

## APPENDIX A - CONDITIONS OF CONSENT

### 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                | DA1 Sheets<br>DA001-DA019 | Reid Campbell               | 30.6.16   |
| Elevation - Perforated Metal Fins  |                           | Reid Campbell               | 31.10.16  |
| Civil Engineering Plans            | DA-C1.01 to DA-C7.01      | Northrop                    | 1.7.16    |
| Landscaping Plans                  | Sheets DA L00-DA L06      | Terras landscape architects | 22.6.16   |
| Statement of Environmental Effects | N-16029                   | City Plan Services          | July 2016 |
| Noise Assessment Report            | B                         | Wilkinson Murray            | 20.7.16   |

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 \$584,608 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:

- a) 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.
- b) 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.

- c) 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. The design shall be amended to address the following:
- a) The design of the rust coloured fins on the King Street elevation shall be consistent with the design of the Stewart Avenue fins, being built in front of the masonry wall. These fins shall extend from the bottom of the awning to RL13900.
  - b) The carpark openings facing King Street and Stewart Avenue shall be screened to manage light spill. A decorative perforated screen shall be installed behind the rust coloured fins. The screen shall be at least 70% opaque.
  - c) The carpark shall be fully roofed with masonry construction. The 'light weight structure/fabric shade' notated on the approved plan dated 31 October 2016, shall be deleted and replaced in this respect.

Full details are to be approved by Council and included in documentation for a Construction Certificate application.

5. The proposed verandah / awning is to be designed in a manner that is consistent with Element 7.10 'Street Awnings and Balconies' of the Newcastle Development Control Plan 2012. Full details are to be included in documentation for a Construction Certificate application.
6. 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.
7. On-site parking accommodation is to be provided for a minimum of 104 vehicles including 6 disabled car 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.
8. Wheelstops being provided along the front of all parking spaces abutting pedestrian pathways in accordance with AS 2890 Parking. Full details are to be included in documentation for a Construction Certificate application.
9. The proposed disabled parking bays being clearly indicated by means of signs and/or pavement markings. Full details are to be included in documentation submitted with

the application for a Construction Certificate.

10. 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. Full details are to be included in documentation submitted with the application for a Construction Certificate.
11. 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.
12. 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.
13. 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.
14. 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 Plans prepared by Northrop Consulting Engineers Pty. Ltd. (Job No. 161803, Drg. Nos. DA-C1.01 to Drg. No. DA-C7.01, dated 01.07.16). Full details are to be included in documentation for a Construction Certificate application.
15. 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.
16. The floor level of all occupiable rooms in the proposed building is to be not below RL 3.4m 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.
17. 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.

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

18. 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.
19. 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.
20. The design and construction of the proposed development is to be in accordance with the relevant requirements of 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.
21. The proposed lighting of the premises is to be designed, positioned, and installed, including appropriate shielding and orientation of the lighting fixture, as to not give rise to obtrusive light, interfere with traffic safety or detract from the amenity of surrounding properties in accordance with Australian Standard 4282:1997 - Control of the obtrusive effects of outdoor lighting. Full details are to be included in the documentation for a Construction Certificate application.
22. The development shall be undertaken in accordance with the General Terms of Approval granted by the Mine Subsidence Board on 26 May 2016. 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.
23. A commercial vehicular crossing is to be constructed across the road reserve, in accordance with the following criteria:
  - a) Constructed in accordance with Council's A1300 - Driveway Crossings Standard Design Details.
  - b) The driveway crossing at the entrance / exit shall be a maximum of 7.0m metres wide
  - c) Letterboxes, landscaping and any other obstructions to visibility should be kept clear of or limited in height to 1.2 metre, in the 2 metre by 2.5 metre splay within the property boundary each side of the driveway entrance
  - d) The proposed driveway shall be a minimum of 3 metres clear of the trunk of any tree within the public reserve
  - e) The proposed driveway shall be a minimum of 750mm clear of the centre of any pole or obstruction within the public reserve and 1 metre clear of any drainage pit.

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

24. A separate application must be lodged and consent obtained from Council for all works within the road reserve, including proposed drainage works, pursuant to Section 138 of the *Roads Act 1993 (NSW)*, before the issue of a Construction Certificate.
25. The development shall be undertaken in accordance with the requirements of Ausgrid as detailed in the letter dated 27 July 2016.

26. 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.

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

27. 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).
28. Building demolition is to be planned and carried out in accordance with Australian Standard 2601:2001 - The Demolition of Structures.
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. 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.
31. 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.

32. 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.

33. The demolisher is to ensure that all demolition material is kept clear of the public footway and carriageway as well as adjoining premises.
34. 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.
35. Under no circumstances is impact/hammer pile driving to be carried out on site.
36. Continuous monitoring of peak vibration levels being conducted at properties considered to be potentially impacted by vibration due to site works as determined by a suitably qualified consultant. The results of vibration monitoring are to be provided to Authorised Council Officers upon request.
37. 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.
38. 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.

39. Prior to the issue of a Construction Certificate, the proponent preparing and submitting to the Principal Certifying Authority and Council an Environmental Management Plan (EMP) for construction 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) 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. Procedures should also be included to ensure that all roads adjacent to the site are kept free and clear from mud and sediment.
  - c) A dust management strategy, detailing procedures to minimise dust generation, with particular reference to control techniques and operational limits under adverse meteorological conditions.
  - d) A noise management and vibration strategy detailing measures to minimise the impact of the construction phase on the amenity of the locality in accordance with Australian Standard AS 2436. 1981 Guide to Noise control on Construction, Maintenance and Demolition Sites. Noise and vibration

monitoring during the construction phase should be incorporated into the program.

- e) A community relations plan, which aims 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.

40. 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 windblown 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).

41. 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.

42. 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 *Work Health and Safety Act 2011* (NSW), *Work Health and Safety Regulation 2011* (NSW) and any relevant approved industry code of practice. Notice of intention of commencement must be given to WorkCover New South Wales.

43. The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

44. A rigid and durable sign is to be erected on any site on which building work, subdivision work or demolition work is being carried out, before the commencement of the work:

- a) showing the name, address and telephone number of the Principal Certifying Authority for building work and subdivision work, and
- b) showing the name, address and telephone number of the Principal Contractor for any building work and also including a telephone number on which the Principal Contractor may be contacted at any time for business purposes, and
- c) stating that unauthorised entry to the work site is prohibited, and
- d) being erected in a prominent position that can be read easily by anyone in any public road or other public place adjacent to the site.

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.

45. All building work must be carried out in accordance with the provisions of the Building

Code of Australia.

46. A dilapidation report prepared by a suitably 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.
47. 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.
48. If the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
  - a) Protect and support the adjoining premises from possible damage from the excavation, and
  - b) Where necessary, underpin the adjoining premises to prevent any such damage.

The above requirements does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to the requirements not applying.

49. 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.
50. 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.
51. 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.
52. The Developer obtaining the separate approval of Council pursuant to Part 8 Division 2 of the Roads Act 1993 for the proposed road improvement works in Little King Street, Newcastle and such being obtained prior to the commencement of any site works.
53. Comprehensive engineering design plans and specifications for the works to be undertaken in the public road reserve being submitted for approval with the required application under Part 9, Division 3, Section 138 of the Roads Act, 1993, such to be accompanied by the following documentation and additional details:

- Road Design Plans

Engineering Plans to comply with the following requirements:

- a) Plans to be accompanied by a pavement design report prepared and certified by a practising geotechnical engineer;
- b) Footways to be generally high level and at 2% grade toward the kerb;
- c) A separate linemarking and signposting plan (approved by the Newcastle City Traffic Committee to be included with the design plans.

- Land Management Plan

The Land Management Plan to nominate existing and proposed surface levels and provide full details of proposed erosion and sediment control measures to



be implemented prior to, during and after construction. The required Plan to be prepared in accordance with the Department of Housing's Guidelines – Managing Urban Stormwater: Soils and Construction.

- Stormwater Drainage Plan

The Stormwater Drainage Plan to incorporate a 1:10 year recurrence interval piped stormwater drainage system, with overland flow up to a 1:100 year recurrence interval event contained within road reserves and/or drainage reserves, and to comply with the following requirements:

- a) Sub-soil drainage to be located under kerb and gutter and extend at least 500mm below bottom of pavement;
- b) Pits to be located upstream of kerb ramps and kerb returns;
- c) All stormwater pipes in the public road to be rubber ring jointed reinforced concrete; and
- d) The proposed development not to increase upstream or downstream flooding for floods over a range of storms from 1:1 to 1:100 year events.

- Utilities Layout Plan

The Utilities Layout Plan to indicate the location of existing mains, associated installations and service conduits, together with any proposed utility alterations and installations in particular street lighting. Any required electricity substations, pumping stations or similar installations are to be located in public reserves and/or private land and are not to be located within road reserves.

- Set-out Layout Plan

The Set-out Layout Plan to indicate survey co-ordinates for set out points for kerbs, medians and lane lines.

54. No work within the public road being commenced, including pipe or vehicular crossings, until Council's separate written approval has been obtained pursuant to Part 9 Division 3 Section 138 of the Roads Act 1993.

Note: i) A separate application is required for the works to be undertaken in the public road.  
ii) 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 application.  
iii) 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 & Building Services Section in order to confirm this fee.)

55. The applicant being responsible for the provision of additional regulatory signage and all adjustments to and/or relocation of existing regulatory signage in public roads as part of the development at no cost to Council and in accordance with Council requirements. Full details are to be included in documentation submitted with the application under Part 9, Division 3, Section 138 of the Roads Act, 1993.

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

56. Any private structure on or over the public road reserve, including balconies and awnings, being the subject of a separate consent from Council, under Section 138 of the Roads Act 1993, prior to commencement.

Note: A separate approval from Council must be obtained for all private structures within the public road reserve pursuant to Section 138 of the Roads Act 1993. A fee will be payable in this regard.

57. The Applicant shall establish a Community Liaison Committee as an ongoing means of addressing community concerns during the construction phase of the development. The Applicant is to advise adjoining businesses, residents and Council of the name and telephone number of the contact person for this Committee. The contact person shall be available during nominated working hours.

A register of community concerns/complaints relating to the on-site operations and the action taken in response is to be kept and made available to Council officers upon request.

58. 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.
59. 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.
60. 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.
61. 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 and clear of the public road reserve.
62. 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.
63. 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.
64. 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.
65. 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.

66. 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.

67. 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'.
68. Any fill material imported into the site is to be Virgin Excavated Natural Material or material subject to a Resource Recovery Order that is permitted to be used as a fill material under the conditions of the associated Resource Recovery Exemption, in accordance with the provisions of the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment (Waste) Regulation 2014*.
69. Documentation demonstrating the compliance with the conditions of the appropriate Resource Recovery Order and Resource Recovery Exemption must be maintained for any material received at the site and subsequently applied to land under the conditions of the Resource Recovery Order and Exemption. This documentation must be provided to Council officers or the Principal Certifying Authority on request.
70. The development being carried out in accordance with the details set out in the Acid Sulfate Soil Management Plan prepared by Regional Geotechnical Solutions dated 14 April 2016.
71. 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 4<sup>th</sup> 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.
72. 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.
73. 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.
74. 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).
75. 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.
76. All public trees that are required to be retained must be physically protected in accordance with the City of Newcastle Urban Forest Technical Manual 'Section 8.0 Protection Measures'.

The tree protection fencing 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 fenced area.

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

77. 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.
78. 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.
79. All works within the road reserve required by this consent are to be completed prior to the issue of a Final Occupation Certificate.
80. 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.
81. The whole of the land 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 issuing of an Occupation Certificate for the proposed development.
82. 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 The City of Newcastle 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.
83. 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.
84. Prior to issue of an Occupation Certificate, the food business must notify the relevant enforcement agencies, under the *Food Act 2003* (NSW) and (for licensed food businesses) under the *Food Regulation 2010* (NSW). Notification is to be provided to Council and the NSW Food Authority.

Note: To arrange notification of the food business with Council go to [www.newcastle.gov.au](http://www.newcastle.gov.au) <<http://www.newcastle.gov.au>> and download a copy of the 'Council Food Business Notification Form' or contact Council's Environmental Health Services on (02) 4974 2525. To notify with the NSW Food Authority go to [www.foodnotify.nsw.gov.au](http://www.foodnotify.nsw.gov.au) <<http://www.foodnotify.nsw.gov.au>> and follow the instructions.

85. The premises are to be identified by the provision of house numbers on the building exterior and mailbox such that they are clearly visible from the road frontage.

The minimum numeral height shall be 75mm.

86. The recommendations of the Wilkinson Murray Noise Assessment dated 20 July 2016 are to be implemented in the construction of the development. Written certification from the acoustic consultant confirming that the recommended acoustic treatments (i.e. the carpark exhaust fan be rated at no more than 88 dB(A) Sound Power Level and the acoustic consultant is to select the appropriate roof chiller) have been implemented, is to be submitted to Council and the Principal Certifying Authority prior to the issuing of the Occupation Certificate.
87. A Maintenance Manual for all water quality devices is to be prepared in accordance with Council's current Stormwater and Water Efficiency for Development Technical Manual. 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.
88. Appropriate acoustic treatment is to be implemented in accordance with the recommendations set out in the report prepared by Wilkinson Murray, dated 14 June 2016. Written final certification confirming the recommended acoustic treatment has been implemented in accordance with the requirements of the above report, and the conditions of consent, 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.

89. 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.
90. The Developer designing and constructing the following works within Little King 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 the issue of any occupation certificate:
- a) Road shoulder pavement
  - b) Kerb and gutter replacement
  - c) Footpaving
  - d) Footway formation
  - e) Associated drainage works
  - f) Street tree planting in gap-graded structural soil vaults and Council's standard tree guard.

In this regard the separate approval from Council must be obtained for all works within the public road reserve, pursuant to Section 138 of the Roads Act 1993, prior to commencement. Engineering design plans and specifications for the works being undertaken in the public road reserve are required to be prepared by a suitably qualified practising civil engineer with experience and competence in the related field and submitted to Council for approval with the Section 138 application.

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

92. The proposed road improvement works, as approved by Council pursuant to Part 8 Division 2 of the Roads Act 1993 and comprising the following:

- a) 1 raised marked foot crossings with kerb blisters and associated signage and linemarking;
- b) Provision of a dedicated loading zone for coach parking in Stewart Avenue immediately north of Little King Street

,being completed prior to any occupation of the premises.

- Note:
- i) The road works will necessitate further Council approval pursuant to Part 9 Division 3 Section 138 of the Roads Act 1993 prior to commencement of construction.
  - ii) The road works are inclusive of signposting, linemarking, street lighting and utility adjustments and will require Newcastle City Traffic Committee approval.
  - iii) The Developer is advised to confer with Council's Development & Building Services Section to ascertain Council's detailed requirements in this regard.
  - iv) It will be necessary for the Developer to notify water, telecommunications, 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.)

93. Appropriate lighting being provided for the carparks and pedestrian pathways in accordance with AS 1158 - Lighting and AS 4282 - Control of the Obtrusive Effects of Outdoor Lighting, such to be installed prior to occupation of the premises.
94. Tree plantings required within the Little King Street footway fronting the site being *Pyrus Callyrana* Capital at 10.0m spacings, with the selected trees being advanced specimens in a minimum 300 litre pot size. The required plantings are to be undertaken in consultation with Council, with the trees certified by the supplier to comply with the current NATSPEC guideline with respect to root development, height, trunk diameter, branch structure and balance (refer to Specifying Trees, Construction Information Systems Australia PL, Clark, R 2003). All associated costs are to be borne by the developer. To be completed prior to issue of any occupation certificate.
95. The street tree planting vaults in the Little King Street footway being linearly connected by tree pits to maximise soil volume (structural soil) and allow for drainage, soil moisture and root control barriers. The design and construction of the planting vaults are to be undertaken at no cost to Council and under Council's direction. Full details to be submitted with the required S138 application and such being completed prior to the issue of any occupation certificate.
96. Street lighting being upgraded across the Little King Street frontage of the site at no cost to Council (other than annual maintenance) to Standard P3 with additional luminance over the proposed raised thresholds and raised marked foot crossings in accordance with AS 1158.1.1 – Road Lighting. The lighting upgrade works being completed prior to the issue of any occupation certificate.

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

## **CONDITIONS TO BE SATISFIED DURING THE OPERATION AND USE THE DEVELOPMENT**

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

| DAY       | START | FINISH |
|-----------|-------|--------|
| Monday    | 6am   | 11pm   |
| Tuesday   | 6am   | 11pm   |
| Wednesday | 6am   | 11pm   |
| Thursday  | 6am   | 11pm   |
| Friday    | 6am   | 11pm   |
| Saturday  | 7am   | 10pm   |
| Sunday    | 7am   | 10pm   |

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

98. The service of food and drink on the ground floor of the hotel is to be restricted to the following:

| DAY       | START | FINISH |
|-----------|-------|--------|
| Monday    | 6am   | 11pm   |
| Tuesday   | 6am   | 11pm   |
| Wednesday | 6am   | 11pm   |
| Thursday  | 6am   | 11pm   |
| Friday    | 6am   | 11pm   |
| Saturday  | 7am   | 10pm   |
| Sunday    | 7am   | 10pm   |

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

99. Waste collection from the proposed development being restricted to between 7:00am and 6:00pm daily.
100. Offices are to be confined to the area indicated on the submitted plans and being at all times ancillary to the principal use of the premises as a hotel.
101. 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.

102. 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.

103. Any flags, bunting or other promotional material of a like nature are to be arranged and properly maintained in a manner which does not detract from the appearance of the premises or the streetscape and which does not represent a hazard to the public.
104. No goods or advertising signs are to be displayed or allowed to stand on the public footpath or street.
105. The landscaped areas are to be kept free of parked vehicles, stored goods, garbage or waste material and being permanently maintained.
106. A Landscape Establishment Report is to be submitted to Council following completion of a three month maintenance period, verifying that satisfactory maintenance of the landscape works has been undertaken and any necessary rectification measures have been carried out to a high professional standard; copy of report format attached.
107. The driveway crossing, parking areas and stormwater management system are to be properly maintained for the life of the development.
108. All vehicular movement to and from the site is to be in a forward direction.
109. 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.
110. 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'.
111. 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

112. The use of the premises not giving rise to any "offensive noise", as defined under the POEO Act 1997, as amended. In this regard, 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 period nominated by Council. Furthermore, written certification will be required from the said consultant confirming that the recommended acoustic treatment has been implemented in accordance with the recommendations given.

## **ADVISORY MATTERS**

113. 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.

114. 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.
115. 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.
116. 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.
117. 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.
118. 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).
119. 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.
120. 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.
121. 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.
122. 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.

123. For the purpose of applying the provisions of the Building Code of Australia for class 1, 2, 3, 4, 9a (health care) and 9c (aged care) buildings, it is advised that the proposed building is located in a Flood Hazard Area and the:
- a) Defined Flood Level (DFL) is 2.9m Australian Height Datum (AHD)
  - b) Flood Hazard Level is 3.4m AHD (Freeboard is 500mm above DFL)
- Maximum Flow Velocity of floodwaters for the Defined Flood Event is 0.3m/s.

**END OF CONDITIONS**