
Application No:	DA2016/00733
Land:	Lot 19 DP 876517
Property Address:	89 Park Avenue Kotara NSW 2289
Proposed Development:	Alterations and additions to shopping centre, involving the construction of an additional 6,295m ² retail space, associated car parking and the relocation of Kmart Auto.

SCHEDULE 1

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
Level 1 Existing / Demolition Plan 01.5101	Rev 2	Scentre Group	06.12.2016
Level 2 Existing / Demolition Plan 01.5103	Rev 4	Scentre Group	28.06.2016
Level 2M Existing / Demolition Plan 01.5104	Rev 4	Scentre Group	28.06.2016
Level 3 Existing / Demolition Plan 01.5105	Rev 4	Scentre Group	28.06.2016
Level 1 Proposed Plan 01.5201	Rev 2	Scentre Group	12.06.2016
Level 2 Proposed Plan 01.5203	Rev 2	Scentre Group	28.11.2016
Level 2M Proposed Plan 01.5204	Rev 2	Scentre Group	28.11.2016
Level 3 Proposed Plan 01.5205	Rev 2	Scentre Group	01.12.2016
Roof Level - Proposed Plan 01.5206	Rev 2	Scentre Group	01.12.2016
East Elevation Proposed 01.5301	Rev 2	Scentre Group	06.12.2016

South Elevation Proposed 01.5302	Rev 2	Scentre Group	06.12.2016
East Elevation Comparison 01.5303	Rev 2	Scentre Group	05.12.2016
Section A & B Proposed 01.5401	Rev 2	Scentre Group	28.11.2016
Floor Plan Zone F Level 1	Rev B	Scentre Group	14.06.2016
Tree Protection and Planting Plan 71.0001	Rev J	Group GSA	11.10.2016
Tree Protection and Planting Plan (Level 1) 71.0801	Rev J	Group GSA	29.11.2016
Planting Plan (Level 1)	Rev D	Group GSA	29.11.2016
Stormwater Management Plan Report		Robert Bird Group	13.05.2016
Geotechnical Report		Douglas Partners	July 2016
Clause 4.6 Height Variation Statement		Ingham Planning	Received 16.09.2016
Flooding Statement		GCA Engineering	02.11.2016
Traffic Assessment	Rev 1	Colston Budd & Kafes Pty Ltd	November 2016
Loading Dock and Access Noise Impact Assessment	Rev 6	Acoustic Logic	19.12.2016
Architectural Intent Statement		Scentre Group	14.02.2017

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 \$1,001,011.29 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 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 and in accordance with the Access Audit provided by Independent Living Centre NSW dated 09.05.2016. Full details are to be included in documentation for a Construction Certificate application.
5. 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.
6. 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.
7. All proposed driveways, parking bays, loading bays and vehicular turning areas are to be constructed with a base-course 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) and Council design specifications. Full details are to be included in documentation for a Construction Certificate application.
8. 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. Stormwater management controls to be provided to reduce site discharge and minimise site generated pollutants from the new building area. Full details are to be included in documentation for a Construction Certificate application.
9. 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.
10. Any landscaping within the proposed development is to be designed and positioned in such a manner as to ensure that the designated flood-ways, on overland flow-paths, are not obstructed. Full details are to be included in documentation for a Construction Certificate application.
11. All proposed planting and landscape elements indicated on the submitted landscape concept plan or otherwise required under the conditions of this consent are required to be detailed on a comprehensive landscape design plan and specification. The required comprehensive landscape design plan and specifications is to be in

accordance with the provisions of Newcastle Development Control Plan 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.

- 12. All existing trees on the site outside the envelope of the proposed building are to be preserved where practicable and all such trees being indicated on the required comprehensive landscape design plan and being adequately protected against damage during the building construction period. Full details are to be included in documentation for a Construction Certificate application.
- 13. 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.
- 14. 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.
- 15. 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.
- 16. Any garbage storage facility is to be screened from the street. Full details are to be included in the documentation for a Construction Certificate application.
- 17. 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.

18. 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 an Erosion and Sediment Control Plan that is to be submitted for approval with the Construction Certificate application. Controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover.
19. The proposed floodlighting 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.
20. 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.
21. Water, electricity and gas installations are to comply with Section 4.1.3 of the NSW Rural Fire Service document 'Planning for Bushfire Protection 2006'. Details are to be included in documentation for a Construction Certificate application.
22. The eastern walls of the second level loading dock area being constructed as a solid masonry wall or material of similar acoustic properties as outlined in the letter prepared by Acoustic Logic dated 29 August 2016. Full details are to be included in documentation for a Construction Certificate application.
23. 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.
24. The new building columns and foundations being designed to ensure that no additional loading is placed on the Hunter Water Corporation (HWC) culverts and Council pipes which cross the site. Full details are to be included in documentation for a Construction Certificate application.
25. A comprehensive landscape plan shall be prepared that demonstrates 50% solar roof shading or shade tree planting for the proposed Level 3 carpark. A combination of both these elements is allowed, but must include a significant proportion of shade trees to provide a sufficient volume of compensatory tree planting in accordance with the Arboricultural Impact Statement (Arbor Views dated May 2016).

This plan shall be prepared by an appropriately qualified Landscape Architect. The roof design shall comply with the following:

- i. The species selected shall be drought tolerant species.
- ii. A maintenance plan for the ongoing care of the area shall be prepared. This plan shall be implemented for the life of the development.
- iii. Where provided, shade trees are planted within the parking area at a rate of at least one shade tree per six parking spaces with an aim to achieve at least 50% shade cover of that area. Shade area is to be calculated from the estimated crown projections of a tree 15 years in age under suitable growing conditions. Selected tree species are to develop a clean trunk height greater than 4.5m and a crown projection of at least 50m² to provide adequate shade and vehicle clearance. Landscape documentation is to detail the provision of

sub-grade load bearing root vaults to provide suitable rooting volume for the required number of shade trees planting to incorporate suitable taller growing tree species, and all on-site landscaped areas being kept free of parked vehicles, garbage, trade waste or other extraneous material and being permanently maintained.

- iv. Trees and shrubs are positioned to provide adequate sight distance on corners and intersections of roads and paths within the development to avoid safety hazards to motorist and pedestrians.

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

- 26. A landscape plan shall be prepared, that demonstrates green walls for the southern and eastern elevation walls of the level 3 mini major development.

This plan shall be prepared by an appropriately qualified Landscape Architect. The green wall design shall comply with the following:

- i. The green walls shall encompass at least 50% area of the southern and eastern elevation.
- ii. The species selected shall be sunlight tolerant species.
- iii. Synthetic plants are not permitted.
- vi. A maintenance plan for the ongoing care of the area shall be prepared. This plan shall be implemented for the life of the development.

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

- 27. A landscape plan shall be prepared, that demonstrates continuous planting along the eastern wall of the level 3 car park, where that wall is not recessed in elevation behind the level 3 loading dock access ramp or the corner battens at level 1.

This plan shall be prepared by an appropriately qualified Landscape Architect. The green wall design shall comply with the following:

- i. The planting shall cascade over the wall.
- ii. The species selected shall be sunlight tolerant species.
- iii. Synthetic plants are not permitted.
- vi. A maintenance plan for the ongoing care of the area shall be prepared. This plan shall be implemented for the life of the development.

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

- 28. A plan for visual screening between the walkway outside the ground retail tenancies and the ground floor car park is to be approved by Council and included in documentation for a Construction Certificate application. The visual screening should be at least 1.5m in height and not compromise pedestrian and vehicular safety.

- 29. A Site Waste Minimisation and Management Plan (SWMMP) is to be submitted for approval to the Private Certifier in accordance with Councils policies before the issue of the Construction Certificate. The plan shall identify how to reuse, recycle and

dispose of waste from demolition and construction.

30. A schedule of materials and finishes for the proposed visual treatment of the ramp, as shown on the Northcott Drive Elevation (View 2) dated 14 February 2017, are to be approved by Council and included in documentation for a Construction Certificate application.

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

31. 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).
32. The applicant operating a 24-hour telephone complaints line during the demolition and construction phases of the development for the purpose of receiving any complaints from members of the public in relation to activities conducted at the premises or by vehicle or mobile plant associated with site works. The proponent is to notify Council and neighbouring residential and commercial premises of the complaints line telephone number and proposed program of works by way of letter at least two weeks prior to commencement of works on site and by prominent signage at access points to the site. A log of complaints received on the telephone complaint line and action taken in response is to be made available to Council officers upon request.
 33. 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.
 34. 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).

- 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.
35. 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.
36. 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.

37. All demolition material incapable of being re-used in future redevelopment of the site is to be removed from the site and the site being cleared and levelled.

Note: Where reusable building materials are to be stored on site for use in future building works, such materials are to be neatly stacked at least 150 mm above the ground.

38. The demolisher is to ensure that all demolition material is kept clear of the public footway and carriageway as well as adjoining premises.
39. 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.
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. 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.
47. 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.

48. 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.
49. A Registered Surveyor's certificate detailing the setting out of the proposed building on

the site, including the relationship of the set out building to property boundaries, is to be submitted to the Principal Certifying Authority before construction is commenced.

50. 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 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.
 - b) On completion of ground floor construction, confirming that the floor levels are in accordance with the approved levels.
 - c) On completion of the retaining wall construction, confirming that finished levels are consistent with the approved levels.
 - d) On completion of each subsequent floor level, confirming that the floor levels are in accordance with the approved levels.
 - e) When the roof has been completed, confirming that the building does not exceed the approved levels.
51. A separate application must be lodged and consent obtained from Council for all works within the road reserve pursuant to Section 138 Roads Act 1993 (NSW), before the commencement of works.
52. Any proposed paving works within the public footway are to be in accordance with the requirements of Council's specification (Standard Drawing A1400).

Note: It will be necessary for the Developer to notify water, telecommunications, gas and electricity authorities of the proposed paving 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.

53. The developer is to comply with all requirements of the telecommunications authority regarding the connection of telephone services, including the payment of any required cash contribution towards the provision of underground or aerial reticulation cabling or internal block cabling.
54. Prior to commencement of site works the developer is to submit to Council for approval a Construction Traffic Management Plan addressing traffic control measures to be utilised in the public road reserve during the construction phase.
- The Construction Traffic Management Plan is to be prepared by a Roads & Maritime Services accredited person with a Design and Audit Traffic Control Plans Certificate in accordance with Australian Standard 1742.3:2009 - Manual of uniform traffic devices - traffic control for works on roads. The plan is to ensure the provision for safe, continuous movement of traffic and pedestrians within the road reserve.
55. 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.
56. All parking bays are to be permanently marked out on the pavement surface.
57. All loading bays are to be permanently marked out on the pavement surface with loading bays being clearly indicated by signs.
58. 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.

59. 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.

60. 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.

61. 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'.
62. 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*.
63. 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.
64. 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.
65. Proposed landscape works are to be carried out generally in accordance with the details indicated on the submitted landscape design plan except as required to be modified under the terms of this consent.
66. The premises are to be constructed, including the installation of all equipment, fixtures and fittings, in accordance with the requirements of Australian Standard 4674:2004 - Design, construction and fit-out of food premises.
67. 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.
68. 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.

69. The development and required tree protection zone being carried out in accordance with AS 4970 (2009) and the recommendations set out in the Arboricultural Impact Statement prepared by Arbor Views dated May 2016.
70. During construction works, an assessment of acid sulfate soil potential is to be undertaken in the area of excavation. If acid sulfate soils are found to be present, soils are to be treated in accordance with the New South Wales Acid Sulfate Soil Management Advisory Committee's '*Acid Sulfate Soil Manual*'.
71. 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.

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

72. The visual treatment of the ramp as required in Condition 30 is to be installed prior to issue of the Occupation Certificate.
73. 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.
74. All works within the road reserve required by this consent are to be completed prior to the issue of a Final Occupation Certificate.
75. 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.

76. 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.
77. A clear warning notice is to be erected and maintained at all points of entry to the site advising that the premises is subject to flooding and that caution should be observed at times of heavy or prolonged rainfall, being installed prior to issue of an Occupation Certificate. Such notice is to also provide advice regarding the availability of further detail in respect of possible flooding, including an appropriate telephone number.
78. 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.
79. Prior to the issue of an Occupation Certificate, on-site parking accommodation is to be provided for a minimum 3,122 vehicles and such being set out generally in accordance with the minimum parking layout standards detailed under AS 2890.1 - Parking Facilities. The on-site parking accommodation shall be provided prior to the occupation of the portion of the premise the subject of this application.
80. Appropriate acoustic treatment is to be implemented in accordance with the recommendations set out in the report prepared by Acoustic Logic dated 19 December 2016. 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.

81. 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.
82. 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 goes to 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>> and follow the instructions.

83. An acoustic barrier being constructed on the eastern and southern boundary of the first level loading dock area as outlined in Section 7.3 of the Noise Impact Assessment prepared by Acoustic Logic dated 9 December 2016. The acoustic barrier is to be constructed of lapped and capped timber, or of a material with similar acoustic properties, to a height of 2500mm, and maintained such that no significant gaps exist

in the barrier. Written final certification from a suitably qualified acoustical consultant confirming the acoustic barrier has been implemented in accordance with the requirements of the Noise Impact Assessment prepared by Acoustic Logic dated 24 August 2016 is to be submitted to the Principal Certifying Authority and Council prior to the issue of an Occupation Certificate.

84. Acoustic barriers being constructed on the second level car-parking / ramp area as outlined in Section 7.3 of the Noise Impact Assessment prepared by Acoustic Logic dated 9 December 2016. The acoustic barrier is to be constructed of concrete, or of a material with similar acoustic properties, to a height of 1500mm, and maintained such that no significant gaps exist in the barrier. Written final certification from a suitably qualified acoustical consultant confirming the acoustic barriers have been implemented in accordance with the requirements of the Noise Impact Assessment prepared by Acoustic Logic dated 9 December 2016 is to be submitted to the Principal Certifying Authority and Council prior to the issue of an Occupation Certificate.
85. Prior to the issue of an Occupation Certificate written certification prepared by a suitably qualified acoustical consultant is to be submitted to the Principal Certifying Authority and Council confirming the appropriateness of the mechanical services installation and provide confirmation of the noise from the mechanical services meeting the noise level objectives at the nearest residential boundaries as outlined in the Noise Impact Assessment prepared by Acoustic Logic dated 9 December 2016.
86. Pre and post development CCTV reporting of the existing HWC and Council stormwater drainage system crossing the site to be provided to Council and HWC for review and assessment. Any identified damage to the stormwater drainage system to be repaired to the satisfaction HWC and/or Council prior to the issue an Occupation Certificate.
87. The existing Flood Emergency Response Plan being reviewed and updated as required accommodating the new development. The new Plan to be implemented prior to the issue of an Occupation Certificate.
88. The existing Emergency Evacuation Procedures Plan for the site being reviewed and updated as required accommodating the new development. The new Plan to be implemented prior to the issue of an Occupation Certificate.
89. Prior to the issue of an occupation certificate, the rooftop solar shading, shade trees, green walls, rooftop landscaping to the level 3 car park and the screening between the walkway outside the ground floor retail tenancies and the ground floor car park shall be implemented in accordance with the approved details.
90. Appropriate lighting being provided for driveways and pedestrian pathways in accordance with AS 1158 - Lighting and AS 4282 - Control of the Obtrusive Effects of Outdoor Lighting, such being installed prior to the occupation of the portion of the premise the subject of this application. The following measures shall be implemented:
 - 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 premises. The emphasis should be on installing low glare/ high uniformity lighting levels.
 - Lighting sources should be compatible with requirements of any surveillance system installed.
 - A limited level of lighting should be left on at night to allow for casual surveillance from the street.

CONDITIONS TO BE SATISFIED DURING THE OPERATION AND USE THE DEVELOPMENT

91. The hours of operation or trading of the proposed Kmart Auto is limited to:

DAY	START	FINISH	
Monday	7:00 am	5:30 pm	Same day
Tuesday	7:00 am	5:30 pm	Same day
Wednesday	7:00 am	5:30 pm	Same day
Thursday	7:00 am	5:30 pm	Same day
Friday	7:00 am	5:30 pm	Same day
Saturday	7:00 am	5:30 pm	Same day

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

92. The hours of operation or trading of the proposed level 2 retail premises are to be not more than from:

DAY	START	FINISH	
Monday	9:00 am	5:30 pm	Same day
Tuesday	9:00 am	5:30 pm	Same day
Wednesday	9:00 am	5:30 pm	Same day
Thursday	9:00 am	9:00 pm	Same day
Friday	9:00 am	5:30 pm	Same day
Saturday	9:00 am	5:00 pm	Same day
Sunday	10:00 am	5:00 pm	Same day

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

Note; Major tenancies exceeding 1,000m² (gross leasable floor area) are excluded and condition 93 applies.

93. The hours of operation or trading of major tenancies (exceeding 1,000m² (gross leasable floor area) the premises are to be not more than from:

DAY	START	FINISH	
Monday	8:00 am	10:00 pm	Same day
Tuesday	8:00 am	10:00 pm	Same day
Wednesday	8:00 am	10:00 pm	Same day
Thursday	8:00 am	10:00 pm	Same day
Friday	8:00 am	10:00 pm	Same day
Saturday	8:00 am	10:00 pm	Same day
Sunday	8:00 am	10:00 pm	Same day

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

94. The hours of operation of level 3 retailers are to be not more than from:

DAY	START	FINISH	
Monday	9:00 am	Midnight	Same day
Tuesday	9:00 am	Midnight	Same day
Wednesday	9:00 am	Midnight	Same day
Thursday	9:00 am	Midnight	Same day
Friday	9:00 am	Midnight	Same day

Saturday	9:00 am	Midnight	Same day
Sunday	9:00 am	Midnight	Same day

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

95. 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.

96. 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.

97. The parking areas and stormwater management system are to be properly maintained for the life of the development.
98. No flashing, chasing or scintillating lighting or promotional material of a visually intrusive nature is to be installed or displayed on the exterior of the premises.
99. 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.
100. No goods or advertising signs are to be displayed or allowed to stand on the public footpath or street.
101. The landscaped areas are to be kept free of parked vehicles, stored goods, garbage or waste material and being permanently maintained.
102. 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.
103. 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.

104. Any vehicle or plant owned or operated by the occupants of the premises in connection with the conduct of their business is to be parked within the confines of the site in spaces designated on the submitted plans, or otherwise provided in accordance with the conditions of this consent.
105. All vehicular movement to and from the site is to be in a forward direction.
106. 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.
107. 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'.
108. Any hazardous substances or dangerous goods stored on or within the premises are to be stored, labelled and handled, with appropriate Material Safety Data Sheets maintained on site for each dangerous good or hazardous substance, in accordance with the requirements of WorkCover NSW.
109. A current hard copy register of all hazardous substances and dangerous goods, including appropriate individual Material Safety Data Sheets, is to be maintained on site in an appropriate secure area.
110. The use of loading dock compactors is restricted to between 7:00am and 6:00pm daily.
111. The use of the second level loading dock and second level loading dock access ramp is restricted to between 7:00am and 10:00pm daily.
112. All waste collection activities at the proposed loading docks is restricted to between 7:00am and 6:00pm daily.
113. All parking and loading bays being permanently marked out on the pavement surface with loading bays being clearly indicated by signs.
114. The rooftop solar shading, shade trees, green walls and rooftop landscaping to the level 3 car park, shall be retained and maintained in good condition.
115. The visual screen between the walkway outside the ground retail tenancies and the ground floor car park shall be retained and maintained in good condition.
116. The property is to be maintained in accordance with the following:
 - a) At the commencement of building works and in perpetuity the entire property is to be managed as an 'inner protection area' as outlined within Section 4.1.3 and Appendix 5 of the NSW Rural Fire Service documents 'Planning for Bushfire Protection 2006' and 'Standards for Asset Protection Zones'
 - b) Landscaping of the site is to comply with the principles of Appendix 5 of the NSW Rural Fire Service document 'Planning for Bush Fire Protection 2006'.

ADVISORY MATTERS

- A. 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.

- B. 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.
- C. 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.
- D. 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.
- E. 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.
- F. 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.
- G. 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.
- H. 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).
- I. 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.
- J. 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.

- K. 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.
- L. Failure to comply with the conditions of consent constitutes a breach of the *Environmental Planning and Assessment Act 1979* (NSW), which may be subject to a penalty infringement notice ('on-the-spot fine') or prosecution.

END OF CONDITIONS