

SCHEDULE OF CONDITIONS

Application No:	DA2018/00510
Land:	SP44302, Lot A DP161300, Lot 1 DP222839 & Lot A DP162475
Property Address:	723 and 731 Hunter Street Newcastle West; and 498 King Street Newcastle West
Proposed Development:	Demolition of building, erection of 14-story commercial building and associated car parking

SCHEDULE 1

APPROVED DOCUMENTATION

1. 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
Ground Floor Plan	Project No 11394 Rev: B	EJE Architecture	May 2018
Level 1 lower car park	Project No 11394 Rev: A	EJE Architecture	May 2018
Levels 2 - 3 typical middle car park level floor plan	Project No 11394 Rev: A	EJE Architecture	May 2018
Level 4 - Upper car park level floor plan	Project No 11394 Rev: A	EJE Architecture	May 2018
Level 5 - Commercial Podium Level Floor Plan	Project No 11394 Rev: A	EJE Architecture	May 2018
Level 6 - 11 Typical Commercial Level Floor Plan	Project No 11394 Rev: A	EJE Architecture	May 2018
Level 12 Upper Commercial Floor Plan	Project No 11394 Rev: B Plan No: A20	EJE Architecture	May 2018
Level 13 Roof Top Activation Floor Plan	Project No 11394 Rev: A Plan No A21	EJE Architecture	May 2018
Level 14 Roof Plan	Project No 11394 Rev: A Plan No A22	EJE Architecture	May 2018
Hunter Street NE Elevation	Project No 11394 Rev: A Plan No A23	EJE Architecture	May 2018
Laneway NW Elevation	Project No 11394 Rev: A Plan No A24	EJE Architecture	May 2018
Little King Street Elevation	Project No 11394 Rev: A Plan No A25	EJE Architecture	May 2018

S E Elevation	Project No 11394 Rev: A Plan No A26	EJE Architecture	May 2018
Section AA	Project No 11394 Rev: A Plan No A27	EJE Architecture	May 2018
Section BB	Project No 11394 Rev: A Plan No A28	EJE Architecture	May 2018
Section CC	Project No 11394 Rev: A Plan No A29	EJE Architecture	May 2018
Survey Plan	Project No 17382 Rev: 2 Sheets 1 and 2	Delfs Lascelles consulting surveyors	5/04/18
Stormwater Engineering Plans	Project No 18-018 Rev: 4 Plan No C01-C02	MPC consulting engineers	11/05/18
Landscape Plan	Project No: 11904.5 DA L000, DAL001, DAL002 DAL101, DAL102, DAL103 DAL104, DAL201, DAL301 DAL302	Terras Landscape Architects	17 May 2018
Geotechnical Assessment	Report No RGS01219.1-AD Rev: 1	Regional Geotechnical Solutions	5 April 2016
Site Contamination Assessment	Report No RGS01219.1-AF	Regional Geotechnical Solutions	4 April 2016
Remedial Action Plan	Report No RGS01219.1-AX	Regional Geotechnical Solutions	20 April 2018
Traffic and Parking Assessment	Ref: 18/004	Intersect Traffic	May 2018
Acoustic Assessment	Ref: 18-2182- R1	Reverb Acoustic Noise and Vibration Consultants	May 2018
Report on Grouting of Mine Working	Project No: 81993.04	Douglas Partners	May 2018
Design Statement	Ref: 11394 -	EJE Architecture	16 May 2018
BCA Report	NC 180013	BCA Certifiers	10 May 2018
Turning Path Plan	Job No: 18-018 Drw: T01 Rev: 3	MPC consulting engineers	3/04/18
Waste Management Plan		Core Project	24 April 2018
Statement of Heritage Impact	SOHI Rev: D	EJE Heritage	May 2018
Statement of Environmental Impact	N-18022	City Plan Services	May 2018

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

2. A total monetary contribution of \$959,513.82 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.

3. On-site parking accommodation is to be provided for a minimum of 10 motorcycle spaces, 64 bicycle spaces (Class 2 - bicycles locked to rack within a secure room, as per Newcastle Development Control Plan 2012), 233 internal vehicle parking spaces and 9 external vehicle parking 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.
4. The car parking and vehicular access 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.
5. Opposing traffic flows on car park ramps are to be separated by the provision of an appropriate kerb and/or safety barrier (excluding ramp to ground floor car park). Full details are to be included in documentation for a Construction Certificate application.
6. 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.

7. A loading bay with capacity to accommodate the largest delivery vehicles likely to deliver goods to or from the premises, is to be provided in a position adjacent to the proposed roller shutter. The loading bay is not to cause obstruction to the vehicular access driveway or parking area. Details are to be included in documentation for a Construction Certificate application.
8. Kerbing or dwarf walls having a minimum height of 100mm are to be constructed along the edge of all garden or lawn areas adjacent to driveways and parking bays sufficient to discourage the encroachment of vehicles thereon. Full details are to be included in documentation for a Construction Certificate application.
9. Landscaping and any other obstructions to visibility are to be kept clear of or limited in height to 1.2m in the 2 metre by 2.5 metre splay within the property boundary each side of the driveway entrance in accordance with AS/NZS 2890.1:2004 - Parking facilities - Off-street car parking. Full details are to be included in documentation for a Construction Certificate application.
10. 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.
11. The floor level of all proposed buildings or building additions is to be not below 3.2m 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.
12. 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.
13. A public art feature is to be designed for the site in consultation with Newcastle City Council. The public artwork is to have a minimum value of 1% of the capital cost of the development.

This feature is to provide visual interest for pedestrians and interpret or reflect the local setting, landscape setting and/or cultural setting of the Newcastle area. The feature is to be designed to ensure long-term durability and be resistant to vandalism. Details are to be approved by Council prior to issue of the Construction Certificate, including details of the costs of such works. The applicant is to liaise with Council during the design stages.
14. 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.

15. A separate application is to be lodged and consent obtained from Council for all works within the road reserve pursuant to Section 138 of the *Roads Act 1993 (NSW)*, before the issue of a Construction Certificate. The consent is to be obtained, or other satisfactory arrangements confirmed in writing from Council, before the issue of a Construction Certificate.
16. The Developer designing and constructing the following works in connection with the proposed development within the Hunter Street and Little King Street public road reserve, adjacent to the site, at no cost to Council and in accordance with Council's guidelines and design specifications (including City Centre Public Domain Technical Manual):

Little King Street

- a) Kerb and Gutter replacement.
- b) Road shoulder pavement.
- c) Full width foot paving in bluestone paving (max 2.5% cross fall).
- d) New driveway crossing (paving to extend across driveway in 60mm bluestone paving).
- e) Removal of existing two street trees and replacement with two street trees (including gap-graded structural soil vaults and tree guard).
- f) Upgrade to street lighting (Standard P3 - AS1158.1.1 - Road Lighting).

Hunter Street

- a) Full width foot paving in bluestone paving (max 2.5% cross fall).
- b) Removal of existing street tree and replacement with two street trees (including gap-graded structural soil vaults and tree guard).
- c) Street furniture to replace existing.

Any necessary transitions to adjoining public domain are to be accommodated outside the property frontages.

Engineering design plans and specifications for the works being undertaken within 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 pursuant to Section 138 of the *Roads Act 1993*.

17. 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 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 maximum 2.5% grade toward the kerb;
- c) A separate line marking 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.

- **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.

18. 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, within the road reserve, shall be a maximum of 6 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* has been granted by Council.

19. All onsite 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 indicated on the Concept Stormwater Plan prepared by MPC Consulting Engineers (Job No. 18-018, Drg. No. C01, Issue 4, dated 11/05/18). Full details are to be included in documentation for a Construction Certificate application.
20. 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.
21. 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 landscape plan and specification. The plan and specifications is to be prepared 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.

22. 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.
23. 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* 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.

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

24. In accordance with the terms and conditions of the Competition Waiver Agreement (dated 30 July 2018) a process of design integrity is to be established to ensure the scheme retains design excellence through to completion of construction. This is to include continuing review by the Newcastle City Council's Urban Design Consultative Group (UDCG) at regular intervals through documentation and construction stages of the projects, whenever a significant change is being considered (such as would require a Section 96 application) or at the request of the UDCG themselves, the Newcastle City Council or the proponent. A record of this process including UDCG meeting minutes and proponent's responses should be provided on request.
25. 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.
26. 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.

27. All parking and loading bays are to be permanently marked out on the pavement surface, with loading bays, customer/staff and visitor parking facilities being clearly indicated by signs.
28. 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.
29. 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'.
30. 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*.
31. 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.
32. The proposed remediation work being carried out in accordance with the requirements set out in the submitted Remedial Action Plan (RAP) prepared by Regional Geotechnical Solutions Pty Ltd dated 20 April 2018. Report No. RGS01219.1-AX
33. Any waste containers used in association with the proposed demolition are to be located on the site where possible.

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

34. 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. 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).
36. 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.

37. 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.
38. 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.
39. The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.
40. 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.

41. All building work must be carried out in accordance with the provisions of the National Construction Code.
42. Garbage collection and delivery 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.
43. 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.
44. 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.

45. Erosion and sediment control measures are to be implemented prior to the commencement of works and be maintained during the period of construction in accordance with the details set out on the Erosion and Sediment Control Plan submitted with the application, and with the below requirements:
 - a) Control over discharge of stormwater and containment of run-off and pollutants leaving the site must be undertaken through the installation of erosion control devices such as catch drains, energy dissipaters, level spreaders and sediment control devices such as hay bale barriers, filter fences, filter dams and sediment basins and controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover. Erosion and sediment control measures are to be designed in accordance with the requirements of the Managing Urban Stormwater: Soils and Construction 4th Edition - Vol. 1 (the 'Blue Book') published by Landcom, 2004.
46. 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.
47. 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.
48. 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).
49. 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.
50. Building demolition is to be planned and carried out in accordance with Australian Standard 2601:2001 - The Demolition of Structures.
51. 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.
52. 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.
53. 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.
54. The demolisher is to ensure that all demolition material is kept clear of the public footway and carriageway as well as adjoining premises.
55. 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*.

56. 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.
57. 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.

58. Tree plantings of the species *Pyrus Callyrana* Capital are to be provided within the Little King Street and Hunter Street footways fronting the site being at the rate of two trees per frontage, 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).
59. Street tree planting vaults are to be provided and be 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.

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

60. 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.
61. The whole of the land, being Lot 1 DP222839, SP44302, Lot A DP161300, and Lot A DP162475 is to be consolidated into a single title and documentary evidence of the lodgement for registration of a survey plan of consolidation with NSW Land Registry Services is to be submitted to Council prior to the issuing of an Occupation Certificate for the proposed development.
62. 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.
63. Appropriate acoustic treatment is to be implemented in accordance with the recommendations set out in the report prepared by Reverb Acoustics Pty Ltd, dated May 2018. 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.

64. Prior to the issuing of an Occupation Certificate, a validation report (prepared in accordance with the requirements of the approved RAP) by a suitably qualified consultant in accordance with the relevant NSW Environment Protection Authority Guidelines is to be submitted to Principle Certifying Authority and Council.
65. A Maintenance Manual for all water management devices is to be prepared in accordance with Council's Stormwater and Water Efficiency for Development Technical Manual (Updated 2013). The Maintenance Manual is to address maintenance issues concerning the water management devices including routine

monitoring and regular maintenance and be kept on site at all times. Establishment and maintenance of the devices in accordance with the Maintenance Manual, prepared by the applicant, is to be completed prior to issue of an Occupation Certificate.

66. 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.
67. All works within the road reserve required by this consent are to be completed prior to the issue of a Final Occupation Certificate.
68. The public art feature is to be installed on site prior to the issue of the Final Occupation Certificate.
69. 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.
70. 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.
71. 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.

CONDITIONS TO BE SATISFIED DURING THE OPERATION AND USE THE DEVELOPMENT

72. 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.
73. A minimum of 6 parking spaces within the new building and 9 external parking spaces are to be allocated and clearly identified for use in association with the 'Drill Hall' building fronting Little King Street.
74. The premise/s is/are allocated the following street address/es in accordance with *Council's House Numbering Policy* and the *Surveying and Spatial Regulation*.

Description on plan	Council Allocated Street Address(es)			
	House Number	Street Name	Street Type	Suburb
Birdwood Business Centre	723	Hunter	Street	Newcastle West
Drill Hall retain	498	King	Street	Newcastle West

Ground FL Retail 01	1/723	Hunter	Street	Newcastle West
Ground FL Retail 02	2/723	Hunter	Street	Newcastle West
L1 Carpark	723	Hunter	Street	Newcastle West
L2 Carpark	723	Hunter	Street	Newcastle West
L3 Carpark	723	Hunter	Street	Newcastle West
L4 Carpark	723	Hunter	Street	Newcastle West
Commercial 01	501/723	Hunter	Street	Newcastle West
Commercial 02	601/723	Hunter	Street	Newcastle West
Commercial 03	701/723	Hunter	Street	Newcastle West
Commercial 04	801/723	Hunter	Street	Newcastle West
Commercial 05	901/723	Hunter	Street	Newcastle West
Commercial 06	1001/723	Hunter	Street	Newcastle West
Commercial 07	1101/723	Hunter	Street	Newcastle West
Commercial 08	1201/723	Hunter	Street	Newcastle West
Commercial 09	1301/723	Hunter	Street	Newcastle West

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

DAY	START	FINISH
Monday	7:00 am	10.00 pm
Tuesday	7:00 am	10.00 pm
Wednesday	7:00 am	10.00 pm
Thursday	7:00 am	10.00 pm
Friday	7:00 am	10.00 pm
Saturday	7:00 am	10.00 pm
Sunday	7:00 am	10.00 pm

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

76. 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*.

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.

77. 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*, 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.

78. 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'.

ADVISORY MATTERS

- 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.
- 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.
- Prior to commencing any building works, the following provisions of Division 6.2 of the *Environmental Planning and Assessment Act 1979* are to be complied with:
 - a) A Construction Certificate is to be obtained; and
 - b) A Principal Certifier is to be appointed for the building works and Council is to be notified of the appointment; and
 - c) Council is to be given at least two days notice of the date intended for commencement of building works.
- 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.
- 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*.
- It is an offence under the provisions of the *Protection of the Environment Operations Act 1997* 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.
- Failure to comply with the conditions of consent constitutes a breach of the *Environmental Planning and Assessment Act 1979*, which may be subject to a penalty infringement notice ('on-the-spot fine') or prosecution.

END OF CONDITIONS

SCHEDULE 2

REASONS FOR THE DETERMINATION & CONSIDERATION OF COMMUNITY VIEWS

The determination decision was reached for the following reasons:

- The proposed development, subject to the recommended conditions, is consistent with the objectives of the applicable environmental planning instruments, being; *Newcastle Local Environmental Plan 2012* and applicable State Environmental Planning Policies.
- The proposed development is, subject to the recommended conditions, consistent with the objectives of the Newcastle Development Control Plan 2012.
- The proposed development is considered to be of an appropriate scale and form for the site and the character of the locality.
- The proposed development has appropriate management and mitigation of impacts through conditions of consent.
- The proposed development, subject to the recommended conditions, will not result in unacceptable adverse impacts upon the natural or built environments.
- The proposed development is a suitable and planned use of the site and its approval is within the public interest.

REASONS WHY THE CONDITIONS HAVE BEEN IMPOSED

The following conditions are applied to:

- Confirm and clarify the terms of Council's determination;
- Identify modifications and additional requirements that will result in improved compliance, development and environmental outcomes;
- Prevent, minimise, and/or offset adverse environmental impacts including economic and social impacts;
- Set standards and measures for acceptable environmental performance; and
- Provide for the ongoing management of the development.