

22 October 2021

[REDACTED]
Acting Team Leader
Regional Assessments
Department of Planning, Industry and Environment
Locked Bay 5022
PARRAMATTA NSW 2124

Email: [REDACTED]

Dear [REDACTED]

COMMERCIAL DEVELOPMENT (DA10689) – 46 FITZROY STREET CARRINGTON

I refer to the Department's email dated 1 October 2021 advising Port of Newcastle Operations Pty Ltd has submitted a Response to Submissions (RtS) for a proposed commercial development on the above property and inviting City of Newcastle (CN) to provide advice, including any recommended conditions of consent.

The submitted RtS has been reviewed and the following advice is offered for your consideration:

1 Zone objectives

The RtS has not provided any compelling evidence which addresses the concerns raised in CN's previous submission. The RtS argues that the desirable characteristic of the subject site is its proximity to port operations which would be attractive to '*port related office-based business which benefit from being in close proximity to the operational areas of the Port.*' No specific examples of existing or proposed port related office-based businesses were provided. As evidence of the appropriateness of the location for the proposal, the RtS refers to the existing '*office-based tenancies*' in the locality of the subject site which appear predominantly not to be port related uses. A site in the Newcastle City Centre could offer the same benefits of proximity to the port as the subject site, as is evident by the Port of Newcastle's offices being located at 251 Wharf Road Newcastle.

The proposal provides no certainty that the future tenants will be port related uses that support the operation of the Port of Newcastle. The appropriate location for the proposed development would be in the city centre.

2 Planning strategies

The concerns raised in CN's previous submission have not been satisfactorily addressed. The applicant has not submitted an economic analysis which demonstrates a clear need for the proposed development and addresses the potential impacts on the Newcastle City Centre and its role identified under the Newcastle Local Strategic Planning Statement.

Accordingly, the development remains inconsistent with the planning strategies cited in our previous submission.

3 Noise

The RtS has satisfactorily addressed the concerns raised in CN's previous submission. An appropriate condition regarding noise has been included in the schedule of recommended conditions (refer to Attachment A).

4 Food and drink premises

The concerns raised in CN's previous submission have been addressed. An appropriate condition has been included in the schedule of recommended conditions to ensure the design and construction of the development is in accordance with the relevant requirements of *Australian Standard 4674-2004 Design, Construction and Fit-Out of Food Premises*

5 Aboriginal heritage

A due diligence assessment has not been provided; however, the construction management plan includes an unexpected finds protocol with regard to Aboriginal cultural heritage. The unexpected finds protocol should be conditioned in any consent issued.

6 Traffic and Parking

Loading / Servicing

The concerns raised in CN's previous submission have been addressed. The applicant has responded to this issue with the provision of a loading zone area for heavy rigid vehicles at the southern end of the building and widening of the internal access road to permit other vehicles to pass. This provision is considered adequate to cater for loading service operations associated with this development and should minimise the potential for conflict with light vehicles.

It is noted the submitted preliminary Waste Management Plan (WMP) has been supported by CN's Waste & Commercial Collection Manager. The applicant proposes under the WMP to utilise a private contractor for waste collection.

Alternate Transport (Bus Stops) & Pedestrian Network

The concerns raised in CN's previous submission have been addressed subject to the imposition of the recommended conditions in the attached schedule.

To cater for the resulting increase in pedestrian activity associated with this development and associated increase in bus patronage an appropriate condition has been recommended for this application. This condition requires the provision of a pedestrian pathway in Denison Street linking to the existing bus stop in Cowper Street (north). The requirement for an additional bus shelter in association with this application has been reassessed. The requirement for this shelter will be subject to future pedestrian demand and therefore not required for this development application.

Parking

The concerns raised in CN's previous submission have been addressed. The provision of additional parking is not precluded under the Newcastle Development Control Plan 2012. The applicant has also supplemented this parking with the inclusion of 8 spaces for electrical

vehicles and a bicycle hub for 50 bicycles with showers and change facilities. On this basis, the provision of a total of 172 parking spaces for this development as outlined above is supported on traffic grounds.

Boom gates

The RtS has not specifically responded to the concern raised in CN's previous submission. Notwithstanding this, the architectural plans indicate a card reader for the gate accessed from Fitzroy Street, while the Denison Street access gate has been restricted to service vehicles. In both locations sufficient storage exists prior to the gates to avoid the potential for on-street queueing. On this basis, the proposal is considered acceptable on traffic grounds.

Traffic generation

It is noted in response to the public exhibition of the development application several submissions were received from the public expressing concerns in relation to the increase in traffic on local roads generated by the development.

Both Fitzroy Street and Denison Street are dead end roads devoid of through traffic, thereby confining traffic to those with an origin /destination within these streets and reducing overall existing traffic volumes. The applicant's traffic consultant has assessed the traffic volumes pre and post development to confirm that the local road network (streets & intersections) should be able to adequately cater for the additional traffic generated by this development. Intersections will continue to operate at acceptable levels of service and streets within road capacity limits post development.

7 Street trees

According to the RtS, the landscape master plan has been updated to address the concerns raised in CN's previous submission. However, a copy of the updated plan was not provided with the RtS for consideration by CN officers. Some conditions have been included in the schedule of recommended conditions regarding the retention of six existing street trees on the Fitzroy Street frontage of the site and the species of the four street trees proposed on the Denison Street frontage. Tree species selection is to be *Syzygium jambos* or *Glochidion ferndinandi* or *Buckinghamia celsissima*.

8 Waste Management

The concerns raised in CN's previous submission have been satisfactorily addressed. Having regard to the preliminary Waste Management Plan, waste management to the proposed development is acceptable and can be expanded as deemed necessary as it is proposed to engage a private contractor for waste collection.

Having regard to the rating structure the proposed development is most likely to be (i.e. a single Business Rating) and there is no exposure regarding the Business and/or Domestic Waste Service Charge, as the rateable entitlement is only 1 x 140 litre general waste bin emptied once per week, which can be supplied by CN if necessary and collected from the kerbside on Clyde St.

9 Local Infrastructure Contribution

An appropriate condition has been included in the schedule of recommended conditions regarding the payment of the Section 7.12 monetary contribution to CN.

10 Engineering comments

As advised in our email of 12 October 2021 to the Department, the following comments were inadvertently omitted from our previous submission. It is understood that they were subsequently forwarded by the Department to the applicant for preliminary responses, but to date a reply has not been received.

Proposed Rain Garden Design

It is uncertain how the proposed rain gardens will interface with surrounding parking areas due to limited information provided for their design.

It is recommended that detailed cross-sections of the proposed bioretention rain gardens be provided to clarify:

- a) How runoff from adjacent hardstand areas will be collected to the rain garden (i.e., using castellated kerb); and
- b) How the proposed rain gardens will be protected from vehicle damage.

Typical cross-sections should also be provided for sections of rain garden crossing through any proposed tree vaults and tree plantings to clarify how these design elements will be implemented in the same space.

Overland Flow Path

In the design of the east car park, it is noted that the 4th parking aisle (from the left) is graded falling westward to drain runoff to the adjacent bioretention garden. There is a concern this design may result in the formation of an unrelieved low point between the 3rd and 4th parking aisles causing in ponding over the car park during major storm events (assuming site controls fail).

It is recommended that an overland flow path be provided to alleviate or limit ponding over this low point.

Proposed Tree Planting

It is recommended that the proposed tree planting within the car park comply with requirements set out in Section 7.02 of the NDCP 2012 for landscaping within external car parks:

Generous shade trees are planted within the parking area at a rate of at least one shade tree per six parking spaces with an aim to achieve at least 50% shade cover of the area. Shade area is to be calculated from the estimated crown projections of a tree 15 years in age under suitable growing conditions. Selected tree species are to develop a clean trunk height greater than 4.5m and a crown projection of at least 50m² to provide adequate shade and vehicle clearance. Landscape documentation is to detail the provision of sub-grade load bearing root vaults to provide suitable rooting volume for the required number of shade trees.'

Where tree planting is proposed in landscaping strips within the car park, these landscaping strips should be at least 1.5m wide.'

Appropriate conditions which address the above comments have been included in the schedule of recommended conditions.

If you have any questions in relation to the various matters raised in this letter, please contact [REDACTED] Principal Planner on [REDACTED] or by email on [REDACTED]

Yours faithfully

[REDACTED]

[REDACTED]

MANAGER REGULATORY PLANNING AND ASSESSMENT

ATTACHMENT -SCHEDULE OF RECOMMENDED CONDITIONS

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

A1. The design and construction of the proposed development is to be in accordance with the relevant requirements of the Australian Standard 4674-2004 Design, Construction and Fit-Out of Food Premises. The grease arrestor shall not be located in areas where food, equipment or packaging materials are handled or stored. Full details are to be included in documentation for a Construction Certificate application

A2. Roof water from the proposed new work is to be directed to the proposed water tank with a minimum capacity of 16,000 litres and being reticulated to any new toilet cisterns and cold-water washing machine taps, with a mains water top up being installed to maintain between 10% and 15% of the tank capacity. Alternatively, an electronically activated mechanical valve device is to be installed to switch any new toilet cisterns and laundry taps to mains water when the tank falls below 10% capacity. The water tank and plumbing are to be designed in accordance with the Plumbing Code of Australia (National Construction Code Volume 3). Full details are to be included in documentation for a Construction Certificate application.

A3. All stormwater runoff from the proposed development being managed in accordance with the requirements of Section 7.06 'Stormwater' of Newcastle Development Control Plan 2012, the associated Technical Manual, and the latest issue of AS 3500.3 as applicable, as indicated on the stormwater management concept plan prepared by Northrop (Job No. NL202453, dated 09/04/2021) and including:

- a) Provision of kerbing, dwarf walls, or other barriers along the edge of all rain garden areas adjacent to driveways and parking bays sufficient to discourage the encroachment of vehicles thereon while also allowing the collection of runoff to rain gardens.

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

A4. The floor level of occupiable rooms in all proposed buildings or building additions is to be verified on plans for a Construction Certificate application to be no lower than 2.70m Australian Height Datum.

A5. The design of the external car park areas being amended to ensure the provision of tree planting in accordance with Part 7.02.04 of Section 7.02 'Landscape, Open Space and Visual Amenity' of the Newcastle Development Control Plan 2012. Full details are to be included in documentation for a Construction Certificate application.

A6. A separate application must be lodged, and consent obtained from City of Newcastle for all works within the road reserve pursuant to Section 138 of the *Roads Act 1993 (NSW)*. The consent must be obtained, or other satisfactory arrangements confirmed in writing from City of Newcastle, before the issue of a Construction Certificate

A7. The Developer designing and constructing the following works in the public road reserves in connection with the proposed development, at no cost to City of Newcastle and in accordance with City of Newcastle's guidelines and design specifications:

- a) Kerb & gutter, road shoulder pavement, drainage & footway formation (turf) in Fitzroy Street across the frontage of the site.
- b) New driveway crossings in both Fitzroy and Denison Streets generally in accordance with the approved plans.

c) Provision of a continuous concrete pedestrian pathway including kerb ramps across the Denison Street frontage of the site and linking to the existing bus stop located on the southern side of in Cowper Street (north) east of the Denison Street intersection

d) Provision of street trees at 10m spacings across the Denison Street frontage of the site

A8. Engineering design plans and specifications for the works being undertaken within the public road reserve are required to be prepared by a suitably qualified practising civil engineer with experience and competence in the related field and submitted to City of Newcastle for approval pursuant to Section 138 of the Roads Act 1993 (NSW). The consent must be obtained, or other satisfactory arrangements confirmed in writing from City of Newcastle, before the issue of a Construction Certificate

A9. On-site parking accommodation is to be provided for 172_vehicles and such be set out generally in accordance with the minimum parking layout standards indicated in Section 7.03 'Traffic, Parking and Access' of the Newcastle Development Control Plan 2012. Full details are to be included in documentation for a Construction Certificate application.

A10. The car park is to be designed to comply with AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking and AS/NZS 2890.6:2009 - Parking facilities - Off-street parking for people with disabilities. Full details are to be included in documentation for a Construction Certificate application.

A11. All proposed driveways, parking bays, loading bays and vehicular turning areas are to be constructed with a basecourse of adequate depth to suit design traffic, being sealed with either bitumen seal, asphaltic concrete, concrete or interlocking pavers and being properly maintained. Full details are to be included in documentation for a Construction Certificate application.

A12. Kerbing or dwarf walls having a minimum height of 100mm are to be constructed along the edge of all garden or lawn areas adjacent to driveways and parking bays sufficient to discourage the encroachment of vehicles thereon. Full details are to be included in documentation for a Construction Certificate application.

A13. Letterboxes, landscaping and any other obstructions to visibility are to be kept clear of or limited in height to 1.2m in the 2 metre by 2.5 metre splay within the property boundary each side of the driveway entrance in accordance with AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking. Full details are to be included in documentation for a Construction Certificate application

A14. The proposed floodlighting of the premises is to be designed, positioned, and installed, including appropriate shielding and orientation of the lighting fixture, as to not give rise to obtrusive light, interfere with traffic safety or detract from the amenity of surrounding properties in accordance with Australian Standard 4282:1997 - Control of the obtrusive effects of outdoor lighting. Full details are to be included in the documentation for a Construction Certificate application.

A15. A commercial vehicular crossing is to be constructed across the road reserve, in accordance with the following criteria:

- a) Constructed in accordance with Council's A1300 – Driveway Crossings Standard Design Details.
- b) The driveway crossing widths within the road reserve are to generally be in accordance with the approved plans.
- c) Letterboxes, landscaping and any other obstructions to visibility should be kept clear of or limited in height to 1.2 metre, in the 2 metre by 2.5 metre splay within the property boundary each side of the driveway entrance.
- d) The proposed driveway shall be a minimum of 3 metres clear of the trunk of any tree within the public reserve
- e) The proposed driveway shall be a minimum of 750mm clear of the centre of any pole or obstruction within the public reserve and 1 metre clear of any drainage pit.

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

A16. Four street trees being *Syzygium jambos*, or *Glochidion ferninandi* or *Buckinghamia celsissima* are required to be planted on the Denison Street frontage. A fee, to be determined by contacting City of Newcastle's City Greening Services, is to be paid to City of Newcastle for the required planting and evidence of the payment of the required fee is to be included in the documentation for a Construction Certificate application.

Note: The tree selection and location of the required trees will be determined by CN's City Greening Coordinator in accordance with 'The City of Newcastle's Street Tree Master Plan'.

A17. A separate application must be lodged and consent obtained from City of Newcastle for all works within the road reserve pursuant to Section 138 of the *Roads Act 1993* (NSW). The consent must be obtained, or other satisfactory arrangements confirmed in writing from City of Newcastle, before the issue of a Construction Certificate

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

B1. The six existing street trees (ISs 20757,20758,20759,20760, 20761 and 20762) on the Fitzroy Street frontage of the site are to be retained and protected during construction phase with minimum width footpath and non-destructive excavation within the Tree Protection Zone (TPZ) /SRZ. Tree Protection fencing is to be installed prior to the commencement of construction works.

Note: Contact CN's City Greening Services prior to working within the TPZ.

B2. Certification is to be prepared by a Registered Surveyor and submitted to the Principal Certifying Authority at the following stage of construction:

- a) On completion of ground floor construction, confirming that the floor levels are in accordance with the approved levels.

B3. Prior to commencement of site works the developer is to submit to City of Newcastle for approval a Construction Traffic Management Plan addressing traffic control measures to be utilised in the public road reserve during the construction phase.

B4. The Construction Traffic Management Plan is to be prepared by a Transport for NSW 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.

B5. 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.

B6. On-site car parking accommodation is to be provided for 172_vehicles and such being set out generally in accordance with the details indicated on the submitted plans except as otherwise provided by the conditions of consent.

B7. 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.

B8. The vehicular entrance and exit driveways and the direction of traffic movement within the site are to be clearly indicated by means of reflectorised signs and pavement markings.

B9. Prior to any site works commencing, the Developer preparing a Construction Management Plan (CMP) such to be designed and implemented to manage all environmental aspects associated with the construction works, including off site impacts such as transport to and from the site. Two copies of the CMP are to be provided to the Principal Certifying Authority and the CMP is to be maintained on site during all site works and be made available to Authorised Officers upon request. The CMP is to include but not be limited to:

- A site management strategy, identifying and addressing issues such as environmental health and safety, site security, and traffic management.
- A soil and water management strategy, detailing erosion and sediment control, management of soil stockpiles, control and management of surface water and groundwater. Procedures should be included to ensure that all roads adjacent to the site are kept free and clear from mud and sediment.
- A dust management strategy, detailing procedures to minimise dust generation, with reference to control techniques and operational limits under adverse meteorological conditions.
- A waste minimisation strategy that aims to avoid production of waste and maximise reuse, recycling or reprocessing of potential waste material.
- A community relations plan that aims to inform residents and other local stakeholders of the proposed nature and timeframes for construction activities together with contact details for site management.
- A noise management strategy detailing measures to minimise the impact of the construction phase on the amenity of the locality, in accordance with Department of Environment and Climate Change Interim Construction Noise Guideline. Noise monitoring during the construction phase should be incorporated into the program.

B10.City of Newcastle's 'PREVENT POLLUTION' sign is to be erected and maintained in a conspicuous location on or adjacent to the property boundary, so it is clearly visible to the public or at other locations on the site as otherwise directed by City of Newcastle for the duration of demolition and construction work.

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

B11. 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'

B12. Any fill material imported into the site is to be Virgin Excavated Natural Material or material subject to a Resource Recovery Order that is permitted to be used as a fill material under the conditions of the associated Resource Recovery Exemption, in accordance with the provisions of the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment (Waste) Regulation 2014*.

Documentation demonstrating the compliance with the conditions of the appropriate Resource Recovery Order and Resource Recovery Exemption must be maintained for any material received at the site and subsequently applied to land under the conditions of the Resource Recovery Order and Exemption. This documentation must be provided to City of Newcastle officers or the Principal Certifying Authority on request

B13 Erosion and sediment control measures are to be implemented prior to the commencement of works and be maintained during the period of construction in accordance with the details set out on the Erosion and Sediment Control Plan submitted with the application, and with the below requirements:

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

B14. Prior to the commencement of work, a 3m wide all-weather vehicle access is to be provided from the kerb and gutter to the building under construction, to reduce the potential for soil erosion. Sand shall not be stockpiled on the all-weather vehicle access.

B15.All necessary measures are to be undertaken to control dust pollution from the site. These measures must include, but not are limited to:

- a) Restricting topsoil removal
- b) Regularly and lightly watering dust prone areas (note: prevent excess watering as it can cause damage and erosion)
- c) Alter or cease construction work during periods of high wind and
- d) Erect green or black shade cloth mesh or similar products 1.8m high around the perimeter of the site and around every level of the building under construction.

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

C1. A total monetary contribution of \$284,451 is to be paid to the City of Newcastle, pursuant to Section 7.12 of the Environmental Planning and Assessment Act 1979, such contribution to be payable prior to the issue of the first occupation certificate in respect of the proposed development.

Note:

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

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

Indexation quarters	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

C2. Street lighting being upgraded across the Fitzroy and Denison Street frontage of the site at no cost to CN (other than annual maintenance) to Standard P3 in accordance with AS 1158.1.1 – Road Lighting. The lighting upgrade works being completed prior to the issue of any occupation certificate.

Note: The developer is to liaise with Energy Australia in relation to the design and construction of the street lighting

C3. The developer is responsible for the provision of additional regulatory signage in Fitzroy and Denison Streets adjacent to the site frontage and all adjustments to and/or relocation of existing regulatory signage necessary as part of this development, at no cost to City of Newcastle and in accordance with CN's requirements, such works being implemented prior to the issue of any occupation certificate.

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

C4. All public footways, footpaving, kerbs, gutters and road pavement damaged during the works are to be immediately repaired following the damage, to a satisfactory state that provides for safe use by pedestrians and vehicles. Full restoration of the damage is to be carried out to City of Newcastle's satisfaction prior to the completion of demolition work or prior to the issue of any occupation certificate in respect of development involving building work.

C5. All works within the road reserve required by this consent are to be completed prior to the issue of any Occupation Certificate

C6. Any redundant existing vehicular crossing is to be removed at no cost to City of Newcastle. The road reserve and kerb being restored to, City of Newcastle's satisfaction, to match the existing infrastructure. Works are to be completed prior to the issuing of a Final Occupation Certificate for the proposed development.

C7. The water management measures as indicated on the submitted plans and Statement of Environmental Effects and/or as modified under the terms of this consent are to be implemented and the nominated fixtures and appliances are to be installed and operational prior to issue of an Occupation Certificate

D - CONDITIONS TO BE SATISFIED DURING THE OPERATION AND USE OF THE DEVELOPMENT

D1. For the purpose of applying the provisions of the National Construction Code for class 1, 2, 3, 4, 9a (health care) and 9c (aged care) buildings, it is advised that the proposed building is located in a Flood Hazard Area and the:

- a) Defined Flood Level (DFL) is 2.20m Australian Height Datum (AHD)
- b) Flood Hazard Level is 2.70m AHD (Freeboard is 500mm above DFL)

Maximum Flow Velocity of floodwaters for the Defined Flood Event is 0.14m/s

D2. The noise control recommendations in the Noise and Vibration Assessment prepared by RAPT Consulting dated March 2021 (Revision 3) are to be implemented in the ongoing operation of the premises.

D3. The use and occupation of the premises, including all plant and equipment installed thereon, is not to give rise to any offensive noise, as defined under the *Protection of the Environment Operations Act 1997* (NSW).

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

D4. The use and occupation of the premises is not to give rise to the emission of any 'air impurity' as defined under the *Protection of the Environment Operations Act 1997* (NSW), that interferes unreasonably with the amenity of neighbouring premises and/or other sensitive receivers.

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

D5. All vehicular movement to and from the site is to be in a forward direction.

E - ADVISORY MATTERS

E1. Any proposed business identification sign or advertising sign should be designed in accordance with the provisions of Newcastle Development Control Plan 2012 and be the subject of a separate Development Application approved prior to erection or placement in position.

E2. Any necessary alterations to public utility installations are to be at the developer/demolisher's expense and to the requirements of both City of Newcastle and any other relevant authorities. City of Newcastle and other service authorities should be contacted for specific requirements prior to the commencement of any works.

E3. It is an offence under the provisions of the *Protection of the Environment Operations Act 1997* (NSW) to act in a manner causing, or likely to cause, harm to the environment. Anyone allowing material to enter a waterway or leaving material where it can be washed off-site may be subject to a penalty infringement notice ('on-the-spot fine') or prosecution

E4. Failure to comply with the conditions of consent constitutes a breach of the *Environmental Planning and Assessment Act 1979* (NSW), which may be subject to a penalty infringement notice ('on-the-spot fine') or prosecution.