

# Development Consent

## Section 4.16 of the *Environmental Planning and Assessment Act 1979*

As delegate for the Minister for Planning and Public Spaces, I approve the Development Application referred to in Schedule 1, subject to the conditions 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



Glenn Snow  
**Director**  
**Transport and Water Assessments**

Sydney

1 April 2025

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### SCHEDULE 1

<b>Application Number:</b>	DA 24/14866
<b>Applicant:</b>	Land Development Solutions Pty Ltd
<b>Consent Authority:</b>	Minister for Planning and Public Spaces
<b>Site:</b>	Lot 1 DP 581002 20 Selwyn Street Mayfield East
<b>Development:</b>	Change of use to the existing site to a depot to allow for the temporary storage of scaffolding equipment and materials. All buildings onsite will be in the form of demountable structures.

## DEFINITIONS

<b>Applicant</b>	Land Development Solutions or any person carrying out any development to which this consent applies
<b>AHD</b>	Australian Height Datum
<b>BCA</b>	Building Code of Australia
<b>Certifying Authority</b>	A person who is authorised by or under Part 6 of the EP&A Act to issue Part 6 certificates
<b>Conditions of this consent</b>	Conditions contained in Schedule 2 of this document
<b>Construction</b>	All physical work to enable operation including but not limited to the demolition and removal of buildings or works, the carrying out of works for the purpose of development, including bulk earthworks, and erection of buildings and other infrastructure permitted by this consent.
<b>Council</b>	City of Newcastle Council
<b>Department</b>	NSW Department of Planning, Housing and Infrastructure
<b>Development</b>	The development described in the SEE, RtS and RFI including the works and activities comprising construction, operation and post commencement of use, as modified by the conditions of this consent.
<b>Environment</b>	Includes all aspects of the surroundings of humans, whether affecting any human as an individual or in his or her social groupings
<b>EPA</b>	NSW Environment Protection Authority
<b>EP&amp;A Act</b>	<i>Environmental Planning and Assessment Act 1979</i>
<b>EP&amp;A Regulation</b>	<i>Environmental Planning and Assessment Regulation 2021</i>
<b>Feasible</b>	What is possible and practical in the circumstances
<b>Incident</b>	An occurrence or set of circumstances that causes or threatens to cause material harm to the environment, and as a consequence of that environmental harm, may cause harm to the health and safety of human beings, and which may or may not be or cause a non-compliance.  <b>Note:</b> “material harm” is defined in this consent
<b>Land</b>	Has the same meaning as the definition of the term in section 1.4 of the EP&A Act
<b>Management and mitigation measures</b>	The management and mitigation measures set out in this development consent.
<b>Material harm</b>	Harm that: <ul style="list-style-type: none"> <li>a) involves actual harm to the environment that may include (but not be limited to) a leak, spill, emission, other escape or deposit of a substance, and as a consequence of that environmental harm (pollution), may cause harm to the health or safety of people, or</li> <li>b) results in actual 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).</li> </ul>
<b>Minister</b>	NSW Minister for Planning and Public Spaces (or delegate)

<b>Non-compliance</b>	An occurrence, set of circumstances or development that is a breach of this consent
<b>Operation</b>	The carrying out of the approved purpose of the development upon completion of construction.
<b>Operator</b>	The person or company responsible for the carrying out of the approved purpose of the development upon completion of construction.
<b>Planning Secretary</b>	Planning Secretary under the EP&A Act, or nominee
<b>Reasonable</b>	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.
<b>Rehabilitation</b>	The restoration of land disturbed by the development to a good condition, to ensure it is safe, stable and non-polluting.
<b>Response to Request for Information (RFI)</b>	The Applicant's response to requests for additional information for the development under the EP&A Act.
<b>Response to Submissions (RtS)</b>	The Applicant's response to issues raised in submissions received in relation to the application and by the Department of Planning, Housing and Infrastructure for consent for the development under the EP&A Act.
<b>SEE</b>	Statement of Environmental Effects prepared by Land Development Solutions dated September 2023.
<b>Subject site</b>	The site as described in Schedule 1

**SCHEDULE 2**  
**PART A 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.

**TERMS OF CONSENT**

- A2. The Development may only be carried out in accordance with:
- (a) the conditions of this consent
  - (b) in accordance with all written directions of the Planning Secretary
  - (c) in accordance with the SEE, Response to Submissions (RtS) and Response to Request for Information (RFI Response)
  - (d) in accordance with the approved plans and documents in the tables below:

<b>Selwyn Street Industrial Architectural Drawings by Shade Design Newcastle Pty Ltd</b>			
<b>Drawing No.</b>	<b>Name of Drawing</b>	<b>Date</b>	<b>Revision</b>
SK-001	Site Analysis Plan	22/11/24	D
SK-002	Site Plan	22/11/24	D
SK-003	Site Plan 1:250	22/11/24	D
SK-004	Ground Floor Plan	22/11/24	D
SK-005	Roof Plan	22/11/24	D
SK-006	Elevations	22/11/24	D
SK-007	Elevations	22/11/24	D
SK-008	Section A-A	22/11/24	D
<b>Landscape Plan - 20 Selwyn St Mayfield East by The Garden Craftsmen</b>			
DA02	Site Plan – Landscape Concept Plan	21/8/23	A
DA03	Planting Plan – Site Trees, Shrubs & Groundcovers	21/8/23	A
DA04	Site Construction Details	21/8/23	A
DA05	Site Construction Notes	21/8/23	A
<b>Stormwater Management Plan - 20 Selwyn St Mayfield by Land Development Solutions</b>			
1	Stormwater Management Plan	12/03/25	E
2	Gutter & Down Pipe Sizing Calculations, & Notes Plan View On Site Retention & Sand Filter System	12/03/25	E
<b>Traffic Management Plan HRV - Turning Paths - 20 Selwyn Street Mayfield by Land Development Solutions</b>			

1	Inward and Outward Movements	28/11/24	B
<b>Proposed Roadworks &amp; Driveway Crossings - 20 Selwyn Street Mayfield</b>			
1	Driveway Access Plan & Longitudinal Sections	28/11/24	A
2	Preliminary Cross Sections	28/11/24	A
3	Preliminary Cross Sections continued	28/11/24	A

Document Type	Document Title	Document Reference	Author/Prepared by	Dated
Statement of Environmental Effects	Statement of Environmental Effects Change of Use to Depot 20 Selwyn Street Mayfield East Lot 1 in DP 581002	6759	Land Development Solutions	September 2023
Acoustic Report	Noise Impact Assessment – Change of use to Depot 20 Selwyn Street Mayfield East, NSW	232343-10132	Spectrum Acoustics	November 2023
Arboricultural Impact Assessment Report	Arboricultural Impact Assessment report	02052024-1544	Area Tree Vet	24/07/2024
Landscape Design Report	Landscape Design Report	2305Harman Selwyn	The Garden Craftsman	21/08/2023
Preliminary (Environmental) Site Investigation	Preliminary (Environmental) Site Investigation Proposed Temporary Storage Yard 20 Selwyn Street East Mayfield, NSW, 2340	E24 091-AR1	Sanko	26/02/2025
Structural Engineers Report	RE: Structural Certification for 6m x 3m Modular Office	N/A	Vision Engineers Australia	26/09/2024
Survey Plan	Detail Survey of Lot 1 D.P.581002 Being No. 20 Selwyn Street Mayfield	6759-DET Drawing 1 Edition A	Land Development Solutions	17/09/2021
Traffic Report	RE: Traffic & Parking Assessment – Change of Use to Depot – Lot 1 DP 581002 – 20 Selwyn Street, Mayfield East.	23/084	Intersect Traffic	28/09/2023

- 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 A2(a)** above.
- 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 **A2(d)**. In the event of an inconsistency, ambiguity or conflict between any of the documents listed in **Condition A2(c)** and **A2(d)**, the most recent document prevails to the extent of the inconsistency, ambiguity or conflict.

## LIMITS OF CONSENT

- A5. This consent will lapse five years from the date of consent, unless the works associated with the development have physically commenced, within the meaning of section 4.53 of the EP&A Act.

## APPLICABILITY OF GUIDELINES

- A6. 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.
- A7. 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.

## INCIDENT NOTIFICATION, REPORTING AND RESPONSE

- A8. The Planning Secretary must be notified in writing to [compliance@planning.nsw.gov.au](mailto: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.
- A9. Subsequent notification must be given and reports submitted in accordance with the requirements set out in **Appendix 3**.

## COMPLIANCES

- A10. 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 that they carry out in respect to the development.

## NON-COMPLIANCE NOTIFICATION

- A11. The Planning Secretary must be notified in writing to [compliance@planning.nsw.gov.au](mailto:compliance@planning.nsw.gov.au) within seven days after the Applicant becomes aware of any non-compliance. The Certifying Authority must also notify the Planning Secretary in writing to [compliance@planning.nsw.gov.au](mailto:compliance@planning.nsw.gov.au) within seven days after they identify any non-compliance.
- A12. The notification required by **Condition A11** must identify the development and its application number, set out the condition of consent for which the development is non-compliant, the way in which the development 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.
- A13. A non-compliance which has been notified as an incident does not need to also be notified as a non-compliance.

## LEGAL NOTICES

- A14. Any advice, or notice to the consent authority, shall be served upon the Planning Secretary via email at [information@planning.nsw.gov.au](mailto:information@planning.nsw.gov.au)

## PRESCRIBED CONDITIONS

- A15. The Applicant shall comply with all relevant prescribed conditions of development consent set out in **Appendix 2**.

## DEVELOPMENT CONTRIBUTIONS

- A16. In accordance with the Newcastle City Council Section 7.12 Development Contributions Plan (the Plan), a development contribution of **\$4774.00** must be paid to the Council for the purposes of the provision, extension or augmentation of transport and social infrastructure.
- A17. If the development contribution required under **Condition A16** is not paid within the financial quarter that this consent is granted, the contribution payable will be adjusted in accordance with the provisions of the Plan and the amount payable will be calculated on the basis of the contribution rates applicable at the time of payment.
- A18. The development contribution must be paid to the Council prior to the issue of the first construction certificate for the development.

## PAYMENT OF LONG SERVICE LEVY FEE

- A19. Any required payment of the relevant Long Service Levy must be made to the Long Service Corporation (LSC) prior to the commencement of work. The levy rate is calculated on the basis of 0.25% of the total cost of the work.

**Note:** The Long Service Levy is applied to all NSW building and construction projects of \$250,00 or more (including GST).

### **STRUCTURAL ADEQUACY**

- A20. All new structures, and any alterations or additions to existing structures, that are part of the development must be constructed in accordance with the relevant requirements of the BCA, and with the requirements of **Condition B1**.
- A21. Prior to the commencement of construction of the development, the Applicant must submit a certificate from a practicing structural engineer to the Certifying Authority that all new structures, and any alterations or additions to existing structures complies with all relevant standards, codes, requirements and specifications as outlined in the EP&A Regulation.

#### **Notes**

- *Under Part 4A 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.*

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### **FLOOD MANAGEMENT**

- A22. All onsite demountable buildings must be constructed with a minimum floor level of 3.3 metres AHD.

### **OPERATION OF PLANT AND EQUIPMENT**

- A23. 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.

**END OF PART A**

## PART B PRIOR TO COMMENCEMENT OF WORKS

### CONSTRUCTION CERTIFICATE

- B1. Building and demolition works must not commence until a relevant construction certificate has been issued. Prior to the issue of the relevant construction certificate, the Certifying Authority must be satisfied that the documentation for the relevant construction certificate demonstrates compliance with this consent.

The Applicant must provide a copy of the construction certificate to the Department within two days of it being issued by the Certifying Authority.

### NOTIFICATION OF COMMENCEMENT

- B2. The Applicant must notify the Planning Secretary, in writing, of the dates of commencement of physical work and operation, at least 48 hours before those dates.
- B3. If the construction or operation of the development is to be staged, the Applicant must notify the Planning Secretary, in writing, at least 48 hours before the commencement of each stage, of the date of commencement, and a description of the development to be carried out in that stage.

### ACCESS TO INFORMATION

- B4. At least 48 hours before the commencement of work 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) contact details to enquire about the development or to make a complaint;
    - (iv) a complaints register, updated monthly;
    - (v) any other matter required by the Planning Secretary; and
  - (b) keep such information up to date, to the satisfaction of the Planning Secretary.

### SERVICES

- B6. The Applicant must comply with the requirements of any public authorities for the connection to, relocation of and/or adjustment of the services affected by site preparation works for and the construction of the development. Any costs for relocation, adjustment or support of services must be the responsibility of the Applicant. Where areas are disturbed as a result of the provision of services to the development, those areas must be restored to the satisfaction of the asset owner.

### WASTE STORAGE FACILITIES AND ARRANGEMENTS DETAILS – MIXED

- B7. Before the issue of the first construction certificate for the development (i.e., whether for part or whole of a building), details are to be provided showing facilities in a screened location within the premises for the storage of garbage, discarded or returnable packaging or other forms of trade wastes, and arrangements are to be made for regular removal and disposal of same. The required garbage facility is to be suitable for the accommodation of Council approved wheel type bins or bulk waste containers. Full details are to be included in documentation for the construction certificate application.
- B8. Materials and sheds or machinery to be used in association with the construction of the development must not be stored or stacked on Council's footpath, nature strip, reserve or roadway.

**Note 1:** No building rubbish or debris must be placed or be permitted to be placed on any adjoining public reserve, footway, road or private land.

**Note 2:** Weighbridge certificates, receipts or dockets that clearly identify where waste has been deposited must be retained. Documentation must include quantities and nature of the waste. This documentation must be provided to Council prior to occupation of the development.

**Note 3:** The suitable container for the storage of rubbish must be retained on site until occupation of the development.

### TOILETS ON SITE

- B9. Before work commences, toilet facilities are to be available or provided at the work site and maintained until the works are completed, at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site. Each toilet is to:
- (a) be a standard flushing toilet connected to a public sewer, or
  - (b) have an on-site effluent disposal system approved under the Local Government Act 1993, or



- (c) be a temporary chemical closet approved under the Local Government Act 1993.

#### **EROSION AND SEDIMENT CONTROL**

- B10. Prior to the commencement of work, erosion and sediment control measures are to be established and maintained to prevent silt and sediment escaping the site or producing erosion. This work must be carried out and maintained in accordance with Managing Urban Stormwater: Soils and Construction 4<sup>th</sup> Edition Volume 1 (the Blue Book) published by Landcom 2004.

**Note:** *All erosion and sediment control measures must be in place prior to earthworks commencing.*

#### **EROSION AND SEDIMENT CONTROL – VEHICLE ACCESS**

- B11. Before site work and/or building work commences a 3.0m 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 or soil is not to be stockpiled on the all-weather vehicle access.

#### **STORMWATER MANAGEMENT DETAILS**

- B12. Before the issue of the first construction certificate for the development (i.e., whether for part or whole of a building), details are to be provided demonstrating how stormwater runoff from the proposed development is to be managed in accordance with the requirements of Section C4 'Stormwater' of Newcastle Development Control Plan 2023, the associated Technical Manual and AS/NZS 3500.3 Plumbing and drainage Part 3 Stormwater drainage, as indicated on the stormwater management concept plan prepared by Land Development Solutions (Drg. No. 1 and 2 Rev E, Job Number 6759, dated 12.03.2025), except as amended by this consent.

Full details are to be included in documentation for the construction certificate application.

#### **HUNTER WATER REQUIREMENTS**

- B13. Before the issue of the first construction certificate for the development (i.e., whether for part or whole of a building), a copy of a Hunter Water compliance certificate (*Water Act 1991* - Section 50) must be obtained and included in the construction certificate documentation.

**Note:** *Note: Compliance is required with all of Hunter Water's requirements to provide the development with water supply and sewerage service.*

#### **ROAD OCCUPANCY LICENCE**

- B14. A Road Occupancy Licence (ROL) must be obtained from the relevant road authority for any works which have the potential to affect traffic flows during construction activities.

#### **VEHICULAR CROSSINGS STANDARDS**

- B13. Before the issue of the first construction certificate for the development (i.e., whether for part or whole of a building), full details are to be provided to, and approval obtained or other satisfactory arrangements confirmed, in writing, from Council, pursuant to section 138 of the *Roads Act 1993* for three industrial vehicular crossings across the road reserve, in accordance with the following criteria:

- (a) Constructed in accordance with Newcastle City Council's A1300 - Driveway Crossings Standard Design Details.
- (b) Driveways shall be constructed with a sag, generally following the existing ground profile of the vegetated swale at the site frontage, ensuring the flow path along the swale is maintained.
- (c) The driveway crossings, within the road reserve, are to be a maximum of 6m, 7m and 10m wide, in order from South to North.
- (d) Letterboxes, landscaping and any other obstructions to visibility are to be kept clear of or limited in height to 1.2m, in the 2.0m by 2.5m splay within the property boundary, each side of the driveway entrance.
- (e) The proposed driveway is to be a minimum of 3.0m clear of the trunk of any tree within the road reserve.
- (f) The proposed driveway is to be a minimum of 750mm clear of the centre of any pole or obstruction within the road reserve and 1.0m clear of any drainage pit.

**Note:** *These works are not approved until consent under Section 138 of the Roads Act 1993 has been granted by the Newcastle City Council.*

#### **PUBLIC DOMAIN WORKS REQUIRED**

- B14. Before the issue of the first construction certificate for the development (i.e., whether for part or whole of a building), full details are to be provided to, and consent obtained, or other satisfactory arrangements confirmed in writing, from Council pursuant to Section 138 of the *Roads Act 1993* for the following works to be constructed by the developer in

connection with the proposed development within the Selwyn Street public road reserve, adjacent to the site, at no cost to Council and in accordance with Council's guidelines and design specifications:

- (a) Three new driveways to Selwyn Street in accordance with Newcastle City Council's A1300 - Driveway Crossings Standard Design Details.
- (b) Driveways shall be constructed with a sag, generally following the existing ground profile of the vegetated swale at the site frontage, ensuring the flow path along the swale is maintained.
- (c) Kerb and Gutter construction along Selwyn Street, extending from the proposed southernmost driveway to the existing kerb and gutter just north of the proposed northernmost driveway.
- (d) Kerb Inlet pits being installed at suitable intervals along Selwyn Street and connecting to the existing pipe on Selwyn Street.
- (e) Retention of the existing vegetated swale along the site frontage.
- (f) Connection of piped stormwater runoff from the site to the existing public stormwater network.

Engineering design plans and specifications for the works to be undertaken within the public road reserve are to be prepared by a practising professional engineer with experience and competence in the related field.

#### **LANDSCAPE PLANS AND SPECIFICATIONS**

- B15. Before the issue of the first construction certificate for the development (i.e., whether for part or whole of a building), all proposed planting and landscape elements indicated on the approved landscape concept plan or otherwise required by the conditions of this consent are to be detailed on a comprehensive landscape plan and specification. The plan and specification are to be prepared in accordance with the provisions of Newcastle Development Control Plan 2023 and is to include details of the following:

- (a) cross sections through the site
- (b) proposed contours or spot levels
- (c) botanical names
- (d) quantities and container size of all proposed trees
- (e) shrubs and ground cover
- (f) details of proposed soil preparation
- (g) mulching and staking
- (h) treatment of external surfaces and retaining walls where proposed
- (i) drainage, location of taps
- (j) maintenance periods

The plan and specification are to be prepared by a qualified landscape designer and be included in documentation for the construction certificate application.

#### **END OF PART B**

## PART C DURING CONSTRUCTION

### COMPLIANCE WITH BCA

- C1. Building work must be carried out in accordance with the requirements of the BCA.

### APPROVED PLANS TO BE ON SITE

- C2. A legible copy of the approved and certified plans, specifications and documents incorporating conditions of consent and certification must be kept on the subject site at all times by the builder and be readily available for perusal by any officer of the Department or Council.

### SITE NOTICE

- C3. 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, structural engineer, principal contractor, Certifying Authority and their contact details, including phone number. The notice(s) must satisfy all, but not be limited to, the following requirements:
- (a) minimum dimensions of the notice are to measure 841 mm x 594 mm (A1 size), with any text on the notice to be a minimum of 30 point type size
  - (b) the notice must be durable and weatherproof, and be displayed for the entirety of the works period
  - (c) the approved hours of work, the name, address and telephone number 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 complaints, must be displayed on the site notice
  - (d) the notice(s) must be mounted at eye level, on the perimeter hoardings/fencing being erected, and in a prominent position that can be read easily by anyone in any public road.
  - (e) the signage must also state that unauthorised entry to the subject site is not permitted.

Any such sign is to be maintained while the building work is being carried out and must be removed when the work has been completed.

**Note:** *This does not apply in relation to building work, subdivision work or demolition work carried out inside an existing building, if the work does not affect the external walls of the building, or Crown building work certified to comply with the Building Code of Australia under the Act, Part 6.*

### CONSTRUCTION HOURS

- C4. Construction, including the delivery of materials to and from the site, is limited to the following:
- (a) between 7:00 am and 6:00 pm, Mondays to Fridays inclusive
  - (b) between 8:00 am and 1:00 pm, Saturdays
  - (c) no work on Sundays and public holidays
- C5. Activities may be undertaken outside of the hours specified in **Condition C4** if required:
- (a) by the NSW Police, TfNSW or a public authority, including for the delivery of vehicles, plant or materials
  - (b) in an emergency, to avoid the loss of life, damage to property, or to prevent environmental harm; or
  - (c) in accordance with a Road Occupancy Licence.
- C6. Notification of the activities specified in **Condition C5**, must be given to affected residents before undertaking the activities, or as soon as is practicable afterwards.

### NO OBSTRUCTION OF PUBLIC WAY

- C7. The public way (outside of any construction works zone) 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 relevant Authority to stop all work on site.

### PROTECTION OF TREES

- C8. For the duration of construction works, all trees within, and immediately adjacent to, the site boundaries must be protected at all times, in accordance with Council's tree protection requirements. Any street tree, which is damaged or removed during construction due to an emergency, must be replaced, to the satisfaction of Council.
- C9. During construction the Applicant must ensure that no storage or disposal of material takes place within the drip line or beneath the canopy of any tree within or adjacent to the site.

### CONSTRUCTION NOISE MANAGEMENT

- C10. Any noise generated during the construction of the development must not be offensive noise within the meaning of the *Protection of the Environment Operations Act 1997* (NSW).

C11. During building/demolition work, generation of noise that is audible at residential premises is to be restricted to the following times:

- (a) Monday to Friday, 7:00 am to 6:00 pm
- (b) Saturday, 8:00 am to 1:00 pm.

No noise from construction/demolition work is to be generated on Sundays or public holidays.

#### **VIBRATION CRITERIA**

C12. Vibration caused by construction at any residence, or structure, beyond the boundaries of the site, must be limited to:

- (a) for structural damage, the latest version of *DIN 4150-3 (1992-02) Structural vibration - Effects of vibration on structures* (German Institute for Standardisation, 1999); and
- (a) for human exposure, the acceptable vibration values set out in the Environmental Noise Management Assessing Vibration: a technical guideline (DEC, 2006) (as may be updated, or replaced, from time to time).

#### **CONTROLLING DUST**

C13. The Applicant must take all reasonable steps to minimise dust generated during all works authorised by this consent.

C14. During construction, the Applicant must ensure that:

- (a) activities are carried out in a manner that minimises dust, including emission of windblown or traffic generated dust
- (b) regularly and lightly watering dust prone areas
- (c) all trucks entering or leaving the site with loads, have their loads covered
- (d) trucks associated with the development do not track dirt onto the public road network
- (e) public roads used by these trucks are kept clean
- (f) alter or cease construction work during periods of high wind
- (g) land stabilisation works are carried out progressively on site to minimise exposed surfaces

#### **EARTHWORKS**

C15. Any earthworks (including any structural support or other related structure for the purposes of the development).

- (a) must not cause a danger to life or property or damage to any adjoining building or structure on the lot or to any building or structure on any adjoining lot
- (b) must not redirect the flow of any surface or ground water or cause sediment to be transported onto an adjoining property
- (c) retained material must have a gradient of at least 5%
- (d) must be constructed in accordance with the approved plans for such work(s).
- (e) must be wholly located within the subject site (including footings of any retaining structures)

#### **EXCAVATION AND BACKFILLING SAFETY**

C16. During site work and/or building work, all excavations and backfilling are to be executed safely, and excavations are to be properly guarded and protected to prevent them from being dangerous to life and property.

#### **IMPORTED FILL MATERIAL**

C17. During site work and/or building work, 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.

#### **HANDLING EXCAVATED WASTE**

C18. During site work and/or demolition work, 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'.

#### **RESOURCE RECOVERY ORDERS**

C19. During site work and/or building work, documentation demonstrating 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 the Department or the Certifying Authority on request.

#### **EROSION AND SEDIMENT CONTROL MEASURES**

- C20. During site work and/or building work, erosion and sediment control measures are to be implemented, 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 construction certificate application, and with the below requirements:
- (a) Control over discharge of stormwater and containment of run-off and pollutants leaving the site is to be undertaken through the installation of erosion control devices such as catch drains, energy dissipaters, level spreaders and sediment control devices such as hay bale barriers, filter fences, filter dams and sediment basins and controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover
  - (b) 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.

#### **PLUMBING AND DRAINAGE WORKS**

- C21. All plumbing and drainage work which are part of the development, must comply with the Plumbing Code of Australia, and Australian Standard AS/NZS 3500 Plumbing and drainage; and must be carried out by an appropriately licensed plumber.

#### **CONTROLLING SURFACE WATER**

- C23. During site work and/or building work 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.

#### **CONTAINING MATERIALS AND PLANT**

- C24. During building work, all building materials, plant and equipment is to be placed on the site of the development, 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.

#### **POLLUTION PREVENTION SIGNAGE**

- C25. During site work and/or building work, a Council '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 the Planning Secretary for the duration of demolition and construction work.

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

#### **CONTAINING WASTE**

- C26. During site work and/or building work, and at a minimum, the following measures are to be implemented:
- (a) A waste container of at least one cubic metre capacity is to be provided, maintained and regularly serviced from the commencement of works until the completion of the building, for the reception and storage of waste generated by the construction of the building and associated waste.
  - (b) The waste container is to be, at minimum, constructed with a 'star' picket (corners) and weed control mat (sides), or equivalent. The matting is to be securely tied to the pickets.
  - (c) Provision is to be made to prevent wind-blown rubbish leaving the site
  - (d) Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.

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

#### **END OF PART C**

## **PART D PRIOR TO COMMENCEMENT OF USE**

### **OCCUPATION CERTIFICATE**

- D1. Prior to the occupation of the building or the commencement of use which are part of the development, an occupation certificate must be obtained from the Certifying Authority.

The Applicant must provide a copy of the occupation certificate to the Department, prior to the occupation of the relevant buildings or commencement of use, which are part of the development.

### **SITE CLEAN UP**

- D2. Prior to commencement of use which are part of the development, the site must be cleaned and made good, to the satisfaction of the Certifying Authority.

### **LANDSCAPING COMPLETE – REPORT REQUIREMENTS**

- D3. Before the issue of the first occupation certificate for the development (i.e., whether for part or whole of a building), a Landscape Practical Completion Report is to be submitted to the Certifying Authority. 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.

### **RELOCATION OF SURVEY MONUMENTS**

- D4. Before the issue of the first occupation certificate for the development (i.e., whether for part or whole of a building), where the proposed development involves the destruction or disturbance of any survey monuments, those monuments affected are to be relocated at no cost to Council, by a surveyor registered under the *Surveying and Spatial Information Act 2002*.

### **PUBLIC INFRASTRUCTURE – RECTIFICATION OF DAMAGE**

- D5. Prior the issue of the first occupation certificate for the development (i.e., whether for part or whole of a building), any public infrastructure (including all public footways, foot paving, kerbs, gutters and road pavement) damaged during the works (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concreting vehicles) are to be immediately fully repaired following the damage, to a condition that provides for safe use by pedestrians and vehicles, to the written satisfaction of Council, and at no cost to Council.

### **COMPLETION OF ROAD RESERVE WORKS**

- D6. Before the issue of the first occupation certificate for the development (i.e., whether for part or whole of a building), all works within the road reserve required by this consent are to be completed and a practical completion certificate, or equivalent written advice, is to be obtained from Council.

### **NOTIFICATION OF COMMENCEMENT OF USE**

- D7. At least one month before the commencement of operation, the Applicant must notify the Planning Secretary in writing of the date of commencement of operation, or use of the development. If the operation of the development is to be staged, the Applicant must notify the Planning Secretary in writing, at least one month before the commencement of each stage, of the date of commencement, and of the development to be carried out in that stage.

### **PROTECTION OF PUBLIC INFRASTRUCTURE**

- D8. Unless the Applicant and the applicable authority agree otherwise, the Applicant must:
- (a) repair, or pay the full costs associated with repairing, any public infrastructure that is damaged by carrying out of the development; and
  - (b) relocate, or pay the full costs associated with relocating any infrastructure that needs to be relocated as a result of the development.

### **ROAD DAMAGE**

- D9. The cost of repairing any damage caused to Council assets or other public authority's assets, in the vicinity of the site, as a result of construction works associated with the development, must be met in full by the Applicant.

### **STRUCTURAL INSPECTION CERTIFICATE**

- D10. Prior to the commencement of use, a Structural Inspection Certificate or a Compliance Certificate must be obtained from a suitably qualified and practising structural engineer. The Certificate must detail that:
- (a) the site has been periodically inspected, and the structural engineer is satisfied that the structural works are deemed to comply with the final design drawings; and

- (b) the drawings listed on the Inspection Certificate have been checked against those listed on the final Design Certificate/s.

D11. A copy of the Structural Inspection Certificate or a Compliance Certificate completed under **Condition D10** must be, accompanied by an electronic set of final drawings and submitted to the Planning Secretary and Certifying Authority for information:

**Note:** *Contact the Consent Authority for specific electronic format of the electronic set of drawings.*

#### **PROTECTION OF TREES**

D12. The Applicant must ensure that no storage of scaffold equipment and materials takes place within the drip line or beneath the canopy of any tree within or adjacent to the site to protect the critical root structure.

**END OF PART D**

## OCUPATION AND ONGOING USE

### HOURS OF OPERATION

- E1. During occupation and ongoing use, the hours of operation or trading of the premises are to be not more than:

Day	Start	Finish	
Monday	7am	5pm	Same day
Tuesday	7am	5pm	Same day
Wednesday	7am	5pm	Same day
Thursday	7am	5pm	Same day
Friday	7am	5pm	Same day

### NOISE CONTROL

- E2. During occupation and ongoing use of the premises, 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*.

### AIR QUALITY

- E3. During occupation and ongoing use of the premises is not to give rise to the emission of any 'air impurity' as defined under the *Protection of the Environment Operations Act 1997*, that interferes unreasonably with the amenity of neighbouring premises and/or other sensitive receivers.

## END OF PART E



## APPENDIX 1 ADVISORY NOTES

### APPEALS

- AN1. The Applicant has the right to appeal to the Land and Environment Court of New South Wales, in the manner set out in the *Environmental Planning and Assessment Act 1979* (NSW), and the *Environmental Planning and Assessment Regulation 2021* (NSW).

### OTHER CONSENTS AND PERMITS

- AN2. The Applicant must apply to Council for all necessary permits, including crane permits, road opening permits, hoarding or scaffolding permits, footpath occupation permits, and/or any other consents under Section 68 of the *Local Government Act 1993* (NSW), and Section 138 of the *Roads Act 1993* (NSW).

### RESPONSIBILITY FOR OTHER CONSENTS AND AGREEMENTS

- AN3. The Applicant is solely responsible for ensuring that all additional approvals, licenses, consents and agreements, are obtained from other authorities, as relevant. No condition of this consent removes any obligation to obtain, renew or comply with such additional approvals, licenses, consents and agreements.

### UTILITY SERVICES

- AN4. The Applicant must liaise with the relevant utility authorities for electricity, gas (if relevant), water, and telecommunications on the site:
- (a) to locate all service infrastructure on the site; and
  - (b) negotiate relocation and/or adjustment of any infrastructure related to those services which will be affected by the construction of the development.

The Applicant is responsible for costs associated with relocating any services.

### DISABILITY DISCRIMINATION ACT

- AN6. This application has been assessed in accordance with the *Environmental Planning and Assessment Act 1979* (NSW). No guarantee is given that the development complies with the *Disability Discrimination Act 1992* (Cth). The Applicant/owner is responsible to ensure compliance with this, and other anti-discrimination legislation. The *Disability Discrimination Act 1992* (Cth) covers disabilities not catered for in the minimum standards called up in the Building Code of Australia, 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* (Cth) currently available in Australia.

### COMMONWEALTH ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION ACT 1999

- AN7.
- (a) The *Environment Protection and Biodiversity Conservation Act 1999* (Cth) 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 a consent from the Australian Environment Minister.
  - (b) This application has been assessed in accordance with the *Environmental Planning & Assessment Act 1979* (NSW). The determination of this application has not involved any assessment of the application of the Commonwealth legislation. It is the Applicant's responsibility to consult the Australian Department of Climate Change, Energy, the Environment and Water in order to determine the need, or otherwise, for a Commonwealth consent. The Applicant should not construe this issue of consent, as notification that the Commonwealth Act does not have application to the development. The Commonwealth Act may have application, and the Applicant should obtain advice about this matter. There are severe penalties for non-compliance with the Commonwealth legislation.

END OF APPENDIX 1

## APPENDIX 2 – PRESCRIBED CONDITIONS

Conditions under this schedule are prescribed conditions for the purposes of section 4.17 (11) of the *Environmental Planning and assessment Act 1979*.

**PB1. Compliance with Building Code of Australia and insurance requirements under the *Home Building Act 1989* (clause 98 EP&A Reg 2000)**

- (a) For development that involves any building work, the work must be carried out in accordance with the requirements of the Building Code of Australia.
- (b) In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, such a contract of insurance shall be in force before any building work authorised to be carried out by the consent commences.
- (c) For a temporary structure that is used as an entertainment venue, the temporary structure must comply with Part B1 and NSW Part H102 of Volume One of the Building Code of Australia.

**Note 1:** *This condition does not apply: (a) to the extent to which an exemption is in force under clause 187 or 188 of the Environmental Planning and Assessment Regulation 2000 (the Regulation), subject to the terms of any condition or requirement referred to in clause 187(6) or 188(4) of the Regulation, or (b) to the erection of a temporary building, other than a temporary structure to which part (3) of this condition applies.*

**Note 2:** *In this condition, a reference to the Building Code of Australia is a reference to that Code as in force on the date the application is made for the relevant:*

- (d) development consent, in the case of a temporary structure that is an entertainment venue, or

**Note 3:** *There are no relevant provisions in the Building Code of Australia in respect of temporary structures that are not entertainment venues.*

**PB2. Erection of signs (clause 98A EP&A Reg 2000) For development that involves any building work, subdivision work or demolition work, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:**

- (a) showing the name, address and telephone number of the principal Certifying Authority for the work, and
- (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (c) stating that unauthorised entry to the work site is prohibited. Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

**Note 1:** *This condition does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.*

**Note 2:** *This condition does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the Environmental Planning and Assessment Act 1979, to comply with the technical provisions of the State's building laws.*

**Note 3:** *Principal certifying authorities and principal contractors must also ensure that signs required by this clause are erected and maintained.*

**PB3. Notification of Home Building Act 1989 requirements (clause 98B EP&A Reg 2000) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the council) has given the council written notice of the following information:**

- (d) in the case of work for which a principal contractor is required to be appointed:
  - (i) the name and licence number of the principal contractor, and
  - (ii) the name of the insurer by which the work is insured under Part 6 of that Act,
- (e) in the case of work to be done by an owner-builder:
  - (i) the name of the owner-builder, and
  - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit. If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under this condition becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

**Note:** *This condition does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the Environmental Planning and Assessment Act 1979, to comply with the technical provisions of the State's building laws.*

- PB4. Entertainment venues (clause 98C EP&A Reg 2000) If the development involves the use of a building as an entertainment venue, the development shall comply with the requirements set out in Schedule 3A of the Environmental Planning and Assessment regulation 2000.
- PB5. Maximum capacity signage (clause 98D EP&A Reg 2000) For the following uses of a building: a sign must be displayed in a prominent position in the building stating the maximum number of persons permitted in the building if the development consent for the use contains a condition specifying the maximum number of persons permitted in the building:
- (a) entertainment venue,
  - (b) function centre,
  - (c) pub,
  - (d) registered club,
  - (e) restaurant.

**Note:** Words and expressions used in this condition have the same meanings as they have in the Standard Instrument.

- PB6. Shoring and adequacy of adjoining property (clause 98E EP&A Reg 2000) If the development involves an excavation that extends below the level of the base of the footings of a building, structure, or work (including any structure or work within a road or rail corridor) on adjoining land, the person having the benefit of the development consent must, at the person's own expense:

- (a) protect and support the building, structure or work from possible damage from the excavation, and
- (b) where necessary, underpin the building, structure or work to prevent any such damage.

**Note:** This condition does 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 that condition not applying

## END OF APPENDIX 2

### **APPENDIX 3 – WRITTEN INCIDENT NOTIFICATION AND REPORTING REQUIREMENTS**

A written incident notification addressing the requirements set out below must be notified to the Department in writing to [compliance@planning.nsw.gov.au](mailto: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 A9 or, having given such notification, subsequently forms the view that an incident has not occurred.

#### **WRITTEN INCIDENT NOTIFICATION REQUIREMENTS**

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.

#### **INCIDENT REPORT REQUIREMENTS**

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.

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.

**END OF APPENDIX 3**