

APPENDIX A – Draft Schedule of Consent Conditions

A General Conditions

- A1 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.
- A2 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
Site Plan	A01 Rev C	EJE Architecture	16.8.13
Ground Floor Plan	A03 Rev G	EJE Architecture	17.12.13
First Floor Plan	A04 Rev D	EJE Architecture	16.8.13
Second Floor Plan / Roof Plan	A05 Rev D	EJE Architecture	16.8.13
Third Floor Plan	A06 Rev D	EJE Architecture	16.8.13
Motel Roof Plan	A07 Rev D	EJE Architecture	16.8.13
Elevations	A08 Rev C	EJE Architecture	16.8.13
Sections	A09 Rev C	EJE Architecture	16.8.13
Perspective (North West)	-	EJE Architecture	16.8.13
Perspective (North East)	-	EJE Architecture	16.8.13
External Finishes Schedule	7712 Rev 0	EJE Architecture	-
Stormwater Management Concept Plan	06-2657 C1 & C2	Michael Fitzgerald Consulting Engineers	16.12.13

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.

B Conditions which must be satisfied prior to the demolition of any building

Nil

C Conditions which must be satisfied prior to the issue of any construction certificate

- C1 A total monetary contribution of **\$122,000** 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.

- C2 On-site parking accommodation is to be provided for a minimum of 256 vehicles (46 additional car parks) and such be set out generally in accordance with the minimum parking layout standards indicated in Element 7.03 'Traffic, Parking and Access' of Council's adopted Newcastle Development Control Plan 2012. Full details are to be included in documentation for a Construction Certificate application.

- C3 The car park is to be designed to comply with AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking and AS/NZS 2890.6:2009 - Parking facilities - Off-street parking for people with disabilities. Full details are to be included in documentation for a Construction Certificate application.

- C4 Opposing traffic flows on car park ramps are to be separated by the provision of an appropriate kerb and/or safety barrier. Full details are to be included in documentation for a Construction Certificate application.

- C5 A loading bay with capacity to accommodate the largest delivery vehicles likely to deliver goods to or from the premises, is to be provided in a position adjacent to the proposed roller shutter in a manner which does not cause obstruction to the vehicular access driveway or parking area. Full details are to be included in documentation for a Construction Certificate application.

- C6 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.

- C7 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.

- C8 All stormwater runoff from the proposed development being managed in accordance with the requirements of Element 7.06 'Stormwater' of Newcastle Development Control Plan 2012, the associated Technical Manual and the latest issue of AS 3500.3 as applicable, as indicated on the stormwater management concept plan prepared by Michael Fitzgerald Consulting Engineers (Dwg. No. 06-2657 C1 & C2, dated 16/12/2013). Full details are to be included in documentation for a Construction Certificate application.

- C9 Roof water from the proposed new building work is to be directed to the proposed water tanks (18,000L and 9,000L) and be reticulated there from to any new toilet cisterns, 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 to mains water when the tank falls below 10% capacity. The water tank and plumbing is to be installed in accordance with Australian Standard AS 3500, the relevant plumbing regulations and the requirements of the Hunter Water Corporation. Full details are to be included in documentation for a Construction Certificate application.

- C 10 All new impervious surfaces, including driveways and paved areas are to be drained to the nominated discharge controls; full details are to be included in documentation for a Construction Certificate application.

- C 11 A comprehensive landscape design plan and specification for all landscaped areas of the site are to be submitted with a Construction Certificate application. The required comprehensive landscape design plan and specifications is to be in accordance with the provisions of Newcastle Development Control Plan 2012 and is to include details of the following:

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

The plan and specification are to be prepared by a qualified landscape designer.

- C 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.

- C 13 Adequate facilities are to be provided in a screened location within the premises for the storage of garbage, discarded or returnable packaging or other forms of trade wastes and arrangements being 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 a Construction Certificate application.

- C 14 The applicant is to construct the following works within Kemp Street generally in accordance with the concept plans prepared by Michael Fitzgerald Consulting Engineers Job No. 13-4418, Drawing No. C1, Issue 2, dated 16/12/2013.

- a) Raised threshold with layback restricting access to the Kemp Street east of the existing public car park. The threshold should be located so as to not restrict access to the car parking areas on 58 and 60 Cowper Street, Wallsend.
- b) Provision of suitable signage identifying that access east of the raised threshold is restricted to property access for 58 and 60 Cowper Street, service vehicles and cyclists. A suitable signage plan will need to be submitted with the application for approval of the works under Section 138 of the Roads Act 1993 (NSW).
- c) Provision of a suitable turning bay within the restricted eastern section of Kemp Street to allow service vehicles to turn around conveniently and leave the site in a forward direction.

These works are not approved until consent under Section 138 of the Roads Act 1993 (NSW) has been granted by Council. An application under Section 138 must be applied for and approved before the issue of a Construction Certificate.

- C 15 A separate application must be lodged and consent obtained from Council for all works within the road reserve pursuant to Section 138 *Roads Act 1993 (NSW)*, before the issue of a Construction Certificate.
- C 16 The building is to be provided with adequate means of access for persons with disabilities, to the extent necessary to comply with the Commonwealth Disability (Access to Premises – Buildings) Standards 2010. Full details are to be included in documentation for a Construction Certificate application.
- C 17 The design and construction of the proposed development is to be in accordance with the relevant requirements of the *Australian Standard 4674-2004 Design, Construction and Fit-Out of Food Premises*. Full details are to be included in the documentation for the Construction Certificate application.
- C 18 All external items of air conditioning plant are to be screened or positioned in such a manner as to not detract from the visual presentation of the building. Full details are to be included in the documentation for the Construction Certificate application.
- C 19 The recommendations in Section 6 of the Noise Impact Assessment report prepared by Reverb Acoustics Report No. 13-1722-R1, dated July 2013 are to be implemented, with full details of compliance included in documentation for the Construction Certificate application.
- C 20 The floor level of all new building additions is to be not below Reduced Level 5.18 metres Australian Height Datum and being indicated on plans for a Construction Certificate application. The finished floor levels are to be certified by a registered Surveyor prior to the placement of the floor material and a copy of the Surveyor's Certificate is to be forwarded to the Principal Certifying Authority.
- C 21 Any structures below known flood level (i.e. below reduced level 5.18 metres Australian Height Datum) is to be constructed in materials and finishes that are resistant to damage from floodwaters/tidal waters. Any new machinery or equipment, electrical circuitry or fitting, storage unit or similar items likely to be damaged by floodwaters/tidal waters being installed above the said height or alternatively being of materials and functional capability resistant to the effects of floodwaters/tidal waters. Full details are to be included in documentation for a Construction Certificate application.

D Conditions which must be satisfied prior to the commencement of any development work

- D1 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).
- D2 At a minimum, the following waste management 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).

- D3 If construction work is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or involves the need to enclose a public place, a hoarding or fence must be erected between the work site and the public place. If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place. Any such hoarding, fence or awning is to be removed when the work has been completed.
- D4 If necessary, an application is to be made to and approved by Council for the erection of a hoarding or part closure of the footway prior to construction being commenced. Such overhead structure or protective fence shall comply with the *Occupational Health and Safety Act 2000* (NSW), *Occupational Health and Safety Regulation 2001* (NSW) and any relevant approved industry code of practice. Notice of intention of commencement must be given to WorkCover New South Wales.
- D5 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 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.

- D6 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.

- D7 Erosion and sediment control measures are to be implemented prior to the commencement of works and be maintained during the period of construction in accordance with the details set out on the Erosion and Sediment Control Plan submitted with the application, and with the below requirements:

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

- D8 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.

- D9 Prior to commencement of site works the developer is to submit to Council for approval a Construction Traffic Management Plan addressing traffic control measures to be utilised in the public road reserve during the construction phase.

The Construction Traffic Management Plan is to be prepared by a Roads & Maritime Services accredited person with a Design and Audit Traffic Control Plans Certificate in accordance with Australian Standard 1742.3:2009 - Manual of uniform traffic devices – traffic control for works on roads. The plan is to ensure the provision for safe, continuous movement of traffic and pedestrians within the road reserve.

E Conditions which must be satisfied during any development work

- E1 A survey certificate prepared by a Registered Surveyor is to be submitted to the Principal Certifying Authority upon completion of the floor slab formwork, before concrete is poured, to ensure that the siting of the building in relation to adjacent boundaries is in accordance with the development consent.
- E2 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.
- E3 All building work must be carried out in accordance with the provisions of the Building Code of Australia.
- E4 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.
- E5 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.
- E6 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.
- E7 The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
- E8 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).

F Conditions which must be satisfied prior to any occupation or use of the building

- F1 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.
- F2 All works within the road reserve required by this consent are to be completed prior to the issue of any Occupation Certificate.
- F3 The water management measures as indicated on the submitted plans and Statement of Environmental Effects and/or as modified under the terms of this consent are to be implemented and the nominated fixtures and appliances are to be installed and operational prior to issue of an Occupation Certificate.
- F4 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.

- F5 A Landscape Practical Completion Report is to be submitted to the Principal Certifying Authority prior to the issue of the Final Occupation Certificate. The report is to verify that all landscape works have been carried out in accordance with the comprehensive landscape design plan and specifications that were required to be included in documentation for a Construction Certificate application and is to verify that an effective maintenance program has been commenced.
- F6 Prior to issue of an Occupation Certificate, the food business must notify the relevant enforcement agencies, under the *Food Act 2003* and (for licensed food businesses) under the *Food Regulation 2010*. Notification is to be provided to Council and the NSW Food Authority.
- F7 The recommendations in Section 6 of the Noise Impact Assessment report prepared by Reverb Acoustics Report No. 13-1722-R1, dated July 2013 are to be implemented, with a Certificate of Compliance from a suitably qualified acoustic consultant outlining compliance with the recommendations being submitted to the Principal Certifying Authority prior to the issue of any Occupation Certificate.

G Conditions which must be satisfied prior to the issue of any Subdivision Certificate

Nil

H Conditions which must be satisfied during the ongoing use of the development

H1 The hours of operation or trading of the premises are to be not more than from:

DAY	START	FINISH	
Monday	9am	Midnight	Same day
Tuesday	9am	Midnight	Same day
Wednesday	9am	1am	Following day
Thursday	9am	1am	Following day
Friday	9am	2am	Following day
Saturday	9am	2am	Following day
Sunday	9am	Midnight	Same day

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

H2 The following activities are to be restricted to the following times:

- Deliveries that may be audible in surrounding residential living areas - 7.00 am to 6.00 pm Monday to Friday and 8:00 am to 6:00 pm Saturday and Sunday.
- Waste Collection - 7.00 am to 6.00 pm Monday to Friday and 8:00 am to 6:00 pm Saturday and Sunday.

H3 The use and occupation of the premises, including all plant and equipment installed thereon, is not to give rise to any offensive noise, as defined under the *Protection of the Environment Operations Act 1997* (NSW).

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

H4 The driveway crossing, parking areas and stormwater management system are to be properly maintained for the life of the development.

H5 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.

- H6 All parking and loading bays are to be permanently marked out on the pavement surface, with loading bays and visitor parking facilities being clearly indicated by signs.
- H7 The proposed customer/staff parking bays are to be permanently marked out on the pavement surface and being clearly indicated by means of signs and/or pavement markings.
- H8 The vehicular entrance and exit driveways and the direction of traffic movement within the site are to be clearly indicated by means of reflectorised signs and pavement markings.
- H9 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'.

I Other Agency Conditions

- I1 Provision is to be made on the site for the installation of a 'kiosk' type electricity substation should such be required by the electricity authority and any such 'kiosk' being located in accordance with that authority's requirements.

J Advisory Notes

- J1 Any proposed business identification sign or advertising sign should be designed in accordance with the provisions of Newcastle Development Control Plan 2012 and be the subject of a separate Development Application approved prior to erection or placement in position.
- J2 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.
- J3 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.
- J4 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.
- J5 A Construction Certificate application for this project is to include a list of fire safety measures proposed to be installed in the building and/or on the land and include a separate list of any fire safety measures that already exist at the premises. The lists must describe the extent, capability and basis of design of each of the measures.
- J6 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).
- J7 A copy of the final Fire Safety Certificate (together with a copy of the current fire safety schedule) is to be given to the Commissioner of NSW Fire Brigades and a further copy of the Certificate (together with a copy of the current fire safety schedule) is to be prominently displayed in the building.
- J8 An annual Fire Safety Statement in the form described in Clause 175 of the *Environmental Planning and Assessment Regulation 2000* (NSW) is to be submitted to Council and a copy (together with a copy of the current fire safety schedule) is to be given to the Commissioner of New South Wales Fire Brigades. A further copy of the Statement (together with a copy of the current fire safety schedule) is to be prominently displayed in the building.
- J9 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.
- J10 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