

APPENDIX A - SCHEDULE OF CONDITIONS

REASONS FOR CONDITIONS

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

APPROVED DOCUMENTATION

- 2 The development is to be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent.

Plan No./Supporting Document	Reference/Version	Prepared by	Dated
Architectural Plans	Rev B	Snell Architects	12 April 13
Context Plan	500	Snell Architects	June 2011
Site Plan	500 Rev B	Snell Architects	June 2011
Site Coverage Plan	500 Rev B	Snell Architects	June 2011
Staging Diagram	500 Rev B	Snell Architects	Sep 2012
Basement	500 Rev G	Snell Architects	Sep 2012
Hunter Street Ground	500 Rev F	Snell Architects	Sep 2012
King Street Ground	500 Rev G	Snell Architects	Sep 2012
King Street Ground	500 Rev E	Snell Architects	Sep 2012
Level 1	500 Rev H	Snell Architects	Sep 2012
Level 2	500 Rev H	Snell Architects	Sep 2012
Level 3	500 Rev H	Snell Architects	Sep 2012
Level 4	500 Rev H	Snell Architects	Sep 2012
Level 5	500 Rev H	Snell Architects	Sep 2012
Level 6	500 Rev I	Snell Architects	Sep 2012
Level 7	500 Rev L	Snell Architects	Sep 2012
Level 8	500 Rev I	Snell Architects	Sep 2012

Level 9	500 Rev H	Snell Architects	Sep 2012
Level 10	500 Rev I	Snell Architects	Sep 2012
Level 11	500 Rev H	Snell Architects	Sep 2012
Level 12	500 Rev H	Snell Architects	Sep 2012
Level 13	500 Rev H	Snell Architects	Sep 2012
Level 14	500 Rev I	Snell Architects	Sep 2012
Level 15	500 Rev I	Snell Architects	Sep 2012
Level 16	500 Rev I	Snell Architects	Sep 2012
Level 17	500 Rev I	Snell Architects	Sep 2012
Level 18	500 Rev B	Snell Architects	Sep 2012
Roof Level	500 Rev I	Snell Architects	Sep 2012
North Elevation (Hunter Street)	500 Rev J	Snell Architects	Sep 2012
East Elevation	500 Rev I	Snell Architects	Sep 2012
South Elevation (King Street)	500 Rev I	Snell Architects	Sep 2012
West Elevation	500 Rev I	Snell Architects	Sep 2012
Section AA	500 Rev E	Snell Architects	Sep 2012
Statement of Environmental Effects	108330	RPS Group	June 2011
Heritage Impact Statement		City Plan Heritage	June 2011
Landscape Plan	8350.5 L01-6	Terras Landscape	21/06/11
Acid Sulphate Soil Management Plan	31900.02	Douglas Partners	June 2011
Preliminary Flood Investigation and Preliminary Stormwater Design. Drg. No. 70323-SWW1 – SWW8,	Rev 70323 C	Barker Harle Consulting Engineers	Feb 2012
Traffic Impact Assessment Report	110607	URaP – TTW	June 2011

Noise Impact Assessment Report	101-1578-R1	Reverb Acoustics	June 2011
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In the event of any inconsistency between conditions of this development consent and the plans/supporting documents referred to above, the conditions of this development consent prevail.

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

- 3 A total monetary contribution of \$711,171.50 is to be paid to Council, pursuant to Section 94A of the *Environmental Planning and Assessment Act 1979*, such contribution to be payable prior to the issue of a Construction Certificate in respect of the proposed development.

Note: i) This condition is imposed in accordance with the provisions of the *Newcastle City Council S94A Development Contributions Plan 2009* (updated version operational from 15 March 2011). A copy of the plan may be inspected at Council's Customer Enquiry Centre, ground floor of the City Administration Centre, 282 King Street Newcastle 8.30 am to 5.00 pm, excluding public holidays.

- ii) 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 Council's Customer Enquiry Centre for determination of the indexed amount of contribution on the date of payment.

- 4 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.
- 5 Working drawings and specifications of the proposed building are to be submitted to the NSW Mine Subsidence Board for approval prior to an application for a Construction Certificate and any requirements of the Board are

to be included in the documentation for a Construction Certificate application.

- 6 Roof water from the proposed new work being directed to the proposed water tanks with a total minimum volume of 86.5 m³ and being reticulated from there to any new toilet cisterns and cold water laundry and 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 is to be installed in accordance with AS 3500, the relevant plumbing regulations and the requirements of the Hunter Water Corporation. Full details to be provided with the Construction Certificate application.
- 7 The visitor parking bays are to be constructed in paving bricks or in a suitable alternative visually unobtrusive paving material which contrasts in colour and texture with that used in the construction of the driveway. Full details are to be included in documentation for a Construction Certificate application.
- 8 Overflows from the stormwater discharge controls being directed to Council's drainage system by means of an inter-allotment drainage line or underground pipe directly to a new kerb inlet pit to be located in Hunter Street directly in front of the site. The maximum discharge through the overflow pipe is to be 1.73 L/s. Full details and calculations to be provided with the Construction Certificate application.
- 9 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.
- 10 All stormwater runoff from the proposed development being managed in accordance with the requirements of Element 4.05 'Water Management' of Newcastle Development Control Plan 2005, the associated Technical Manual and the latest issue of AS 3500.3 as applicable, as indicated on the stormwater management concept plan prepared by Barker Harle Consulting Engineers (Drg. No. 70323-SWW1 – SWW8, dated 6 February 2012 Rev C. Full details are to be included in documentation for a Construction Certificate application.
- 11 All proposed planting and landscape elements indicated on the submitted landscape concept plan or otherwise required under the conditions of this consent are required to be detailed on a comprehensive landscape design plan and specification. The required comprehensive landscape design plan and specifications is to be in accordance with the provisions of Newcastle Development Control Plan 2005 and is to include details of the following:
 - a) cross sections through the site where appropriate
 - b) proposed contours or spot levels
 - c) botanical names
 - d) quantities and container size of all proposed trees
 - e) shrubs and ground cover
 - f) details of proposed soil preparation
 - g) mulching and staking
 - h) treatment of external surfaces and retaining walls where proposed
 - i) drainage, location of taps and
 - j) appropriate maintenance periods.

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

- 12 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. A copy of the Corporation's compliance certificate (refer s50 Hunter Water Act 1991) is to be included in documentation for a Construction Certificate application.
- 13 All external ramps and pathways within the site required to be accessible for persons with disabilities being designed and constructed in accordance with AS.1428 – Design for Access and Mobility. Kerb ramps are to be provided adjacent to accessible parking bays. Full details are to be included in documentation for a Construction Certificate application.
- 14 Prior to the release of the construction certificate the applicant shall submit a comprehensive waste management report in accordance with the better practice guide for Waste Management in Multi-unit Dwellings by the Department of Environment and Climate Change June 2008. The report shall address the storage and disposal of commercial and residential waste. The report shall include a list of recommendations, including but not limited to: sound insulated chute and/or additional garbage storage areas that are located in close proximity to the residential units. The recommendations of the report shall be included on the construction certificate drawings.
- 15 A group type mailbox is to be provided at the street frontage in accordance with the requirements of Australia Post, clearly displaying individual unit numbers and the required house number. Full details are to be included in the documentation for a Construction Certificate application.
- 16 The following street tree planting is to be carried out prior to issue of an Occupation Certificate for the premises in accordance with the following Requirements. The trees species *Platanus orientalis* 'Autumn Glory'– (Plane Tree) are to be planted along Hunter Street and *Pyrus calleryana* 'Bradford' along the King Street frontages. Full details are to be included in the documentation for a Construction Certificate application
 - a) A total of 8 (eight) street trees are to be planted, 2 (two) on Hunter Street and 6 (six) on King Street.
 - b) All street trees are to be size index 330 - 427 at pot size 400L.
 - c) All street trees are to comply with the NATSPEC criteria, especially with regard to tree balance, root and stem structure. Written evidence of compliance with NATSPEC to be submitted to Council prior to delivery to site. This is to be in the form of a report and or checklist and include photos.
 - d) Written evidence from the proponent's Landscape Architect confirming the correct variety is to be submitted to Council prior to delivery to site.
 - e) A site meeting is to be arranged (48 hours notice) prior to tree installation

with Council's Landscape Architect (4974 2674) to physically inspect the NATSPEC compliance of the street trees

- f) Trees are to be installed in gap-graded (structural) soil vaults. Volumes should be based on the formula: $CP \times 0.6m^3$, CP = the crown projection (m^2) of a mature tree ($3.14 \times r^2$)
 - g) Full width reconstruction of the footway along the extent of the site frontage to Hunter Street and King Street. The concrete pavement to be Flagstone pattern and constructed to Councils specification No. PLE/S009 – "Specification for the construction of Footway paving in Plain or patterned concrete". (Any proposed variation to this detail is to be discussed with Councils Landscape Architect 4974 2674 for determination)
 - h) Tree planting pits are to be irrigated.
 - i) Any street awnings are to be half width, to ensure maximum available room for street tree planting.
 - j) Permeable paving to be installed to the base of each tree, dimensions 1800mm L x 1200mm W, with a sturdy steel tree guard.
 - k) Trees are to be maintained for a period of 104 weeks.
 - l) Street furniture such as six stainless Steel bench seats with Australian hardwood slats and three Fire retardant rubbish bins are to be installed. Details and locations are to be confirmed with Councils Landscape Architect (4974 2674)
- 17 A car wash bay being provided for the use of occupants of the building in one of the car park spaces on site and the floor of such bay being properly bunded, graded and drained to the sewers of the Hunter Water Corporation in accordance with that authority's requirements. Full details to be included in the documentation for a Construction Certificate application.
- 18 The swimming pool water recirculation and filtration system installation shall comply with Australian Standard 1926.3:2010 - Swimming pool safety - Water recirculation systems. Full details are to be included in the documentation for a Construction Certificate application.
- 19 Clear openings between car park columns for single parking spaces being a minimum of 2.7 m and for double parking spaces of 5.0 m. Full details are to be included in documentation for a Construction Certificate application.
- 20 Landscaping and any other obstructions to visibility should be kept clear of or limited in height to 1.2 m in the 2.5 metre by 2 metre splay within the property boundary each side of the driveway entrance. Full details are to be included in documentation for a Construction Certificate application.
- 21 All proposed driveways, parking bays and vehicular turning areas being 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.

- 22 On-site parking accommodation being provided for a minimum of 241 cars, including 50 visitor spaces as well as 262 bicycle spaces (security level 3) and 24 motor cycle spaces. Such facilities being set out generally in accordance with the minimum parking layout standards indicated in Australian Standard AS 2890.1-2004 "Parking facilities – off street car parking and Element 4.1 of Council's Newcastle DCP 2005. Full details are to be included in documentation for a Construction Certificate application.
- 23 Wheel stops being provided along the front of parking spaces in accordance with AS 2890.1 Parking. Full details are to be included in documentation for a Construction Certificate application.
- 24 Proposed awnings being in accordance with Element 4.08 'Street Awnings and Balconies over Public Roads' of the Newcastle Development Control Plan 2005. Full details are to be included in documentation for a Construction Certificate application.
- 25 A preliminary archaeological assessment report to be prepared and submitted to the Heritage Branch of the NSW Department of Planning for compliance with the relics provisions of the NSW Heritage Act 1977. Written evidence of the NSW Heritage Branch concurrence with regard to the relics provisions of the Heritage Act are to be submitted to Newcastle City Council for the approval of the Heritage Officer prior to the issue of a Construction Certificate.
- 26 Prior to the issuing of a construction certificate the proponent is to prepare a Project Specific Environmental Management Plan (EMP), such a plan being designed and implemented to manage all environmental aspects associated with the construction including off site impacts such as transport to and from the site. Such plan is to be kept on site and made available to authorised Council officers upon request. The EMP shall include but not be limited to:
 - a) A site management strategy, identifying and addressing issues such as environmental health and safety, site security, and traffic management.
 - b) A water management strategy, detailing erosion and sediment control, management of soil stockpiles, control and management of surface water, groundwater and process water.
 - c) A dust management strategy, detailing procedures to minimise dust generation, with particular reference to control techniques and operational limits under adverse meteorological conditions. This strategy should be cross-referenced with the water management strategy.
 - d) A road management strategy, detailing procedures to ensure that all roads adjacent to and within the proposed application area are kept free and clear from mud and sediment.
 - e) A noise and vibration management strategy, detailing measures to minimise the impact of the construction works on commercial and residential amenity. Noise and vibration monitoring during construction should be incorporated into the program. Attention should also be given to minimising noise and vibration by exploring alternative modes of construction.
 - f) A waste minimisation strategy which aims to avoid production of waste and maximise reuse, recycling or reprocessing of potential waste material.
 - g) A community relations plan, which aims to inform local residents and other local stakeholders of the proposed nature and timeframes for activities together with contact details for site management.

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

- 27 No impact/hammer piling being carried out on site.

Note: Advice should be sought from an appropriately qualified consultant regarding alternative methods of pile placement suitable for the site and such information being included in documentation submitted with a Construction Certificate application.

- 28 Toilet facilities are to be available or provided at the work site before works begin and be maintained until the works are completed, at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site. Each toilet is to:
- a) be a standard flushing toilet connected to a public sewer, or
 - b) have an on-site effluent disposal system approved under the *Local Government Act 1993* (NSW), or
 - c) be a temporary chemical closet approved under the *Local Government Act 1993* (NSW).
- 29 A Hazardous Substances Management Plan is to be prepared by a competent person for the building(s) or parts of the building(s) proposed to be demolished in accordance with Australian Standard 2601:2001 – The Demolition of Structures. A copy of the Hazardous Substances Management Plan is to be provided to Council (marked to Attention: Compliance Services) and the demolisher prior to commencement of work.
- 30 Application being made to and approved by Council for the erection of a hoarding or part closure of the footway prior to construction being commenced. Such overhead structure or protective fence shall comply with the Construction Safety Act 1912 and Regulation 1950. Notice of intention of commencement must be given to WorkCover New South Wales.
- 31 The demolition works are to be undertaken in accordance with Australian Standard 2601:2001 – The Demolition of Structures and the following requirements:
- a) demolition works shall be conducted in accordance with the submitted Hazardous Substances Management Plan and a copy of the Hazardous Substances Management Plan shall be kept on-site for the duration of the proposed development
 - b) the removal, handling and disposal of any asbestos material is to be undertaken only by an asbestos removal contractor who holds the appropriate class of Asbestos Licence, issued by the WorkCover Authority of NSW
 - c) a copy of all waste disposal receipts are to be kept on-site for the duration of the proposed development and made available to authorised Council Officers upon request
 - d) seven working days notice in writing is to be given to Council and the owners/occupiers of neighbouring premises prior to the commencement of any demolition works. Such written notice is to include the date demolition will commence and details of the name, address, contact telephone number(s) and licence details (type of licences held and licence numbers) of any asbestos removal contractor and demolition contractor. Notification to

owners/occupiers of neighbouring premises shall also include Council's contact telephone number (49742000) and the Workcover Authority of NSW telephone number (49212900) and

- e) on sites where asbestos materials are to be removed, a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm is to be erected in a prominent position during asbestos removal works.

32 The demolisher is to ensure that all services (ie water, telecommunications, gas, electricity, sewerage etc), are disconnected in accordance with the relevant authority's requirements prior to demolition.

33 Any waste containers used in association with the proposed demolition are to be located on the site where possible.

Note: Where this is not feasible, application must be made for Council's approval to position the container on the adjacent public road in accordance with Council's adopted Building Waste Container Policy.

34 The demolisher is to ensure that all demolition material is kept clear of the public footway and carriageway as well as adjoining premises.

35 Any demolition/waste building materials that are not suitable for recycling are to be disposed of at Council's Summerhill Waste Management Facility or other approved site.

36 Waste management shall be implemented in accordance with the approved Waste Management Plan. At a minimum, the following measures shall be implemented during the construction phase:

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

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

37 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
- 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.

- 38 All building work must be carried out in accordance with the provisions of the Building Code of Australia.
- 39 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 a contract of insurance is to be in force before any building work authorised to be carried out by this consent commences.
- 40 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.
- 41 If the soil conditions require it, retaining walls associated with the erection or demolition of a building or other approved methods of preventing movement of the soil must be provided and adequate provision must be made for drainage.
- 42 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.
- 43 A Commercial type vehicular crossing being constructed across the public footway at the proposed driveway entrance/exits at no cost to Council and in accordance with Council's A017 Series (Concrete Vehicular Crossings) design specifications and such crossing being properly maintained.
- 44 Any proposed work within the public road reserve, including driveway works, reinstatement of a kerb or installation of drainage, is to be the subject of the separate approval of Council prior to commencement.

Note: A separate application to and approval from Council must be obtained for all works within the public road reserve pursuant to Section 138 of the Roads Act 1993 (NSW). For further information contact Council's Works Depot on 4974 6000 to request a Road Opening Approval at least seven days before construction commences. A fee will be payable in this regard.

- 45 The proposed visitor parking bays are to be clearly indicated by means of signs and/or pavement markings. The (50) visitor parking spaces are to be allocated to common property under any future strata scheme.
- 46 Construction/demolition work that generates noise that is audible at residential premises is to be restricted to the following times:
- Monday to Friday, 7:00 am to 6:00 pm and
 - Saturday, 8:00 am to 1:00 pm.

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

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

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

- 48 Erosion and sediment control measures are to be implemented prior to the commencement of works and maintained during the period of demolition and/or construction in accordance with the requirements of Managing Urban Stormwater: Soils and Construction 4th Edition – Vol. 1 (the 'Blue Book') published by Landcom, 2004. Controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover.

- 49 The Developer designing and constructing the following works within Hunter Street adjacent to the site at no cost to Council and in accordance with Council's guidelines and design specification, such works to be implemented prior to occupation of the premises:

a) Extension of the existing stormwater drainage pipe in Hunter Street to the site frontage including provision of a kerb inlet pit at the end of the pipeline.

Note: Full construction details regarding the required works are to be submitted to Council for approval prior to commencement.

- 50 No work within the public road (extension of stormwater drainage in Hunter Street) being commenced until Council's separate written approval has been obtained.

Note: 1) A separate road works application under S138 of the Roads Act 1993 is required for the works to be undertaken in the public road.

2) Engineering design plans and specifications for the works being undertaken in the public road reserve are required to be submitted to Council for approval with the Road Works application.

3) An additional fee will be required by Council for the assessment of engineering plans submitted for the public road works. In this regard the developer is advised to confer with Council's Development & Environment Section in order to confirm this fee.

- 51 Any structure on or over the public road reserve, including awnings, being the subject of a separate consent from Council, under s.138 of the Roads Act 1993, prior to commencement.

Note: A separate approval from Council must be obtained for all structures within the public road reserve pursuant to Section 138 of the Roads Act 1993. For further information contact Council's Strategic Property and Fleet Management Services on 4974 2000 to request a Road Consent. A fee will be payable in this regard.

- 52 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.
- 53 A temporary protective crossing is to be provided over the footway for vehicular traffic before demolition or building operations are commenced. This approval does not permit access to the property over any adjacent private or public land.
- 54 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.
- 55 Where the proposed development involves the destruction or disturbance of any existing survey monuments, those monuments affected are to be relocated at no cost to Council by a Surveyor registered under the *Surveying and Spatial Information Act 2002* (NSW).
- 56 The premises are to be identified by the provision of house and street numbers on the building exterior and mailbox, respectively, such that they are clearly visible from the road frontage.

The minimum numeral heights shall be:

- a) exterior of the building = 75mm and
 - b) group mailbox - street number = 150mm
- house number = 50mm
- 57 All public trees that are required to be retained must be physically protected by a tree protection zone (TPZ) installed in accordance with the City of Newcastle Urban Forest Technical Manual 'Section 7.0 Protection Measures'.
- The TPZ must remain in place and maintained until all works have been completed, with no waste materials, washouts, equipment or machinery to be stored within the TPZ.
- 58 Prior to commencement of any works the developer submitting to the Newcastle City Council Traffic Section for approval a Construction Traffic Management Plan for the proposed management of construction traffic and associated controls within the public road.

(Note: The required plan is to detail traffic control measures to be utilised during each construction phase ensuring the provision for safe, continuous movement of traffic and pedestrians within the adjacent public roads. The plan is to be prepared in accordance with Australian Standard 1742.3 – 2002.)

- 59 Any liquid wastes from the premises, other than stormwater are to be either discharged to the sewers of the Hunter Water Corporation in accordance with an approved Trade Waste Agreement or collected and disposed of by a licensed waste transport contractor in accordance with the Department of Environment and Climate Change 'Waste Classification Guidelines Part 1: Classifying Waste'.
- 60 A dilapidation survey being conducted prior to the commencement of site works by a suitably qualified consultant at buildings considered to be at risk of property damage from site works as determined by said consultant.
- 61 The Developer constructing / reconstructing, at no cost to Council and to Council's requirements, the following public footway works in King Street and Hunter Street adjacent to the site, such works to be implemented prior to the issue of an Occupation Certificate for the relevant stage of the development:
- a) Reconstruction of the footway along the full site frontage in accordance with Council requirements.

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

Consultation will be required with Council's Landscape Officer in order to confirm the type of footway required and landscaping requirements.

The Developer is advised to confer with Council's Development & Building Services Section in order to confirm Council's design requirements and construction standards prior to the commencement of the civil works within the public road.

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

- 62 All commitments listed in the relevant BASIX certificate for the development are to be satisfactorily completed prior to the issue of an Occupation Certificate. Should there be any changes to the specifications of the dwelling that have implications for compliance with the approved certificate, except where restricted or excluded by any other condition of consent, an amended BASIX Certificate can be relied upon as having complied with this condition. A copy of any amended BASIX Certificate is to be provided to Council within fourteen days of receipt.
- 63 All public footways, footpaving, kerbs, gutters and road pavement damaged during the works are to be immediately repaired following the damage, to a satisfactory state that provides for safe use by pedestrians and vehicles. Full restoration of the damage is to be carried out to Council's satisfaction prior to the completion of demolition work or prior to the issue of any occupation certificate in respect of development involving building work.
- 64 A copy of the stormwater drainage design plans approved with the Construction Certificate with 'work as executed' levels indicated, shall be submitted to the Principal Certifying Authority and to Newcastle City Council prior to the issue of an Occupation Certificate. The plans shall be prepared by a Practising

Professional Engineer or Registered Surveyor experienced in the design of stormwater drainage systems.

- 65 The whole of the land known as Lot 100 DP 785019, Lot 1 DP 175319 and Lots 1 and 2 DP 744887 is to be consolidated into a single title and documentary evidence of the lodgement for registration of a survey plan of consolidation with NSW Government Land & Property Information being submitted to Council prior to the issue of an Occupation Certificate for the development. Existing easements and restrictions to be indicated on the consolidation plan.
- 66 Adequate ventilation being provided to the residential units in accordance with the requirements of the Building Code of Australia, whilst maintaining the required level of acoustic attenuation as detailed in the acoustic report prepared by Reverb Acoustics dated June 2011. Full details are to be included in the documentation for a Construction Certificate application. Written certification from the said consultant confirming that the recommended acoustic treatment has been implemented in accordance with the requirements is to be submitted to the Principal Certifying Authority prior to issue of the Occupation Certificate for the premises.
- 67 A Landscape Practical Completion Report is to be submitted to the Principal Certifying Authority prior to the issue of the Final Occupation Certificate. The report is to verify that all landscape works, including the planting on King and Hunter Street, 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.
- 68 The existing right of way of over the development property is to be widened to cover the full width of the proposed access driveway. The necessary survey plan and accompanying instrument under Section 88B of the Conveyancing Act being registered with the Land Titles Office prior to occupation of the premises, 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.
- 69 Appropriate acoustic treatment being implemented in accordance with the recommendations set out in the report prepared by Reverb Acoustics dated June 2011. Written certification from the said consultant confirming that the recommended acoustic treatment has been implemented in accordance with the requirements is to be submitted to the Principal Certifying Authority prior to issue of the Occupation Certificate for the premises.
- 70 The water management measures as indicated on the submitted plans and Statement of Environmental Effects and/or modified under the terms of this consent being implemented and the nominated fixtures and appliances being installed and operational prior to issue of an Occupation Certificate, full details to be provided with the Construction Certificate application.
- 71 Appropriate lighting being provided to the carpark and connecting pathways in accordance with AS 1158 Lighting and AS 4282: 1997 Control of the Obtrusive Effects of Outdoor Lighting, such being installed prior to occupation of the premise.

CONDITIONS TO BE SATISFIED DURING THE OPERATION AND USE THE DEVELOPMENT

- 72 The driveway crossing, parking areas and stormwater management system are to be properly maintained for the life of the development.
- 73 The minimum height between the car park floor surface and the lowest overhead obstruction being 2.2 m.
- 74 Any redundant existing vehicular crossings being removed at no cost to Council and the public footway and kerb being restored to match the existing infrastructure.
- 75 Continuous monitoring of noise and/or peak vibration levels being conducted at properties considered to be significantly impacted by noise and/or vibration due to site works as determined by a suitably qualified consultant or if directed by an authorised Council Officer following complaints from neighbouring properties.
- 76 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.
- 77 A separate Development Application being submitted for Council's consideration in respect of the proposed use of commercial and retail tenancies prior to occupation.
- 78 The use and occupation of the premises including all plant and equipment installed thereon, not giving rise to any "offensive noise", as defined under the Protection of the Environment Operations Act, 1997, as amended. Should Council consider that offensive noise has emanated from the premises, the owner/occupier of the premises will be required to submit an acoustic consultant's report 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 that the recommended acoustic measures have been satisfactorily implemented will be required to be submitted to Council before the expiration of the nominated period.
- 79 Any excavated material to be removed from the site being 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*'.
- 80 Any fill material imported into the site being Virgin Excavated Natural Material or material subject to a Resource Recovery Exemption that is permitted to be used as a fill material, in accordance with the provisions of the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment (Waste) Regulation 2005*.
- 81 The use and occupation of the premises not giving rise to the emission of any 'air impurity', as defined under the Protection of the Environment Operations Act 1997, that interfere unreasonably with the amenity of neighbouring premises and/or other sensitive receptors.

Should Council consider that unreasonable levels of air impurities are emitted from the premises, the owner/occupier will be required to implement such practical measures so as to control emissions of air impurities to an acceptable level. Written certification from a suitably qualified consultant must be submitted to Council confirming that emissions from the facility meet relevant guidelines.

- 82 Appropriate control measures being implemented during demolition and construction to minimise the generation and off-site transportation of dust, including the use of water sprays and suspension of operations during periods of high winds.
- 83 Notwithstanding compliance with these conditions of consent, Actual or Potential Acid Sulphate Soils and groundwater encountered during excavation works are to be assessed, treated and disposed in accordance with the Acid Sulphate Soil Management Plan prepared by Douglas Partners Pty Ltd dated June 2011.
- 84 The proposed parking bays being clearly indicated by means of signs and/or pavement markings.
- 85 The vehicular entrance and exit driveways and the direction of traffic movement within the site being clearly indicated by means of reflectorised signs and pavement markings.
- 86 All vehicular movement to and from the site being in a forward direction
- 87 The use of the loading dock area being restricted to between 7am and 9pm, Monday to Saturday, and between 9am and 8pm, Sundays and Public Holidays.
- 88 Vehicles being loaded or unloaded standing wholly within the premises and within loading bays designated on the submitted plans or as otherwise provided in accordance with the conditions of this consent and under no circumstances are vehicles to be loaded or unloaded at the kerbside, across the public footpath or in a manner which obstructs vehicular access to the site.
- 89 Adequate facilities being provided in an appropriately screened location within the premises for the separate storage of recyclable and non-recyclable material, and arrangements being made for regular removal and disposal of same.
- 90 Any proposed floodlighting of the premises being so positioned, directed and shielded as to not interfere with traffic safety or detract from the amenity of the adjacent premises.
- 91 Appropriate lighting being provided for the car park and pedestrian pathways in accordance with AS 1158 - Lighting and AS 4282 - Control of the Obtrusive Effects of Outdoor Lighting, such being installed prior to the occupation of the portion of the premise the subject of this application.
- 92 The developer being responsible for the provision of additional regulatory signage and all adjustments to and/or relocation of existing regulatory signage as part of this development at no cost to Council and in accordance with Council requirements, such works to be implemented prior to the occupation of the premises.

- 93 Cleaning activities within the car parks being restricted to between 7am and 10pm, Monday to Saturday, and between 8am and 10pm, Sundays and Public Holidays.
- 94 Proposed parking areas, driveways, vehicular ramps and turning areas being maintained clear of obstruction and being used exclusively for purposes of car parking and vehicle access, respectively. Under no circumstances are such areas to be used for the storage of goods or waste materials.
- 95 Construction of the required site discharge control devices being supervised and certified upon completion by a Consultant Engineer or Registered Surveyor with respect to its compliance with the approved design plans. The certification is to be supported by a Works-as-Executed (WAE) plan of the property drainage and detention system, which is to be submitted to Council by the Principal Certifying Authority/Applicant prior to the issue of an Occupation Certificate or occupation of the premises.
- 96 The maximum size vehicle that shall access the development is to be a heavy rigid vehicle (HRV) 12 metres in length as defined in Australian Standard AS 2890.2 – 2002 – “Parking facilities – Off-street commercial vehicle facilities. Under no circumstances should any vehicle larger than this enter the site.
- 97 Any alteration to natural surface levels on the site being undertaken in such manner as to ensure that no surface water is drained onto or impounded on adjoining properties.
- 98 The proposed development being carried out strictly in accordance with the details set out in the Preliminary Flooding Investigation and Preliminary Stormwater Drainage Design prepared by Barker Harle Pty Ltd dated February 2012, except as otherwise provided by the conditions of this consent.
- 99 Deliveries and waste collection being carried out only within the designated loading dock area.

ADVISORY MATTERS

- 100 Retaining walls not clearly noted on the approved plans or outside of the parameters of ‘exempt development’ as specified in *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (NSW) are to be subject to a separate development application. An application in this regard is to be approved prior to any works relating to the retaining wall taking place.
- 101 An application is to be submitted to Council for the removal or pruning of any trees located more than three metres from the dwelling, wall measured from the centre of the trunk to the footings of the dwelling, excluding carports and pergolas.
- 102 It is recommended that, prior to commencement of work, the free national community service ‘Dial before you Dig’ be contacted on 1100 or by fax on 1200 652 077 regarding the location of underground services in order to prevent injury, personal liability and even death. Inquiries should provide the property details and the nearest cross street/road.

- 103 Any necessary alterations to public utility installations are to be at the developer/demolisher's expense and to the requirements of both Council and any other relevant authorities. Council and other service authorities should be contacted for specific requirements prior to the commencement of any works.
- 104 Any approval for fences on side boundaries, common to other private properties, is independent of any consent or agreement which may be required of any adjoining owner under the provisions of the *Dividing Fences Act 1991* (NSW).
- 105 Prior to commencing any construction works, the following provisions of the *Environmental Planning and Assessment Act 1979* (NSW) (the 'Act') are to be complied with:
- a) a Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act
 - b) a Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b) of the Act and
 - c) Council is to be given at least two days notice of the date intended for commencement of building works, in accordance with Section 81A(2)(c) of the Act.
- 106 Prior to the occupation or use of a new building, or occupation or use of an altered portion of, or an extension to an existing building, an Occupation Certificate is to be obtained from the Principal Certifying Authority appointed for the proposed development. An application for an Occupation Certificate must contain the information set out in Clause 149 of the *Environmental Planning and Assessment Regulation 2000* (NSW).
- 107 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.
- 108 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.

End of conditions