupancy measures
 - (e) confirm the number of car share spaces proposed
 - (f) consider provision and identify extent of facilities proposed that support and encourage active transport use, including for bike share schemes, e-bike charging stations and bicycle storage arrangements for residents and visitors
 - (g) identify behaviour changes initiatives that will be implemented to support the mode share targets
 - (h) confirm the number of residents that are expected to live at the site
 - (i) provide more specific and detailed walking and cycling maps for the site and outline key routes that will be used to access it
 - (j) provide additional modelling or data analysis to inform the assumptions in the 'Future Demands' scenario of p13 of the Green Travel Plan lodged, and provide clearer detail about expected travel patterns based on this data
 - (k) include a Travel Access Guide that provides information to staff, visitors and tenants about public and active transport availability, as well as relevant information about end-of-trip facilities and bicycle parking, and access arrangements for freight and servicing, and publish this information in an accessible location.
- E18. Copies of the Travel Access Guide are to be installed in common areas prior to the issue of the final Occupation Certificate, together with instructions on where to obtain personal copies. Copies of the Travel Access Guide must be provided to residents and tenants in electronic form to enable the current website links and information to be up-to-date.

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MECHANICAL VENTILATION

- E19. Prior to the issue of any Occupation Certificate and following completion, installation and testing of all the mechanical ventilation systems, the Applicant shall provide evidence to the satisfaction of the Certifying Authority that the installation and performance of the mechanical systems complies with:
- the Building Code of Australia
 - Australian Standard AS1668 and other relevant codes
 - the development consent and any relevant modifications
 - any dispensation granted by the New South Wales Fire Brigade.
- E20. Prior to issue of an Occupation Certificate and following completion, installation, and testing of all the mechanical ventilation systems, a Mechanical Ventilation Certificate of Completion and Performance in accordance with Clause A2.2(a)(iii) of the Building Code of Australia must be submitted to and approved by the Certifying Authority.

WASTE AND RECYCLING MANAGEMENT

- E21. Prior to any Occupation Certificate being issued or commencement of the use, whichever is earlier, the Certifying Authority must be satisfied that waste handling works have been completed in accordance with the Waste Management Plan (**Condition C10**), other relevant conditions and Council's Policy for *Waste Minimisation in New Developments 2005*.

INSTALLATION OF WATER EFFICIENT TAPS

- E22. All taps and shower heads installed must be water efficient with at least a 3-star rating under the Water Efficiency and Labelling Scheme (WELS), where available. Certification is to be submitted for the consent of the Certifying Authority, prior to a relevant Occupation Certificate being issued.

PROTECTION OF PUBLIC INFRASTRUCTURE

- E23. Unless the Applicant and the applicable authority agree otherwise, the Applicant must:
- repair, or pay the full costs associated with repairing, any public infrastructure that is damaged by carrying out the development; and
 - relocate, or pay the full costs associated with relocating any infrastructure that needs to be relocated as a result of the development.

POST-CONSTRUCTION DILAPIDATION REPORT

- E24. A post construction dilapidation report prepared by a suitably qualified persons shall be submitted to the Certifying Authority prior to the issue of an Occupation Certificate, to ascertain if any structural damage has occurred to the adjoining buildings, infrastructure and roads. The reports shall be forwarded to Newcastle City Council and will be made available in any private dispute between neighbours regarding damage arising from construction works.

FIRE SAFETY CERTIFICATE TO BE SUBMITTED

- E25. Prior to the issue of an Occupation Certificate, a Fire Safety Certificate must be submitted to the PCA for all of the items listed in the Fire Safety Schedule and a copy of the Fire Safety Certificate must be submitted to the Department.

SCREENING

- E26. 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.

EXTERNAL WALLS AND CLADDING

- E27. Before the issue of any Occupation Certificate, the Applicant must provide the Certifying Authority with documented evidence that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the requirements of the BCA, in accordance with **Condition B6**.

STRUCTURAL INSPECTION CERTIFICATE

- E28. A Structural Inspection Certificate or a Compliance Certificate must be submitted to the satisfaction of the PCA prior to the issue of any Occupation Certificate and/or use of the premises. A copy of the Certificate

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with an electronic set of final drawings (contact approval authority for specific electronic format) shall be submitted to the approval authority and the Council after:

- a) the site has been periodically inspected and the PCA is satisfied that the Structural Works is deemed to comply with the final design
- b) the drawings listed on the Inspection Certificate have been checked with those listed on the final Design Certificate(s).

COMPLIANCE WITH BASIX CERTIFICATE

- E29. Prior to the issue of any Occupation Certificate, the Applicant shall implement the commitments outlined in BASIX Certificate No. 10126489M 02.

PEDESTRIAN LINKS

- E30. The pedestrian through links are to be the subject of an appropriate reciprocal right-of-public access and the necessary survey plan and accompanying instrument under Section 88B of the *Conveyancing Act 1919* being registered with NSW Government Land & Property Information prior to the issuing of any Occupation Certificate for the proposed development, it being noted that the instrument is to provide that the right-of-way is unable to be relinquished, varied or modified without the concurrence of the Newcastle City Council.

DESIGN VERIFICATION

- E31. 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 Apartment Development.

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

ACOUSTIC COMPLIANCE

- E32. Prior to the issue of any Occupation Certificate, evidence shall be submitted to the Certifying Authority demonstrating compliance with all measures required under **Condition B16** and to ensure the development achieves compliance with the requirements of the NSW Industrial Noise Policy and other guidelines applicable to the development. This must include verification the building has achieved the required acoustic performance for all living/dining and sleeping areas.

Written final certification confirming the recommended acoustic treatments have been implemented in accordance with the requirements of the above report is to be submitted to the Certifying Authority and Council prior to the issue of an Occupation Certificate.

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

FLOOD SIGN

- E33. A clear warning notice is to be erected and maintained at all points of entry to the site advising that the premises is subject to flooding and that caution should be observed at times of heavy or prolonged rainfall, being installed prior to issue of any Occupation Certificate. Such notice is to also provide advice regarding the availability of further detail in respect of possible flooding, refuge areas and include an appropriate telephone number.

GROUNDWATER MONITORING COMPLETION REPORT

- E34. Prior to the issue of an Occupation Certificate, a completion report shall be provided to the Natural Resource Access Regulator consistent with the requirements of Condition C20.

STREET NUMBERING

- E35. The premises are to be identified by the provision of house and street numbers on the building exterior and mailbox, such that they are clearly visible from the road frontage prior to occupation of the buildings.

The minimum numeral heights shall be:

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

STREET ADDRESSES

E36. House numbering for the proposed development is to be in accordance with the NSW Address Policy and User Manual by the Geographical Names Board of New South Wales and the directions of Newcastle City Council and Council's *House Numbering Policy* and the *Surveying and Spatial Regulation*.

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PART F – POST OCCUPATION

COMMUNAL AREA ACCESS

- F1. All residents of the development are to have access to all communal areas, including:
- multi-purpose common room on the ground floor of the middle building
 - communal rooftop area on the middle building
 - the outdoor podium
 - the outdoor through-site links.

NOISE CONTROL – MECHANICAL PLANT AND EQUIPMENT

- F2. Noise associated with the operation of any plant, machinery or other equipment on the site, shall not give rise to any one or more of the following:
- transmission of “offensive noise” as defined in the *Protection of the Environment Operations Act 1997* to any place of different occupancy
 - a sound pressure level at any affected residential property that exceeds the background (LA90, 15 minute) noise level by more than 5dB(A). The background noise level must be measured in the absence of noise emitted from the premises. The source noise level must be assessed as a LAeq, 15 minute
 - notwithstanding compliance with a) and b) above, the noise from mechanical plant associated with the premises must not exceed 5dB(A) above the background noise level between the hours of 12 midnight and 7 am.

LOADING AND UNLOADING

- F3. All vehicular movement to and from the site is to be in a forward direction.
- F4. All loading and unloading of service vehicles in connection with the use of the premises shall be carried out in accordance with Newcastle Traffic Committee conditions.
- F5. Unless otherwise agreed to, or altered by, the Newcastle Traffic Committee, the use of a Loading Zone on Honeysuckle Drive is restricted to 6 am – 9 am Monday to Friday and 2P ticket 9 am – 5 pm Monday to Friday, and 4P ticket 9 am to 5 pm Saturday and Sunday.
- F6. The location of any Loading Zone may be subject to future review and relocation at Council's discretion to meet the servicing needs of Newcastle.
- F7. 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.

VISITOR CAR PARKING

- F8. The proposed visitor on-site parking bays are to be made available for the use of casual visitors to the residential accommodation and such spaces under no circumstances being subdivided, leased or controlled by or on behalf of particular dwelling owners or residents.

ANTI-GRAFFITI

- F9. All ground level walls and surfaces are to be treated with an anti-graffiti coating, where possible. In addition, any graffiti evident on the exterior facades and visible from a public place is to be removed within 48 hours.

ANNUAL FIRE SAFETY CERTIFICATION

- F10. The owner of the building shall certify to Council or the relevant authority every year that the essential services installed in the building for the purposes of fire safety have been inspected and at the time of inspection are capable of operating to the required minimum standard. This purpose of this condition is to ensure that there is adequate safety of persons in the building in the event of fire and for the prevention of fire, the suppression of fire and the prevention of spread of fire.

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EXTERNAL LIGHTING

- F11. External Lighting must comply with AS 4282: 1997 *Control of the Obtrusive Effects of Outdoor Lighting*. Upon installation of lighting, but before it is finally commissioned, the Applicant must submit to the Certifying Authority evidence from a qualified practitioner demonstrating compliance in accordance with this condition.

LANDSCAPE ESTABLISHMENT REPORT

- F12. A Landscape Establishment Report is to be submitted to Council following completion of a three-month maintenance period, verifying that satisfactory maintenance of the landscape works has been undertaken and any necessary rectification measures have been carried out to a high professional standard; copy of report format attached.
- F13. A Landscape Establishment Report is to be submitted to Council following completion of a 12-month maintenance period, verifying that satisfactory maintenance of the landscape works has been undertaken and any necessary rectification measures have been carried out to a high professional standard; copy of report format attached.

LIQUID WASTES

- F14. Any liquid wastes from the premises, other than stormwater being discharged to the sewers of the Hunter Water Corporation, is to be in accordance with that authority's requirements.

FLOOD GATE MAINTENANCE

- F15. The car park access driveway flood gate must be maintained to ensure operation at all times to prevent floodwater entry to the basement up to the minimum level of RL2.8m Australian Height Datum.

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ADVISORY NOTES

APPEALS

AN1 The Applicant has the right to appeal to the Land and Environment Court in the manner set out in the *Environmental Planning and Assessment Act, 1979* and the *Environmental Planning and Assessment Regulation, 2000* (as amended).

OTHER APPROVALS AND PERMITS

AN2 Other permits and approvals may be required including crane permits, road opening permits, hoarding or scaffolding permits, footpath occupation permits, barricade permits and/or any other approvals under Section 68 (Approvals) of the *Local Government Act, 1993* or *Section 138 of the Roads Act, 1993*.

RESPONSIBILITY FOR OTHER CONSENTS / AGREEMENTS

AN3 The Applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

TEMPORARY STRUCTURES

AN4 If required, an approval under *State Environmental Planning Policy (Temporary Structures) 2007* must be obtained from the relevant authority for the erection of the temporary structures. The application must be supported by a report detailing compliance with the provisions of the NCC.

AN5 If required, structural certification from an appropriately qualified practicing structural engineer must be submitted to the Certifying Authority with the application under *State Environmental Planning Policy (Temporary Structures) 2007* to certify the structural adequacy of the design of the temporary structures.

DISABILITY DISCRIMINATION ACT

AN6 This application has been assessed in accordance with the EP&A Act. The Applicant is responsible for complying with all applicable anti-discrimination legislation. The Disability Discrimination Act 1992 covers disabilities not catered for in the minimum standards called up in the NCC which references AS 1428.1 - Design for Access and Mobility. AS1428 Parts 2, 3 & 4 provides the most comprehensive technical guidance under the Disability Discrimination Act 1992 currently available in Australia

COMMONWEALTH ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION ACT 1999

AN7 The Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* provides that a person must not take an action which has, will have, or is likely to have a significant impact on a matter of national environmental significance (NES) matter, or Commonwealth land, without an approval from the Commonwealth Environment Minister.

AN8 This application has been assessed in accordance with the New South Wales EP&A Act. It is the Applicant's responsibility to consult the Department of Sustainability, Environment, Water, Population and Communities to determine the need or otherwise for Commonwealth approval and you should not construe this grant of approval as notification to you that the Commonwealth Act does not have application. The Commonwealth Act may have application and you should obtain advice about this matter. There are severe penalties for non-compliance with the Commonwealth legislation.

ASBESTOS REMOVAL

AN9 All excavation works involving the removal and disposal of asbestos must only be undertaken by contractors who hold a current WorkCover Asbestos or 'Demolition Licence' and a current WorkCover Class 2 (Restricted) Asbestos Licence and removal must be carried out in accordance with NOHSC: 'Code of Practice for the Safe Removal of Asbestos'.

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SITE CONTAMINATION ISSUES DURING CONSTRUCTION

AN10 Should any new information come to light during demolition or construction works which has the potential to alter previous conclusions about site contamination then the Applicant must be immediately notified and works must cease. Works must not recommence on site until the consultation is made with the Planning Secretary.

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INCIDENT NOTIFICATION AND REPORTING REQUIREMENTS

WRITTEN INCIDENT NOTIFICATION REQUIREMENTS

1. A written incident notification addressing the requirements set out below must be emailed to the Department at the following address: compliance@planning.nsw.gov.au within seven days after the Applicant becomes aware of an incident. Notification is required to be given under this condition even if the Applicant fails to give the notification required under condition A18 or, having given such notification, subsequently forms the view that an incident has not occurred.
2. Written notification of an incident must:
 - a. identify the development and application number;
 - b. provide details of the incident (date, time, location, a brief description of what occurred and why it is classified as an incident);
 - c. identify how the incident was detected;
 - d. identify when the applicant became aware of the incident;
 - e. identify any actual or potential non-compliance with conditions of consent;
 - f. describe what immediate steps were taken in relation to the incident;
 - g. identify further action(s) that will be taken in relation to the incident; and
 - h. identify a project contact for further communication regarding the incident.
3. Within 30 days of the date on which the incident occurred or as otherwise agreed to by the Planning Secretary, the Applicant must provide the Planning Secretary and any relevant public authorities (as determined by the Planning Secretary) with a detailed report on the incident addressing all requirements below, and such further reports as may be requested.
4. The Incident Report must include:
 - a. a summary of the incident;
 - b. outcomes of an incident investigation, including identification of the cause of the incident;
 - c. details of the corrective and preventative actions that have been, or will be, implemented to address the incident and prevent recurrence; and
 - d. details of any communication with other stakeholders regarding the incident.

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