

Appendix A

Conditions of Consent

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 APPROVED DOCUMENTATION

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
Statement of Environmental Effects		deWitt Consulting,	August 2014
Site Plan – new works - overall	DA101 - H	dwp suters	15.7.14
Parking 12 Plan	DA210 - H	dwp suters	29.10.14
Parking 11-10 Plan	DA211-H	dwp suters	29.10.14
Parking 09-08 Plan	DA212 - H	dwp suters	29.10.14
Parking 07-06 Plan	DA213-H	dwp suters	29.10.14
Parking 05-04 / Lower Ground North	DA214-K	dwp suters	29.10.14
Ground Floor Plan	DA215-L	dwp suters	14.11.14
Levels 01-06 & Level 07 North Plans	DA216 - F	dwp suters	29.10.14
Levels 08-11 & Level 12 North Plans	DA217-F	dwp suters	29.10.14
Levels 13 & 14 North Plans	DA218 - A	dwp suters	29.10.14
Plant Level	DA219 - A	dwp suters	29.10.14
East Elevation	DA401 - H	dwp suters	29.10.14
West Elevation	DA402-E	dwp suters	29.10.14
North & South elevation	DA403 - C	dwp suters	29.10.14
Sections	DA501 - G	dwp suters	29.10.14

Sections	DA502 - F	dwp suters	29.10.14
GA plan – Level 05 – North – Typical Window arrangement Levels 1-6	DA904 - A	dwp suters	13.11.14
West elevation – north building	A423 - C	dwp suters	13.11.14
Ground Floor Courtyard Plan	DA909 - A	dwp suters	12.11.14
Elevational treatment and colour palette	CP01 – B CP02 - B	dwp suters	undated
Noise Impact Assessment		Reverb Acoustics	September 2014
Remediation Action Plan		Douglas Partners Pty Ltd	October 2012
Contamination Investigation		Douglas Partners Pty Ltd	April 2014
Report on Geotechnical Investigation		Douglas Partners Pty Ltd	April 2014
Waste Classification Assessment		Douglas Partners Pty Ltd	26 March 2014
Stormwater management concept plan	C01 & C03	MPC Consulting Engineers	16.7.14

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 or Construction

Not applicable.

C Conditions which must be satisfied prior to the issue of any Construction Certificate

- C1 A total monetary contribution of \$894,552 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 City of Newcastle 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 City of Newcastle S94A Development Contributions Plan 2009* permits deferred or periodic payment of levies in certain circumstances. A formal modification of this condition will be required to enter into a deferred or periodic payment arrangement. Refer to the s94A Development Contributions Plan 2009.
- iii) 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 A design verification statement from a qualified designer shall be submitted to the Certifying Authority. The statement shall confirm the Construction Certificate plans and specifications achieve or improve the design quality of the development for which consent is granted, having regard to the design quality principles set out in Part 2 of *State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development*.

Full details are to be included in the documentation for the first Construction Certificate for the residential flat development.

Note: '*Qualified Designer*' means a person registered as an architect in accordance with the *Architects Act 2003*. This condition is imposed in accordance with Clauses 143A of the *Environmental Planning and Assessment Regulation 2000*.

- C3 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.
- C4 Mechanical ventilation being installed in buildings to provide adequate ventilation and cooling to all residential rooms of the building such that all external doors and windows can be closed if required to attenuate internal/external noise. Full details are to be included in documentation for a Construction Certificate application.

- C5 Any proposed water-cooling air handling systems are to be designed and installed in accordance with the requirements of AS/NZS 3666.1:2002 - Air-handling and water systems of buildings - Microbial Control Part 1: Design, installation and commissioning. Full details to be included in documentation for a Construction Certificate application.
- C6 All overflow or drainage discharge waters from any water-cooling air handling system tray or sump are to be directed to the sewers of the Hunter Water Corporation or collected for disposal by a licensed waste transport contractor in accordance with the Department of Environment and Climate Change 'Waste Classification Guidelines Part 1: Classifying Waste'. Full details to be included in documentation for a Construction Certificate application.
- C7 The buildings finishes are to be generally in accordance with the submitted elevational treatment and colour palette by DWP Suters, Project No. 202485, Drawing No. CP01&CP02, Issue B. The northern wall of the forecourt area (created by the change in grade) is to be attractively finished in materials and colours, compatible with the northern building elevation.
- The lower southern facade of the Northern building (Stage 1) that will adjoin the Southern building (Stage 2) is to be finished in the same material as the upper levels. However, if the southern building is constructed concurrently with the northern building then this lower level treatment will not be required. Full details to be included in documentation for a Construction Certificate application.
- C8 Eastern facing Level 1 decks located above the ground level courtyards, are to be treated with translucent glass, to protect the privacy of the courtyards. Full details to be included in documentation for a Construction Certificate application.
- C9 A group type mailbox is to be provided at the street frontage near the building entrance 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.
- C10 All external items of air conditioning plant are to be screened or positioned in such a manner (such as within the roof top plant) as to not detract from the visual presentation of the building. Full details are to be included in the documentation for a Construction Certificate application.
- C11 The entry area is to provide for security access for residents only. Full details to be included in documentation for a Construction Certificate application.
- C12 Lighting in and around the development being designed in accordance with Australian Standard 1158– Lighting. Full details to be included in documentation for a Construction Certificate application.
- Ensure light levels are appropriate for the users, activities and tasks of an area. Higher levels may be required for vulnerable areas.
 - Vandal resistant external lighting should be installed.
 - Adequate, uniform lighting should cover the premise. The emphasis should be on installing low glare/high uniformity lighting levels in line with Australian Standard AS:1158.
 - Lighting sources are to be compatible with requirements of any surveillance system installed. Lighting is to be a 'white light' source. Note that low or high pressure sodium 'orange' light is not compatible with quality surveillance

systems.

- A limited amount of internal lighting is to be left on at night to enable patrolling police, security guards or passing people to monitor activities within the business.

C13 On-site parking accommodation is to be provided for a minimum of 219 cars (including 33 residential visitor car parks and 10 commercial car parks), 18 motorcycles and 180 bicycles (including 19 residential visitor spaces and 3 commercial spaces) 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. In regard to residential bicycle parking, 161 individual storage compartments (1 per unit) are to be provided of a suitable size.

Excess parking can be utilised by the adjoining David Maddison Building in accordance with an approved stratum subdivision plan.

C14 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.

C15 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.

C16 Disabled, visitor and motor cycle parking bays being clearly indicated by means of signs and/or pavement markings. Full details are to be included in documentation for a Construction Certificate application.

C17 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. The driveways are to be constructed in accordance with AS2890 – (Off street parking) design specifications. Full details are to be included in documentation for a Construction Certificate application.

C18 Letterboxes, landscaping and any other obstructions to visibility are to be kept clear of or limited in height to 1.2m in the 2 metre by 2.5 metre splay within the property boundary each side of the driveway entrance in accordance with AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking. Full details are to be included in documentation for a Construction Certificate application.

C19 Roof water from the proposed new work is to be directed to the proposed water tanks and being reticulated there from to any new toilet cisterns and cold water washing machine taps, with a mains water top up being installed to maintain between 10% and 15% of the tank capacity. Alternatively, an electronically activated mechanical valve device is to be installed to switch any new toilet cisterns and laundry taps to mains water when the tank falls below 10% capacity. The water tank and plumbing 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 provided with the Construction Certificate application.

- C20 Overflows from the roof water tank and any additional discharge controls (if required) are to be directed to Council's drainage system by means of an inter allotment drainage line or underground pipe directly to the street gutter. Full details are to be provided with the Construction Certificate application.
- C21 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 MPC Consulting Engineers Job No. 12-365 Dwg No.'s C01 & C03 dated 16th July 2014. Full details are to be included in documentation for a Construction Certificate application.
- C22 All onsite stormwater detention or water quality treatment systems are to be individually identified and sign posted in accordance with Council's Stormwater and Water Efficiency for Development Technical Manual (Updated 2013). Full details are to be included in documentation for a Construction Certificate application.
- C23 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.
- C24 A separate application must be lodged and consent obtained from Council for all works within the road reserve pursuant to Section 138 of the Roads Act 1993 (NSW), before the issue of a Construction Certificate.
- C25 A dilapidation report prepared by a suitability qualified person shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate. The dilapidation report shall document and photograph the current structural condition of the adjoining buildings, infrastructure and roads.
- C26 Prior to any demolition or the issue of a Construction Certificate, the proponent preparing and submitting to the PCA and Council an Environmental Management Plan (EMP) for construction/demolition works on the site, such to be kept on site and made available to authorised Council officers upon request. The EMP is to include but not be limited to:
- A site management strategy, identifying and addressing issues such as environmental health and safety, site security, and traffic management.
 - A water management strategy, detailing erosion and sediment control, management of soil stockpiles, control and management of surface water, groundwater and process water. Procedures are to be included to ensure that all roads adjacent to the site are kept free and clear from mud and sediment.
 - A dust management strategy, detailing procedures to minimise dust generation, with particular reference to control techniques and operational limits under adverse meteorological conditions. This strategy is to be cross-referenced with the water management strategy.
 - 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.

- A noise management program detailing measures to minimise the impact of the construction phase on the amenity of the locality in accordance with Australian Standard AS2436-2010 (Guide to noise and vibration control on construction, demolition and maintenance sites).
- A noise and vibration management program, detailing measures to minimise the impact of the development on local amenity. Provision for noise and vibration monitoring during works is to be incorporated into the program.
- A soil management strategy, detailing measures to be implemented to manage the identification and control and disposal of any soil contamination identified during site works.
- A waste minimisation strategy, which aims to avoid production of waste and maximise reuse, recycling or reprocessing of potential waste material.
- A community relations plan to inform local residents and other local stakeholders of the proposed nature and timeframes for demolition and construction activities together with contact details for site management.
- A demolition work plan, prepared in accordance with Australian Standard AS2601. The demolition work plan is to include a hazardous substances audit and a hazardous substances management plan detailing the location and quantities of hazardous substances and methods for removal, handling and disposal of hazardous substances on the site.
- A water and soil management program detailing all sediment and erosion control measures, management of soil stockpiles and the control and management of surface water.

C27 The development proposal as detailed on the submitted plans being modified to incorporate the following:

- i) Appropriate security lighting at the vehicular entrances / exits.
- ii) Any roller door or gate located at the vehicular entrance /exit ramps being setback a minimum 6.0m from the Shortland Esplanade frontage of the site.
- iii) A 6.0m relatively level landing (maximum grade 1 in 20) within the site and adjacent to the Shortland Esplanade frontage at both vehicular entrance/exit ramps in accordance with AS 2890.1 – Parking Facilities
- iv) The provision of the minimum sight distance at the Shortland Esplanade vehicular entrances /exits for the driver of an exiting vehicle to pedestrians on the public footway in accordance with AS 2890.1 – Parking Facilities.

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

C28 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 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.

Adequate soil depth and volume is to be provided to support the growth of all proposed landscaping, including the proposed trees within the forecourt area. Engineering advice is also to be sought to ensure the proposed trees are capable of withstanding wind loads. The plan is to be prepared by a qualified landscape architect and be included in documentation for a Construction Certificate application.

- C29 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 certificate of compliance is to be included in documentation for a Construction Certificate application.
- C30 The applicant is to comply with the requirements of the Hunter Water Corporation in respect of any building or structure proposed to be erected over any services or drain under the Corporation's control. Details addressing any requirements of the Hunter Water Corporation are to be included in documentation for a Construction Certificate application.
- C31 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.
- C32 Works are to be carried out in accordance with the recommendations of the submitted geotechnical investigation prepared by Douglas Partners dated April 2014. Full details 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 Any proposed work within the public road reserve, including driveway works, reinstatement of a kerb, installation of drainage, footpath works, tree planting or the like and is to be the subject of the separate approval of Council prior to commencement.

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

- D2 Prior to the commencement of any works in the public road reserve, the developer providing written notification to the adjoining landowners of the intention to start works, advising details of the scheduling of works and nominating a contact person. A legible prominent sign stating the name of the developer and contractor and a 24 hour contact telephone number is to also be displayed on-site during the construction period.
- D3 Prior to selection and installation of the rooftop mechanical plant, noise emission data for mechanical plant items are to be reviewed by an appropriately qualified acoustical professional to ensure the cumulative Sound Power Level from the mechanical plant items does not generate offensive noise, as defined under the Protection of the Environment Operations Act 1997 (NSW).
- D4 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.
- D5 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.
- D6 A temporary protective crossing is to be provided over the footway for vehicular traffic before demolition or building operations are commenced.
- 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 Any structure on or over the public road reserve, including balconies and awnings, is to be the subject of a separate consent from Council, under Section 138 of the *Roads Act 1993* (NSW), prior to commencement of work.

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* (NSW). 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.

- D9 An assessment of the likelihood of the presence of any Aboriginal sites in relation to the proposed development area is to be undertaken to comply with the requirements of the *National Parks and Wildlife Act 1974* (NSW) and the significance and requirements for the protection of any sites being incorporated into the documentation for a Construction Certificate application. Written confirmation that the National Parks and Wildlife Service's requirements have been met shall be submitted to Council prior to engineering works commencing. Any submitted archaeological study shall be accompanied by a letter from the appropriate Local Aboriginal Land Council stating that they are satisfied with the study process and that appropriate arrangements are in place for continued consultation during development of the site.

Note: It is illegal to knowingly damage, deface or destroy a 'relic' or Aboriginal Place without the Director's prior written consent.

E Conditions which must be satisfied during any development work

- E1 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.

- E2 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.

- E3 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'.
- E4 Any fill material imported into the site is to be 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* (NSW) and the *Protection of the Environment (Waste) Regulation 2005* (NSW).
- E5 Any fill material subject to a Resource Recovery Exemption received at the site must be accompanied by documentation demonstrating that material's compliance with the conditions of the exemption, and this documentation must be provided to Council officers or the Principal Certifying Authority on request.

- E6 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.
- E7 The proposed development being carried out in accordance with the requirements set out in the submitted Remediation Action Plan prepared by Douglas Partners Pty Ltd dated October 2012.
- E8 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.
- E9 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).
- E10 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.
- E11 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).
- E12 If construction / demolition 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.
- E13 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.
- E14 The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

E15 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.

E16 All building work must be carried out in accordance with the provisions of the Building Code of Australia.

E17 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.

E18 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.

E19 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.

E20 Certification is to be prepared by a Registered Surveyor and submitted to the Principal Certifying Authority at the stages of construction indicated:

- a) On completion of ground floor construction, confirming that the floor levels are in accordance with the approved levels.
- b) On completion of each subsequent floor level, confirming that the floor levels are in accordance with the approved levels.
- c) When the roof has been completed, confirming that the building does not exceed the approved levels.

E21 The developer maintaining at all times during the construction period, the availability of 69 car parking spaces for staff associated with the David Madison Building and access to these spaces.

E22 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.

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

- F1 All works within the road reserve, required in accordance with the conditions of consent for DA 2012-549, shall be completed prior to the issue of any Occupation Certificate.
- F2 All works within the road reserve required by this consent are to be completed prior to the issue of a Final Occupation Certificate.
- F3 A Validation Report prepared by an appropriately qualified environmental consultant in accordance with the Environment Protection Authority's (EPA) '*Guidelines for Consultants Reporting on Contaminated Sites*' and '*Guidelines for the NSW Site Auditor Scheme*' being submitted to the Principal Certifying Authority (PCA) and Council prior to the issue of the Occupation Certificate.
- F4 Appropriate acoustic treatment is to be implemented in accordance with the recommendations set out in the report prepared by Reverb Acoustics dated September 2014. Written final certification confirming the recommended acoustic treatment has been implemented in accordance with the requirements of the above report is to be submitted to the Principal Certifying Authority and Council prior to the issue of an Occupation Certificate.

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

- F5 In relation to the rooftop mechanical plant, noise emission data for mechanical plant items are to be reviewed by an appropriately qualified acoustical professional to ensure the cumulative Sound Power Level from the mechanical plant items does not generate offensive noise, as defined under the *Protection of the Environment Operations Act 1997* (NSW). Certification of the appropriateness of the equipment and installation location by an appropriately qualified acoustical professional is to be prepared and submitted to the Principal Certifying Authority and Council prior to the issue of an Occupation Certificate for the premises.
- F6 Prior to the operation of any water-cooling air handling system(s) the owner/occupier of the premises is to notify Council of all water-cooling air handling system(s). To arrange notification of the installation of the water-cooling air handling systems please contact Council's Environmental Health Services Unit on (02) 4974 2525.
- F7 A post construction dilapidation report prepared by a suitability qualified person shall be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate, to ascertain if any structural damage has occurred to the adjoining buildings, infrastructure and roads. The reports shall be forwarded to Council and will be made available in any private dispute between neighbours regarding damage arising from construction works.
- F8 Access/exit to Shortland Esplanade separate commercial type entry and exit vehicular crossings 4.5m wide with approach and departure splays being constructed across the public footway at no cost to Council and in accordance with Council's Driveway Standard A374 design specifications and such crossing being properly maintained.

- F9 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

- F10 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.
- F11 The developer, in consultation with the owners of the David Madison Building, preparing a Traffic Management Plan (TMP) for the safe operation of the King Street Laneway, such being implemented prior to issue of any Occupation Certificate for the premises the subject of this application, with a copy of the TMP being provided to the Principal Certifying Authority.
- F12 The Developer preparing a Green Travel Plan (GTP) to encourage the use of alternate transport to the private vehicle in accordance with Section 7.03.03 Travel Demand Management of Council's adopted Newcastle Development Control Plan 2012 and incorporating end of trip facilities, such being implemented in association with the occupation of the premises and a copy of the GTP being provided to the Principal Certifying Authority.
- F13 The King Street access laneway (Lot 11 DP1112367) providing vehicle access to the northern building basement car park being the subject of an appropriate right-of-way and the necessary survey plan and accompanying instrument under Section 88B of the Conveyancing Act being registered with the Land Property Information 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.
- F14 The David Madison Building car parking spaces located on the subject site are to be covered by an appropriate stratum subdivision and appropriate access easements (Rights-of-Way) and the necessary survey plan and accompanying instrument under Section 88B of the Conveyancing Act being registered with the Land Property Information Office prior to any occupation of the premises, it being noted that the instrument is to provide that the easements (Rights-of-Way) are unable to be relinquished, varied or modified without the concurrence of the Newcastle City Council.
- F15 An easement for drainage is to be created over Lot 11 DP 1112367 in favour of Lot 5 1145847 for the overflow spillway as depicted on the Stormwater Plan (DRG C01) prior to issue of an Occupation Certificate for the proposed development.
- F16 An appropriate right of carriageway for fire egress for the fire exit stair exiting into the David Maddison Building laneway, being created over Lot 11 DP1112367 to benefit Lot 5 DP1145847 prior to issue of an Occupation Certificate for the proposed

development.

- F17 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.
- F18 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.
- F19 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.
- F20 Any redundant existing vehicular crossing is to be removed at no cost to Council. The road reserve and kerb being restored to, Council's satisfaction, to match the existing infrastructure. Works are to be completed prior to the issuing of a Final Occupation Certificate for the proposed development.
- F21 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.
- F22 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.
- F23 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.
- F24 Appropriate arrangements being made for the collection of garbage (recyclable and non-recyclable) from the proposed basement car park refuse storage area, such arrangements being in place prior to the occupation of the premises the subject of this development application. Garbage bins are not to be presented to King Street or Shortland Esplanade for kerbside collection.

Separate bins being provided within the proposed basement car park refuse storage area to enable the on-site separation of recyclable and non-recyclable garbage.

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

Not applicable.

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

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

DAY	START	FINISH	
Monday	7am	10pm	Same day
Tuesday	7am	10pm	Same day
Wednesday	7am	10pm	Same day
Thursday	7am	10pm	Same day
Friday	7am	10pm	Same day
Saturday	7am	10pm	Same day
Sunday	7am	10pm	Same day

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

H2 The six carparking spaces located in the forecourt area are to be short term parking spaces only. Appropriate signage shall be installed and maintained for the life of the development.

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

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

- H5 Any water-cooling air handling systems and associated water treatment systems are to have monthly maintenance checks performed by a suitably qualified contractor or person with cleaning of the system conducted in accordance with AS/NZS 3666.2:2002 - Air-handling and water systems of buildings - Microbial Control Part 2: Operation and maintenance. A copy of all monthly inspection, cleaning and water analysis reports, including an annual certification of the process designed to control microbial growth prepared by a competent person, is to be forwarded to Council's Environmental Health Services Unit on a quarterly basis for assessment.
- H6 An operation and maintenance manual is to be kept on site at all times for the any water-cooling air handling systems, water treatment equipment and other associated equipment and systems in accordance with AS/NZS 3666.2:2002 - Air-handling and water systems of buildings - Microbial Control Part 2: Operation and maintenance. The operating and maintenance manual is to include (but not be limited to) the following:
- a) physical details of the plant, equipment and systems and pre-treatment carried out
 - b) recommendations on maintenance including water treatment maintenance and management
 - c) recommended cleaning, disinfection and emergency contamination procedures
 - d) start-up, operating and shut-down procedures
 - e) particulars of the maintenance management program including plan servicing and cleaning schedules and
 - f) up-to-date maintenance reports.
- H7 The water treatment chemicals associated with any water-cooling air handling system(s) are to be suitably banded and covered to prevent escape of liquids into the stormwater system.
- H8 Waste collection from the proposed development being restricted to 7:00am and 6:00pm daily.
- H9 All deliveries to the proposed commercial units being restricted to 7:00am to 6:00pm daily.
- H10 The driveway crossing, parking areas and stormwater management system are to be properly maintained for the life of the development.
- H11 Vehicles are to be 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.
- H12 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.
- H13 A Maintenance Manual for all water quality devices is to be prepared in accordance with Council's Stormwater and Water Efficiency for Development Technical Manual (Updated 2013). The Maintenance Manual is to address maintenance issues concerning the water quality devices including routine monitoring and regular

maintenance and be kept on site at all times. Establishment and maintenance of the water quality devices in accordance with the Maintenance Manual prepared by the applicant is to be completed prior to occupation of this site for the intended use.

- H14 The maximum size vehicle that shall access the loading dock being restricted to a medium rigid vehicle (MRV) 8.8m in length as defined in AS 2890.2. Under no circumstances shall a heavy rigid vehicle or an articulated vehicle enter the site.
- H15 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'.
- H16 All vehicular movement to and from the site is to be in a forward direction.
- H17 Any exhaust plant that produces a sound pressure level (SPL) in excess of 65dB(A) at a distance of 3 metres must have acoustic barriers constructed at the fan discharge and must fully enclose at least 3 sides towards any residence.
- H18 Any washing, degreasing or steam cleaning of vehicles, plant, engines, mechanical equipment or parts is to be carried out within a wash bay or dedicated cleaning unit connected to the sewers of the Hunter Water Corporation in accordance with an approved Trade Waste Agreement or to a waste collection system for disposal by a licensed waste transport contractor in accordance with the Department of Environment and Climate Change (DECC) 'Waste Classification Guidelines Part 1: Classifying Waste'. Under no circumstances are such activities to be carried out elsewhere on site.

I Other Agency Conditions

Not applicable.

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.
- J11 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.

- J12 It being the responsibility of the developer to meet all expenses incurred in undertaking the development including expenses incurred in complying with conditions imposed under this consent.
- J13 Development applications are not assessed against the provisions of the Building Code of Australia. A Section 96 modification under the *Environmental Planning and Assessment Act 1979* (NSW) will be required if design amendments that cause the proposal to be inconsistent with the development consent are necessary to comply with the provisions of the Building Code of Australia.
- J14 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).

End of conditions