

## APPENDIX 1

### RECOMMENDED CONDITIONS OF CONSENT

#### INTEGRATED DEVELOPMENT

The proposed development is integrated development and approval is required from the approval bodies listed below:

#### **Pursuant to section 15 of the *Mine Subsidence Act 1961*– Subsidence Advisory NSW**

General Terms of Approval issued by the Subsidence Advisory NSW dated 10 September 2018 (Ref: TBA18-02098) and reproduced below shall form part of this Integrated Development Consent:

#### General

##### *Plans, Standards and Guidelines*

1. The development being undertaken strictly in accordance with the details set out on the application form, any information submitted with the application and the plans submitted, as amended or as modified by the conditions of this approval.

**Note:** Any proposal to modify the terms or conditions of this approval, whilst still maintaining substantially the same development to that approved, will require the submission of a formal application for consideration by Subsidence Advisory NSW (SA NSW). If amendments to the design result in the development not remaining substantially the same as that approved by this approval, a new Application will have to be submitted to Subsidence Advisory NSW.

2. This approval expires 5 years after the date the approval was granted if construction work has not physically commenced.

#### Prior to Commencement of Construction

3. Based on reports:
  - 'Newcastle East End Development – Stages 2 to 4, Hunter & King Street Newcastle' by Douglas Partners Project 39826.14, dated July 2018.and
  - 'Grouting Assessment for the Mine Workings in the Borehole Seam below the Newcastle East End Project – Stages 2-4, Hunter St Newcastle' by DGS Report No. DPS-0003/4, dated 12 June 2018.

SA NSW will require:

- a) Provide a peer review of the above reports. The review is to be conducted by an expert in mine subsidence acceptable to SA NSW.
- b)

Should a peer review confirm the adequacy of the above reports, SA NSW will require:

- a) Grouting of the mine workings in the Dudley Seam as per the methodology outlined in the Douglas Partners report.
- b) Further borehole investigation to determine the extent of workings in the Dudley Seam for buildings that are proposed for adaptive re-use.
- c) Comment for SA NSW's acceptance from a geotechnical consultant following further investigation to determine if grouting under the footprint of structures proposed for re-use is required.
- d) Grouting of mine workings in the Borehole Seam as outlined in the Douglas Partners and DGS reports.
- e) Investigation and remediation of the Market Shaft, with a remediation strategy submitted for SA NSW's acceptance detailing how the risk of mine subsidence will

be eliminated. Note: The remediation strategy may be submitted to SA NSW following demolition of existing structures but prior to construction of new structures to allow further investigation of the shaft.

- f) Proposed locations of Grout Verification holes.
4. On completion of grouting submit a Grout Verification Report endorsed by the grout designer and site verification engineers for compliance with the methodology outlined in the Douglas Partners report.
5. Prescribed Design Parameters  
The proposed structure(s) is to be designed to be “safe, serviceable and any damage from mine subsidence shall be limited to ‘slight’ in accordance with AS2870 (Damage classification) and readily repairable” using the subsidence parameters outlined below:
  - a) Maximum vertical subsidence: 50 mm
  - b) Maximum Horizontal Strains: (+/-): 1 mm/m
  - c) Maximum Tilt: 3 mm/m
  - d) Maximum Radius of Curvature: 10 km
6. Submit an “Engineering Impact Statement” prior to commencement of detailed design for acceptance by SANSW, which shall identify the:
  - a. Mine Subsidence Parameters used for the design.
  - b. Main building elements and materials.
  - c. Risk of damage due to mine subsidence
  - d. Design measures proposed to control the risks.
  - e. Comment on the:
    - likely building damage in the event of mine subsidence.
    - sensitivity of the design to greater levels of mine subsidence.
7. Submit a final design incorporating the design methodology contained in the “*Engineering Impact Statement*”, for acceptance by *Subsidence Advisory NSW* prior to commencement of construction. It shall include certification by a qualified structural engineer to the effect that the improvements will remain “safe, serviceable and any damage from mine subsidence shall be limited to ‘very slight’ damage in accordance with AS2870 (Damage Classification), and readily repairable” taking into consideration the mine subsidence parameters outlined above.
8. No buildings, structures or other improvements are to be built over or adjacent to any drifts, shaft or other mine entry unless the SA NSW accepts the risk of mine subsidence has been eliminated.
9. The final designs are to be submitted for acceptance by Subsidence Advisory NSW prior to the commencement of any construction work and shall:
  - a) Be developed from design accompanying the Building Application submitted 12 July 2018.
  - b) Include sufficient drawing plans, long-sections, elevations and details, to fully describe the work and proposed mine subsidence mitigation measures.
  - c) Include design mitigation measures to reduce the transfer of horizontal strain into building structures.
  - d) Include design mitigation measures to relieve excessive strains into building structures.
  - e) Include an additional grade for tilt due to mine subsidence, in excess of the minimum Code requirements for structures including pipes, gutters and wet areas.
  - f) For underground pipes or conduits allow for flexible joints, flexible bedding surround and flexible building connections and penetrations.
  - g) Ensure there is sufficient capacity in any storage structure for tilt due to mine subsidence.
  - h) Locate underground structures to facilitate ease of repair and replacement.

- i) Ensure internal finishes are installed in accordance with relevant codes and standards and industry best practice guidelines with additional provision for mine subsidence.
- j) Ensure there is suitable provision for articulation jointing in building elements. All control joints including articulation for mine subsidence are to be shown on the design plans and elevations,
- k) Ensure there is provision for isolation joints between adjoining structures. For example between a building and adjacent paving.
- l) All roads, driveways and pavement areas are to be designed as flexible structures with an asphalt surface. If a concrete surface course is required, it shall be designed to include expansion and crack control joints or sacrificial sections to minimise the risk of damage from mining subsidence.

#### During Construction

10. Establish a number of permanent survey marks to AHD so that building movement can be monitored should mine subsidence occur. Details are to be forwarded to SA NSW.

#### Post Construction

11. Upon completion of construction, works-as-executed certification by a qualified engineer is to be forwarded to the Subsidence Advisory NSW confirming that construction was in accordance with the plans approved by Subsidence Advisory NSW.

Conditions imposed by Council as part of this Integrated Development Consent are:

#### **Plans and Documentation**

The development shall be undertaken substantially in accordance with the details and specifications set out in:

#### Architectural Plans:

Architectural Plans prepared by CKDS Architecture, Job No. 1786, listed as follows:

Drawing No.	Rev.	Name of Plan	Date
DA-0001	-	Contents	19.12.2018
DA-0002	E	Schedule/SEPP 65 Matrix	30.11.2018
DA-0003	G	GFA Calculations	30.11.2018
DA-0004	E	GFA Calculation	30.11.2018
DA-1001	F	Site Analysis Plan	30.11.2018
DA-1002	F	Site Plan	30.11.2018
DA-1101	I	Basement Level 2 Plan	30.11.2018
DA-1102	I	Basement Level 1 Plan	30.11.2018
DA-1103	H	Ground Floor Plan	30.11.2018
DA-1104	H	Level 01 Plan	30.11.2018
DA-1105	H	Level 02 Plan	30.11.2018
DA-1106	H	Level 03 Plan	30.11.2018

Drawing No.	Rev.	Name of Plan	Date
DA-1107	H	Level 04 Plan	30.11.2018
DA-1108	H	Level 05 Plan	30.11.2018
DA-1109	H	Level 06 Plan	30.11.2018
DA-1110	H	Level 07 Plan	30.11.2018
DA-1111	H	Roof Plan	30.11.2018
DA-1200	C	Adaptable Apartment	11.05.2018
DA-2001	H	North and East Elevations	30.11.2018
DA-2002	H	South and West Elevations	30.11.2018
DA-2003	F	Courtyard and Laneway Elevations	30.11.2018
DA-3001	H	Sections A, B and C	30.11.2018
DA-4001	D	Solar Analysis 9am	28.11.2018
DA-4004	D	Solar Analysis 12 noon	28.11.2018
DA-4007	D	Solar Analysis 3pm	28.11.2018
DA-4008	D	View from Sun Analysis	28.11.2018
DA-4009	D	View from Sun Analysis	28.11.2018
DA-4010	D	View from Sun Analysis	28.11.2018
DA-4011	D	View from Sun Analysis	28.11.2018
DA-4107	A	King St Terraces Sun Analysis	12.12.2018
DA-4108	A	King St Terraces Sun Analysis	12.12.2018
DA-5001	F	SEPP 65 Solar Analysis	28.11.2018
DA-5002	D	SEPP 65 Solar Analysis	28.11.2018
DA-5003	F	SEPP 65 Cross Ventilation Analysis	28.11.2018
DA-5004	D	SEPP 65 Cross Ventilation Analysis	28.11.2018
DA-7002	E	External Material Schedule	14.05.2018
DA-7003	C	Signage Strategy	14.05.2018
DA-7004	C	Signage Strategy	14.05.2018
DA-7005	C	Signage Strategy	14.05.2018
DA-8001	F	Ground Floor Demolition Plan	30.11.2018
DA-8002	F	Level 01 Demolition Plan	30.11.2018

Drawing No.	Rev.	Name of Plan	Date
DA-8003	F	Level 02 Demolition Plan	30.11.2018
DA-8004	F	Level 03 Demolition Plan	30.11.2018
DA-8005	F	Level 04 Demolition Plan	30.11.2018
DA-8006	F	Demolition Elevations	30.11.2018
DA-9000	A	Lyrique Lane Details	19.12.2018
DA-9001	A	Lyrique Lane Details	19.12.2018
DA-9002	A	Lyrique Lane Details	19.12.2018

Landscape and Public Domain Plans prepared by Aspect Studios, listed as follows:

Drawing No.	Rev.	Name of Plan	Date
17049_DA-001	F	Drawing List and Public Domain Plan	07.02.2019
17049_DA-002	F	Ground Floor Landscape Plan	07.02.2019
17049_DA-003	F	Ground Floor Landscape Sections	07.02.2019
17049_DA-004	F	Level 01 Landscape Plan + Section	07.02.2019
17049_DA-005	F	Level 06 Landscape Plan	07.02.2019
17049_DA-006	B	Level 07 Landscape Plans	05.02.2019
17049_DA-007	F	Level 08 Landscape Plan	07.02.2019
17049_DA-008	F	Planting Palettes	07.02.2019

#### Planning Documents

Statement of Environmental Effects for Stage 2 Development Application, dated May 2018, prepared by SJB Planning;

Submission supplementing the Statement of Environmental Effects and Cover Letter to Newcastle City Council, dated 20 December 2018, prepared by SJB Planning;

Revised Clause 4.6 Exceptions to Development Standards Statement prepared by SJB Planning (Ref: 8053B\_11.2\_Clause 4.6 - HoB\_St. 2 DA\_Amended\_181220);

Revised SEPP 65 Apartment Design Guide Verification Statement, Issue E, dated 7 February 2019, prepared by CKDS Architecture;

Visual Impact Statement and Street View Analysis, Version 00, dated 4 May 2017, prepared by SJB Architects;

View Analysis – Stage 2, Version 05, dated 9 May 2018, prepared by SJB Architects;

Exemption to Design Competition correspondence, dated 24 April 2018, prepared by Government Architect NSW.

### Heritage and Archaeology

Heritage Response, Ref. H-17-012, dated 12 December 2018, prepared by City Plan Heritage;  
Heritage Impact Statement, Ref. 17-012, Rev. 02, dated 21 May 2018, prepared by City Plan;  
Conservation Management Plan, Ref. 17-012, Rev. 07, dated 18 May 2018, prepared by City Plan;

Historical Archaeological Assessment, Report No. 3971/R03/Final, dated 16 May 2018, prepared by Umwelt;

Draft Aboriginal Cultural Heritage Assessment Report, Report No. 3971/R04/V2, dated 10 April 2018, prepared by Umwelt;

### Traffic and Transport

Traffic Impact Assessment, Ref. N140420, Rev. C, dated 18 May 2018, prepared by GTA Consultants;

Construction Traffic Management Plan, Ref. N140420, dated 16 May 2018, prepared by GTA Consultants;

Waste Collection Swept Turning Path Advice, Ref. N140420, dated 3 December 2018, and Plan, dated 24 January 2018, prepared by GTA Consultants;

### Construction Management

Construction Noise and Vibration Management Plan, Project No. 20180363.1, Rev. 1, dated 5 April 2018, prepared by Acoustic Logic;

Construction Management Plan, Rev. A, dated 1 April 2018, prepared by Parkview;

### Ground Issues

Geotechnical Assessment, Project No. 39826.12, R.005.Rev1, dated 17 May 2018, prepared by Douglas Partners;

Preliminary Mine Subsidence Assessment, Project No. 39826.12, R.001.Rev1, dated 1 May 2018, prepared by Douglas Partners;

Preliminary Site Investigation (Contamination), Project No. 39826.12, R.002.Rev0, dated 17 May 2018, prepared by Douglas Partners;

Remediation Action Plan, Project No. 39826.12, R.003.Rev0, dated 17 May 2018, prepared by Douglas Partners;

Acid Sulfate Soils Management Plan, Project No. 39826.12, R.004.Rev1, dated 1 May 2018, prepared by Douglas Partners;

### Flooding and Stormwater

Flooding Impact Assessment, Ref. NL167241, Rev. B, dated 9 April 2018, prepared by Northrop;

Concept Stormwater Management Plan, Job No. NL167241, Rev. B, dated 9 April 2018, prepared by Northrop;

Stormwater Drainage Advice, Ref. NL167241, dated 16 November 2018, prepared by Northrop;

## Other Documents

Site Survey Plans, Ref. 07/158, dated 13 December 2007, prepared by Monteath and Powys;  
Accessibility Assessment Report, Report 173521.01 (access), Rev. 02, dated 18 May 2018, prepared by City Plan and BCA Performance Solution, Ref. 188117 – Rev. 1.1, dated 19 April 2018, prepared by Code Performance;

BCA Assessment Report, Report RE173521, Rev. 2, dated 16 May 2018, prepared by City Plan;

Infrastructure Services Report, Job No. SYD0465, Rev. 04, dated 10 April 2018, prepared by ADP Consulting Pty Ltd;

Infrastructure Services Notice of Formal Requirements, Ref. 2017-2013, dated 15 December 2017, prepared by Hunter Water;

Consultant Advice Notice regarding Telstra Assets, Project No. SYD0296, Advice No. CAN-03, dated 18 October 2017, prepared by ADP Consulting;

Waste Management Support, Project No. IA148600, Rev. 3, dated 15 May 2018, prepared by Jacobs;

Capital Investment Value Report and Cover Letter, Project No. 71130.102549, Version 1.0, dated 12 April 2018, prepared by Altus Group;

DA Cost Estimate, Ref. 102549, dated 12 April 2018, prepared by Altus Group;

Strategic Social Plan, Ref. 2126423, dated 14 June 2017, prepared by GHD;

Crime Risk Assessment, Ref. 2126423, Rev 0, dated 17 May 2018, prepared by GHD;

Acoustic Assessment, Project No. 20170518.1, Rev. 1, dated 10 April 2018, prepared by Acoustic Logic;

Correspondence 'Newcastle Stage 2 East End – Acoustic Impacts – 106 King St, Newcastle' Ref: 20180363.1/1102A/R0/MF, dated 11 February 2019, prepared by Acoustic Logic;

Sustainability Report, Job No. SYD0465, Rev. 05, dated 13 April 2018, prepared by ADP Consulting Pty Ltd;

Thermal Comfort and BASIX Assessment, Job No. SYD0296, Rev. 01, dated 11 April 2018, prepared by ADP Consulting;

BASIX Certificate No. 994485M, issued 11 February 2019, prepared by Outsource Ideas Pty Ltd;

Internal Civil Works Plans, Job No. NL167241, Rev. A, dated 29 March 2018, prepared by Northrop.

## **A - CONDITIONS TO BE SATISFIED PRIOR TO DEMOLITION OR GROUNDWORKS**

### **A1 Geotechnical/Mine Subsidence**

A detailed geotechnical investigation which identifies ground constraints and confirms engineering design and management strategies for building works and earthworks shall be prepared by a qualified geotechnical engineer and submitted to Council for approval prior to the commencement of any remediation, excavation, dewatering or construction works on the site. Consent is not granted to the use of anchors which support any adjacent sites unless the written consent of that property owner is obtained.

### **A2 Excavation**

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 by method used wholly within the development site only, and
- (b) where necessary, underpin the adjoining premises to prevent any such damage.

The above requirement 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. If the written consent of the owner is required, this must be provided to the Principal Certifying Authority prior to the commencement of any works.

### **A3 Dilapidation Report**

A dilapidation report prepared by a suitability qualified person shall be submitted to the Certifying Authority prior to the commencement of any demolition, excavation or construction works. The dilapidation report shall document and photograph the current structural condition of the adjoining buildings, public infrastructure and roads.

### **A4 Community Liaison**

The applicant shall establish a Community Liaison Committee as an ongoing means of addressing community concerns during the excavation and construction phase of the development. The applicant is to advise adjoining businesses, residents and Council of the name and telephone number of the contact person for this Committee. The contact person shall be available during nominated working hours. A register of community concerns/complaints relating to the on-site operations and the action taken in response is to be kept and made available to Council officers upon request.

### **A5 Construction Traffic Management Plan (CTMP)**

Prior to any site works commencing, the Developer must prepare a final Construction Traffic Management Plan (CTMP). The CTMP is to address the parking of construction vehicles and the transportation of construction personnel to the site; and detail a common location for the parking of construction vehicles outside of the Newcastle CBD area and utilise shuttle buses and for the transportation of construction personnel and their equipment to the site.

Two copies of the CTMP are to be provided to the Council for written approval and the CTMP is to be maintained on site during all site works and be made available to Authorised Officers upon request.

The CTMP is to be prepared by an appropriately qualified person (Roads & Maritime Services-accredited) 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.

### **A6 Construction Noise and Vibration Management Plan (CNVMP)**

Prior to any site works commencing, the Developer must engage an appropriately qualified acoustic consultant to prepare a final Construction Noise and Vibration Management Plan (CNVMP). The CNVMP is to include details of the following with respect to the medical facility located at No. 106 King Street:



- The outcome of site investigations undertaken to review potential noise/vibration transmission paths and potential mitigative treatment that may be practically incorporated, such as treatment of window and door openings or the removal of any physical connections between the works area and 106 King Street building (thereby minimising any structure borne vibration transmission).
- Consultation which has been undertaken with the medical facility operators to identify periods during the day where noise/vibration is more sensitive so that work practices on the proposed development can be programmed to minimise disruption.
- Noise and vibration measurements which will be undertaken by the contractor during works, to establish levels and to provide a response protocol.
- A strategy for the ongoing review of mitigation methodologies to be incorporated at the demolition and construction phases.
- A strategy to establish direct communications with the contractor and the operators of the medical facility.

#### **A7 Environmental Management Plan (EMP)**

Prior to any site works commencing, the Developer must prepare a final EMP addressing management of all environmental aspects associated with the construction works, during the construction phase including off site impacts such as transport to and from the site. Two copies of the final EMP is to be provided to the Council for written approval and the EMP is to be maintained on site during all site works and be made available to Authorised Officers upon request. The EMP is to include but not be limited to:

- A site management strategy, identifying and addressing issues such as environmental health and safety, site security, material storage and temporary storage sheds, fencing/hoarding, excavation and shoring; odour management.
- A strategy to ensure that footpaths remain free of storage materials at all times and that ongoing pedestrian access to No. 106 King Street is available.
- A traffic management strategy: including traffic control measures, including construction zones, to be utilised in the public road reserve for the provision for safe, continuous movement of traffic and pedestrians within the road reserve. Details of the matter in which disruption to all surrounding areas including Hunter Street Mall is to be addressed. This part of the Plan is to be prepared by an appropriately qualified (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.
- A soil and water management strategy, detailing erosion and sediment control, management of soil stockpiles, control and management of surface water and groundwater. Procedures should be included to ensure that all roads adjacent to the site are kept free and clear from mud and sediment.
- A dust management strategy, detailing procedures to minimise dust generation, with particular reference to control techniques and operational limits under adverse meteorological conditions.
- A community relations plan that aims to inform local residents and other local stakeholders of the proposed nature and timeframes for construction activities together with contact details for site management.
- A noise and vibration management 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 monitoring during the construction phase should be incorporated into the program.
- A site management strategy for dealing with any identifying potential for Acid Sulphate Soils (ASS) to be encountered and measures and techniques to be followed in the event that ASS is encountered.
- A detailed Site Waste Management and Minimisation Plan (SWMMP) for the demolition and construction phase of the development that aims to avoid production of waste and maximise reuse, recycling or reprocessing of potential waste material. The SWMMP is to be prepared by an appropriately qualified consultant in accordance with Newcastle Development Control Plan 2012 Element 7.08.01 Waste Management and submitted

to Council for written approval prior to the commencement of any demolition of site works.

#### **A8 Hazardous Substances Plan**

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.

#### **A9 Disconnection of Services**

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.

#### **A10 Heritage Site Induction**

Before any works commence on site, all contractors and subcontractors shall undergo an induction session, prepared and delivered by the Heritage Consultant, highlighting the historical significance of the site and in particular those building elements and archaeology requiring conservation.

#### **A11 Aboriginal Heritage**

An Aboriginal Heritage Impact Permit (AHIP) is required to be obtained from the Office of Environment and Heritage (OEH) under Part 6 of the *National Parks and Wildlife Act 1974* prior to the commencement of ground disturbance works. The AHIP is to include provision for the completion of Aboriginal archaeological investigations in the form of test excavations and (if required) further salvage activities.

During any excavation work, in the event that any Aboriginal objects are identified within the area of works, works within the immediate vicinity of the Aboriginal object should cease and Office of Environment and Heritage (OEH) should be contacted so that appropriate management strategies can be identified.

In the unlikely event that a potential burial site or potential human skeletal material is exposed, work in the vicinity of the remains is to halt immediately to allow assessment and management. If the remains are suspected to be human, it will be necessary to contact local police, OEH and the Heritage Division to determine an appropriate course of action.

#### **A12 Heritage Architect to be commissioned**

A suitably qualified and experienced heritage architect is to be commissioned to provide detailed heritage advice to the project for its duration, including providing guidance to the Construction documentation, the implementation of the conditions of consent and through the construction process. Written documentation to support the commission of the heritage architect is to be submitted with the Construction Certificate.

#### **A13 Heritage: Archival Recording**

A full archival photographic record is to be undertaken of all contributory and heritage listed buildings on the site, including the interiors of the Lyrique Theatre, Masonic Hall and former Exchange Hotel, prior to any works commencing on the site. The archival recording is to be in accordance with the requirements of:

- a) The NSW Heritage Office publication "How to Prepare Archival Records of Heritage items" (1998);
- b) The Department of Planning's "Recording Places of Cultural Significance" (1991)

The record in digital form is to be submitted to Council and written approval of Council's Heritage Advisor submitted prior to any works commencing on site.

#### **A14 Demolition Works and Retained Elements**

Removal of existing shopfronts below retained facades shall be limited to those elements identified on the approved Demolition Plans Drawing DA-8001, DA-8002, DA-8003, DA-8004, DA-8005 and DA-8006 dated 30.11.18 prepared by CDKS Architecture. A structural engineers report, which details the method of removal and of support of the upper level elements to be retained, shall be submitted to Council for approval prior to any demolition commencing.

#### **A15 Historical Archaeology**

- a) Prior to any ground disturbance works occurring on site, the Applicant must obtain an approved s.140 application under the *Heritage Act 1977* to undertake archaeological excavation of this site. The Applicant must comply with all the approval conditions of the s.140 approval.
- b) In the event the subject site is found to contain substantially intact state significant archaeological relics which are undocumented and associated with the pre-1840s convict occupation of Newcastle, modification of the detailed design to avoid harm and retain these in situ should be undertaken. This is consistent with previous advice of the Heritage Council of NSW for this site. Additional approval under s.140 of the *Heritage Act 1977* may be required to harm such remains if detailed design cannot be redesigned to avoid harm to these resources in whole or part.
- c) The conclusions and recommendations (Section 9.0) of the 'Historical Archaeological Assessment' (Ref: 3971/R01, by Umwelt, June 2017) are to be implemented. This includes the investigation and research methodology framework outlined in Sections 7.0 and 8.0 of the report.

#### **A16 Unforeseen Utility Service and Infrastructure**

In the event that during the pre-demolition planning/inspection phase, a public or private utility service piece of infrastructure is encountered, the developer shall consult the relevant utility service provider and negotiate an appropriate commercial arrangement for the termination of that service and if required, relocation of that service to a location suitable for the service provider (with approval).

#### **A17 Isolation of Electrical Assets**

Existing assets including live underground electrical assets must be positively located and identified prior to work commencing. Isolation will be required if work is within clearances detailed in Workcover Document– 'Work Near Underground Assets'.

Note: Refer to Ausgrid's Network Standard 156 - Working near or around underground cables which can be found on Ausgrid's website at [www.ausgrid.com.au](http://www.ausgrid.com.au) and Workcover Document– 'Work Near Underground Assets'.

#### **A18 Hoardings (within any Public Road Reserve)**

The site must be enclosed with a suitable hoarding or security fence to Council's standards, and must satisfy the requirements of the Work Health and Safety Act 2011, the Work Health and Safety Regulation 2017 and Australian Standard AS 2601. This application must be submitted to Council and a permit obtained, before the erection of any such hoarding or fence.

### **B - CONDITIONS TO BE SATISFIED DURING DEMOLITION OR GROUNDWORKS**

#### **B1 Demolition, Removal or Alteration of Structures**

This consent does not permit the demolition, removal or alteration of any structure except that identified on the following demolition plans. Additional elements identified during site works (including, but not limited to walls of buildings, retaining walls and the like) and structures identified on the listed plans below for 'further investigation' will require written authorisation and justification by a suitable qualified heritage architect, with details to be fully documented and provided to Council, if located on the sites occupied the former Lyrique Theatre, Masonic Hall, King Street Terraces, Soul Pattinson Building and former Royal Exchange Building.

Architectural Plans prepared by CKDS Architecture, Job No. 1786, listed as follows:

Drawing No.	Rev.	Name of Plan	Date
DA-8001	F	Ground Floor Demolition Plan	30.11.2018
DA-8002	F	Level 01 Demolition Plan	30.11.2018
DA-8003	F	Level 02 Demolition Plan	30.11.2018
DA-8004	F	Level 03 Demolition Plan	30.11.2018
DA-8005	F	Level 04 Demolition Plan	30.11.2018
DA-8006	F	Demolition Elevations	30.11.2018

## **B2 Ground Issues**

The recommendations of the following reports must be implemented during any ground works:

- Geotechnical Assessment, Project No. 39826.12, R.005.Rev1, dated 17 May 2018, prepared by Douglas Partners;
- Preliminary Mine Subsidence Assessment, Project No. 39826.12, R.001.Rev1, dated 1 May 2018, prepared by Douglas Partners;
- Preliminary Site Investigation (Contamination), Project No. 39826.12, R.002.Rev0, dated 17 May 2018, prepared by Douglas Partners;
- Remediation Action Plan, Project No. 39826.12, R.003.Rev0, dated 17 May 2018, prepared by Douglas Partners;
- Acid Sulfate Soils Management Plan, Project No. 39826.12, R.004.Rev1, dated 1 May 2018, prepared by Douglas Partners;

## **B3 Remediation**

The site is to be investigated and remediated as required in accordance with Section 7 of Douglas Partners Remediation Action Plan dated 17 May 2018.

Under no circumstances is on-site soil remediation treatment to be carried out. Remediation shall be carried out in accordance with Option 4 as set out in the submitted Remediation Action Plan prepared by Douglas Partners dated 17 May 2018.

Any soils identified as exceeding the validation criteria during the remediation works (as specified by the Remediation Action Plan prepared by Douglas Partners dated 17 May 2018 2017) are to be removed offsite.

## **B4 Acid Sulfate Soils**

Any disturbance of acid sulfate soils through excavation or dewatering shall be conducted in accordance with the Acid Sulfate Soils Management Plan prepared by Douglas Partners dated 29 May 2017.

## **B5 Demolition**

Building demolition works are to be planned and carried out in accordance with Australian Standard 2601:2001 - The Demolition of Structures and the following requirements:

- 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.

#### Waste Containers

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.*

#### Demolition Material

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

### **B6 Demolition Management**

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.

### **B7 Vibration**

The recommendations of the 'Construction Noise and Vibration Management Plan' prepared by Acoustic Logic (Ref: 20170518.1/2404A/RO/BW dated 24.4.17), together with any final updates of this plan shall be implemented to reduce the impact of noise and vibration during excavation and construction works.

Vibration generated from construction activities shall not exceed 10mm/s at any neighbouring receiver. The use of vibration compactors shall not be conducted within 30m of any neighbouring buildings.

### **B8 Demolition Standard**

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

### **B9 Hazardous Substances Plan Required**

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.

## **B10 Demolition Requirements**

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.

## **B11 Construction Noise**

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.

## **B12 Prevent Pollution Sign**

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.

## **B13 Removing Excavated Material**

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'.

## **B14 Fill Quality**

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*.

#### **B15 Fill – Resource Recovery Exemption**

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.

#### **B16 Sediment Control**

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:

- 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.

#### **B17 All Weather Access**

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.

#### **B18 Dust Control**

All necessary measures are to be undertaken to control dust pollution from the site. These measures must include, but not are limited to:

- restricting topsoil removal
- regularly and lightly watering dust prone areas (note: prevent excess watering as it can cause damage and erosion)
- alter or cease construction work during periods of high wind and
- 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.

### **C - CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**

#### **C1 Activity Approval Under Water Management Act**

An Activity Approval and/or a Water Supply Work Approval under sections 90 and 91 of the Water Management Act 2000 shall be obtained from Water NSW prior to the issuing of a Construction Certificate.

#### **C2 Land Consolidation**

The whole of the land is to be consolidated into a single title and documentary evidence of the lodgement for registration of a survey plan of consolidation with NSW Government Land & Property Information shall be submitted to Council prior to the issuing of any Construction Certificate for the proposed development.

#### **C3 Section 94A Contributions**

A total monetary contribution of \$1,003,180 (being 2% of the cost of development of \$50,159,000) is to be paid to Council, pursuant to Section 94A of the Environmental Planning

and Assessment Act 1979, such contribution to be payable prior to the issue of a Construction Certificate for works, other than for demolition, ground works and mine subsidence, 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*. 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.

#### **C4 Contribution Toward Public Art**

1% of the capital cost of development is to be allocated towards a public artwork feature(s) to be installed on the site in accordance with Newcastle Development Control Plan 2012, Section 6.01.03 - General Controls, Part B5- Public Artwork. The final details of all proposed public artworks within the site and associated costings are to be submitted to the Council for written approval prior to the issue of the Construction Certificate, for works, other than for demolition, ground works and mine subsidence. The artwork shall provide visual interest for pedestrians and interpret or reflect the local setting, landscape setting and/or cultural setting of the Newcastle area. The feature shall be designed to ensure long-term durability and be resistant to vandalism.

#### **C5 Heritage - Compliance with Condition 14 of Concept Approval**

Documentation demonstrating compliance with the detailed recommendations in Section 6.0 of the Statement of Heritage Impact submitted for the Staged Concept Plan (TKD, October 2015) is to be submitted with the Construction Certificate. Written certification of compliance with is to be provided by the Heritage Consultant.

#### **C6 Schedule of Conservation Works**

Prior to the issue of the Construction Certificate, a Schedule of Conservation Works is to be prepared. The schedule is to include details of how external paint colours and significant interior finishes within the retained elements of the Lyrique Theatre and Masonic Hall buildings shall be conserved including but not limited to the flooring and floor coverings, lighting and electrical fixtures, walls and surface finishes, tiles, stages and searing, signage, handrails and balustrades, ceilings, window and door hardware and windows and doors. The Schedule is to



be written by a suitably qualified heritage architect/consultant, in accordance with the Conservation Management Plan 2018. Conservation Works are to be implemented to the written approval of Council's Heritage Advisor prior to the issue of the Occupation Certificate.

#### **C7 Structural Stability of Heritage Items and Contributory Buildings**

Written certification by a structural engineer that the heritage listed and contributory buildings on the site are able to support the proposed works without loss of structural stability is to be provided with the Construction Certificate.

#### **C8 Interpretation Plan**

Before the issue of any Construction Certificate, an interpretation plan must be prepared by an experience heritage interpretation practitioner and submitted to the written satisfaction of Council. The interpretation Plan shall be in accordance with the Heritage Council's "Interpreting Heritage Places and Items Guidelines" 2005. Written approval from Council is to be provided to the Certifying Authority. The plan must make allowance for the display of any potential archaeology uncovered during the works, interpret the multiple uses and history of the various heritage items and contributory buildings on the site, in a way that is engaging, informative and readily accessible to the majority of visitors. The Interpretation Plan must be implemented, with written confirmation from the Council, prior to the issue of the Occupation certificate.

#### **C9 Port Navigation Aid**

Prior to the issue of the Construction Certificate, written confirmation from the port operator (Port of Newcastle) and the Harbour Master for Newcastle Harbour is required indicating that there will be no adverse impact to the view corridor/sight lines to port navigation aids in the vicinity from construction including cranes/lighting, reflectivity, glazing, finishes etc of future buildings.

#### **C10 Requirements for Final Building Design: Plans and Documentation**

The Construction Certificate plans and documents are to detail the following:

- a) *Communal Open Space:* The communal open space areas at the upper level of the Lyrique Theatre/Masonic Hall shall be accessible to residents of the King Street terraces which form part of the development site.
- b) *Floor to ceiling heights of new work:* The following minimum floor to ceiling heights shall be provided and shall be shown on the Construction Certificate plans: 2.7m for habitable rooms; and 2.4m for second floor of two storey apartments.
- c) *Southern Building:* Fixed louvres to the southwestern communal open space at Level 7 of the Lyrique Theatre/Masonic Hall additions to prevent direct overlooking of No. 106 King Street.

#### **C11 Disabled Access**

The buildings are to be provided with adequate means of access for persons with disabilities, to the extent necessary to comply with the Commonwealth's Disability (Access to Premises – Buildings) Standards 2010. Full details are to be included in documentation for a Construction Certificate application.

#### **C12 Food Premises Standard**

The design and construction of any food premises located within the proposed development is to be in accordance with the relevant requirements of the Australian Standard 4674-2004 Design, Construction and Fit-Out of Food Premises. Full details are to be included in the documentation for the Construction Certificate application.

#### **C13 Awnings**

New verandahs/awnings are to be designed in a manner that is consistent with Element 7.10 'Street Awnings and Balconies' of the Newcastle Development Control Plan 2012. Full details are to be included in documentation for a Construction Certificate application.

#### **C14 Confirmation of Requirements for Development:**

Written confirmation from the author (or alternative appropriately qualified person) to the Principal Certifying Authority that the submitted Construction Certificate Plans accord with the recommendations and/or sections of the following reports:

- Crime Risk Assessment, Ref. 2126423, Rev 0, dated 17 May 2018, prepared by GHD;
- Sustainability Report, Job No. SYD0465, Rev. 05, dated 13 April 2018, prepared by ADP Consulting Pty Ltd;
- Strategic Social Plan, Ref. 2126423, dated 14 June 2017, prepared by GHD;
- Acoustic Assessment, Project No. 20170518.1, Rev. 1, dated 10 April 2018, prepared by Acoustic Logic;
- Construction Noise and Vibration Management Plan, Project No. 20180363.1, Rev. 1, dated 5 April 2018, prepared by Acoustic Logic;
- Construction Management Plan, Rev. A, dated 1 April 2018, prepared by Parkview;
- Conservation Management Plan, Ref. 17-012, Rev. 07, dated 18 May 2018, prepared by City Plan;
- Accessibility Assessment Report, Report 173521.01 (access), Rev. 02, dated 18 May 2018, prepared by City Plan and BCA Performance Solution, Ref. 188117 – Rev. 1.1, dated 19 April 2018, prepared by Code Performance;
- BCA Assessment Report, Report RE173521, Rev. 2, dated 16 May 2018, prepared by City Plan;
- Infrastructure Services Report, Job No. SYD0465, Rev. 04, dated 10 April 2018, prepared by ADP Consulting Pty Ltd;
- BASIX Certificate No. 994485M, issued 11 February 2019, prepared by Outsource Ideas Pty Ltd.

#### **C15 Noise**

Prior to the issue of a Construction Certificate a Final Acoustic Report is to be prepared by an appropriately qualified acoustic consultant confirming that:

- a) appropriate acoustic treatment and acoustic performance of all mechanical plant and equipment associated with the building is provided and has been appropriately designed as recommended by the acoustic consultant.
- b) the development has been designed to include any required acoustic treatment so the residential apartments meet the internal noise criteria of AS2107-2016 having regard to Port of Newcastle activities (noting these occur 24 hours, 7 days a week);
- c) noise impacts from road traffic has been considered and, if required, the development incorporates noise attenuation measures mitigating road traffic noise if required, in accordance with the NSW Road Noise Policy 2011, prepared by the department previously known as the Department of Environment, Climate Change and Water. If the external noise criteria cannot feasibly or reasonably be met, internal noise objectives for all habitable rooms with windows that comply with the Building Code of Australia.

#### **C16 Retained Buildings and BCA**

Existing retained buildings are to be upgraded so as to comply with the Performance Requirements of Parts C, D and E of Volume One of the Building Code of Australia. Full details on means of compliance are to be nominated in Construction Certificate documentation and all upgrading works are to be completed prior to the issue of an Occupation Certificate for the development.

#### **C17 Lighting**

The proposed lighting of the premises is to be designed, positioned, and installed, including appropriate shielding and orientation of the lighting fixture, as to not give rise to obtrusive

light, interfere with traffic safety or detract from the amenity of surrounding properties in accordance with Australian Standard 4282:1997 - Control of the obtrusive effects of outdoor lighting. Full details are to be included in the documentation for a Construction Certificate application.

#### **C18 Stormwater Runoff**

All stormwater runoff from the proposed development being managed in accordance with the requirements of Element 7.06 'Stormwater' of Newcastle Development Control Plan 2012, the associated Technical Manual and the latest issue of AS 3500.3 as applicable, as indicated on the stormwater management concept plan prepared by Northrop Engineers Job No. NL167241 Drawing No.'s P2-C-03.01, P2-C-03.03 & P2-C-03.04 Revision A dated 29/03/18 except as amended by this consent. Full details are to be included in documentation for a Construction Certificate application.

#### **C19 Minimum floor level – flooding**

The floor level of all proposed buildings or building additions is to be not below RL 3.3 m 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.

#### **C20 On Site Car Parking Allocation**

On-site parking accommodation is to be provided for a minimum of 137 vehicles as per the approved basement plans. In accordance with Condition 19 of Concept Development Consent DA-2017/00701, this must comprise a minimum of 102 spaces allocated to residents (14 of these to be accessible spaces); a minimum of 7 spaces to be allocated for visitors to the residential apartments; and a minimum of 13 spaces to be allocated to retail staff. The Parking is to 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.

#### **C21 Car Park Design**

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.

#### **C22 Disabled Parking**

The proposed disabled parking bays being clearly indicated by means of signs and/or pavement markings. Full details are to be included in documentation submitted with Construction Certificate application.

#### **C22 Vehicular Access**

All proposed driveways, parking bays, loading bays and vehicular turning areas are to be constructed with a basecourse of adequate depth to suit design traffic, being sealed with either bitumen seal, asphaltic concrete, concrete or interlocking pavers and being properly maintained. The driveways are to be constructed in accordance with AS2890 – (Off street parking) design specifications. Full details are to be included in documentation for a Construction Certificate application.

#### **C24 Public Domain**

The Developer is to design and construct the following works within Hunter, King, Wolfe and Thorne Streets adjacent to the site at no cost to Council and in accordance with Council's guidelines and design specification:

Road shoulder pavement

- a) Kerb and gutter replacement
- b) Footway formation

- c) Footpaving
- d) Associated drainage works
- e) Street tree planting in gap-graded structural soil vaults.
- f) Retaining walls and vehicular safety barrier fencing
- g) Street furniture - bins, bicycle racks etc

Engineering design plans and specifications for the works being undertaken in the public road reserve are required to be prepared by a suitably qualified practising civil engineer with experience and competence in the related field. In this regard, an application under Section 138 must be lodged and consent obtained, or other satisfactory arrangements confirmed in writing, from Council before the issue of any Construction Certificate.

## **C25 Public Road Reserve**

Comprehensive engineering and landscape 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 2% grade toward the kerb;
- c) A separate linemarking and signposting plan (approved by the Newcastle City Traffic Committee to be included with the design plans).

### *Land Management Plan*

The Land Management Plan to nominate existing and proposed surface levels and provide full details of proposed erosion and sediment control measures to be implemented prior to, during and after construction. The required Plan to be prepared in accordance with the Department of Housing's Guidelines – Managing Urban Stormwater: Soils and Construction.

### *Stormwater Drainage Plan*

Existing street drainage in Wolfe Street to be upgraded in capacity as required to match the performance demonstrated in Drg.P2-C-C-CSK3, Rev 1 (dated 22/03/18) of the Flooding Impact Assessment report prepared by Northrop, dated 9 April 2018.

### *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

### *Detailed Landscape Plan*

No work within the public road being commenced, including pipe or vehicular crossings, until Council's separate written approval has been obtained pursuant to Section 138 of the Roads Act 1993. An application under Section 138 must be lodged and consent obtained, or other satisfactory arrangements confirmed in writing, from Council before the issue of any Construction Certificate.

Note: An additional fee will be required by Council for the assessment of engineering plans submitted for the public road works. In this regard the developer is advised to confer with Council's Development & Building Services Section in order to confirm this fee.

## **C26 Street tree plantings**

Street tree plants being provided in Hunter, Thorn, Wolfe and King Street fronting the site generally at 10m spacings in accordance with Council's standards and soil specifications. The

trees being advanced specimens in a minimum 300 litre pot size planted in tree vaults. 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).

The street tree planting vaults in the Hunter, Thorn, Wolfe and King Street footways being linearly connected by tree pits to maximise soil volume (structural soil) and allow for drainage, soil moisture and root control barriers. The design and construction of the planting vaults are to be undertaken at no cost to Council and under Council's direction. The separate approval from Council must be obtained for all works within the public road reserve, pursuant to Section 138 of the Roads Act 1993, prior to commencement.

#### **C27 Street lighting**

Street lighting being upgraded across the Hunter, Thorn, Wolfe and King Street frontages of the site at no cost to Council (other than annual maintenance) to Standard P3 with additional luminance over the proposed raised thresholds and raised marked foot crossings in accordance with AS 1158.1.1 – Road Lighting. The separate approval from Council must be obtained for all works within the public road reserve, pursuant to Section 138 of the Roads Act 1993, prior to commencement.

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

#### **C28 Commercial vehicular crossings**

Commercial vehicle crossings are to be constructed across the Thorn Street road reserve, in accordance with the following criteria:

- a) Constructed in accordance with Council's A374 – Driveway Crossings Standard Design Details.
- b) The light vehicle driveway crossing, within the road reserve, shall be a maximum of 6.0m metres wide inclusive of a 1.0m wide concrete central median island.
- c) The loading dock vehicle driveway crossing, within the road reserve, shall be a maximum of 6.0m metres wide.
- d) 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.
- e) The proposed driveway shall be a minimum of 3 metres clear of the trunk of any tree within the public reserve.
- f) The proposed driveway shall be a minimum of 750mm clear of the centre of any pole or obstruction within the public reserve and 1 metre clear of any drainage pit.

These works are not approved until consent under Section 138 of the *Roads Act 1993 (NSW)* has been granted by Council. An application under Section 138 must be lodged and consent obtained, or other satisfactory arrangements confirmed in writing, from Council before the issue of any Construction Certificate.

#### **C29 Section 138**

Private structures on or over the public road reserve, including the Lyrique Theatre terrace in Wolfe Street, King Street stairs/voids for properties No.104, 108 and 110 bridges, balconies and awnings, being the subject of a separate consent from Council, under Section 138 of the Roads Act 1993, prior to commencement.

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

### **C30 Landscape Work**

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.

### **C31 Garbage Room Ventilation**

Details of the ventilation of the garbage rooms shall be submitted to Council approval prior to the release of the Construction Certificate stage.

### **C32 Hunter Water**

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.

### **C33 Servicing and Infrastructure**

The submission of documentary evidence from relevant electricity and telecommunications service authorities/providers to the Principal Certifying Authority is required confirming that satisfactory arrangements have been made with for the provision of gas and electricity supplies and telecommunications to the development, prior to the release of the Construction Certificate.

### **C34 Telstra**

The submission of written confirmation from Telstra that there will be no impacts to the existing Exchange facility infrastructure located on the corner of King and Wolfe Street is to be submitted prior to the issue of the Construction Certificate. Any required works must be at no cost to Telstra.

### **C35 Ausgrid Requirements**

The submission of documentary evidence from an appropriately qualified infrastructure consultant confirming that the development is compatible with Ausgrid's existing infrastructure, particularly in relation to risks of electrocution, fire risks, Electric & Magnetic Fields (EMFs), noise, visual amenity and other matters that may impact on Ausgrid is to be submitted prior to the issue of the Construction Certificate.

## **D - CONDITIONS TO BE SATISFIED DURING SITE WORKS AND/OR CONSTRUCTION WORKS**

### **D1 Site Management**

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.

### **D2 Construction Noise**

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, unless in exceptional circumstances and with the prior approval of Council.

### **D3 Restriction Noise**

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.

### **D4 Restriction Air Impurity**

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.

### **D5 Site signage**

A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- a) showing the name, address and telephone number of the principal certifying authority for the work, and
- b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- c) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

### **D6 Work to comply with BCA**

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

#### **D7 Survey Levels**

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

- a) On completion of ground floor construction, confirming that the floor levels are in accordance with the approved levels.
- b) On completion of each subsequent floor level, confirming that the floor levels are in accordance with the approved levels.

When the roof has been completed, confirming that the building does not exceed the approved levels.

#### **D8 Stormwater- Surface Levels**

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.

#### **D9 Electricity Kiosk**

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

#### **D10 Survey Monuments**

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).

#### **D11 Prevent Pollution Sign**

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.

#### **D12 Removal of excavated material**

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'

#### **D13 Fill quality**

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.

#### **D14 Fill – recourse recovery exemption**

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.



**D15 Sediment control**

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.

**D16 All weather access**

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.

**D17 Dust control**

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 erect green or black shaded cloth mesh or similar products 1.8m high around the perimeter of the site and around every level of the building under construction.

**D18 Tree Protection**

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.

**D19 House Numbering**

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

The minimum numeral heights shall be:

- a) exterior of the building = 75mm and
- b) group mailbox      - street number = 150mm  
                                     - house number = 50mm

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.

Unit on plan	Council Allocated Street Addresses			
	House Number	Street Name	Street Type	Suburb
Retail Tenancy NG01	29	Wolfe	Street	Newcastle
Retail Tenancy NG02	19	TBA	TBA	Newcastle
Retail Tenancy NG03	12	Thorn	Street	Newcastle
Retail Tenancy NG04	147	Hunter	Street	Newcastle
Retail Tenancy NG05	151	Hunter	Street	Newcastle
Retail Tenancy NG06	155	Hunter	Street	Newcastle
Retail Tenancy NG07	23	Hunter	Street	Newcastle
Lyrique Theatre	33	Wolfe	Street	Newcastle
N101	101/27	Wolfe	Street	Newcastle
N102	102/27	Wolfe	Street	Newcastle
N103	103/27	Wolfe	Street	Newcastle

Unit on plan	Council Allocated Street Addresses			
	House Number	Street Name	Street Type	Suburb
N104	104/153	Hunter	Street	Newcastle
N105	105/153	Hunter	Street	Newcastle
N106	106/153	Hunter	Street	Newcastle
N107	107/153	Hunter	Street	Newcastle
N108	108/149	Hunter	Street	Newcastle
N109	109/149	Hunter	Street	Newcastle
N110	110/149	Hunter	Street	Newcastle
N111	111/149	Hunter	Street	Newcastle
N112	112/14	Thorn	Street	Newcastle
N113	113/14	Thorn	Street	Newcastle
N114	114/14	Thorn	Street	Newcastle
N201	201/27	Wolfe	Street	Newcastle
N202	202/27	Wolfe	Street	Newcastle
N203	203/27	Wolfe	Street	Newcastle
N204	204/153	Hunter	Street	Newcastle
N205	205/153	Hunter	Street	Newcastle
N206	206/153	Hunter	Street	Newcastle
N207	207/153	Hunter	Street	Newcastle
N208	208/149	Hunter	Street	Newcastle
N209	209/149	Hunter	Street	Newcastle
N210	210/149	Hunter	Street	Newcastle
N211	211/149	Hunter	Street	Newcastle
N212	212/14	Thorn	Street	Newcastle
N213	213/14	Thorn	Street	Newcastle
N214	214/14	Thorn	Street	Newcastle
N301	301/27	Wolfe	Street	Newcastle
N302	302/27	Wolfe	Street	Newcastle
N303	303/27	Wolfe	Street	Newcastle
N304	304/153	Hunter	Street	Newcastle
N305	305/153	Hunter	Street	Newcastle
N306	306/153	Hunter	Street	Newcastle
N307	307/153	Hunter	Street	Newcastle
N308	308/149	Hunter	Street	Newcastle
N309	309/149	Hunter	Street	Newcastle
N310	310/149	Hunter	Street	Newcastle
N311	311/149	Hunter	Street	Newcastle
N312	312/14	Thorn	Street	Newcastle
N313	313/14	Thorn	Street	Newcastle
N314	314/14	Thorn	Street	Newcastle
N401	401/27	Wolfe	Street	Newcastle

Unit on plan	Council Allocated Street Addresses			
	House Number	Street Name	Street Type	Suburb
N402	402/27	Wolfe	Street	Newcastle
N403	403/27	Wolfe	Street	Newcastle
N404	404/153	Hunter	Street	Newcastle
N405	405/153	Hunter	Street	Newcastle
N406	406/153	Hunter	Street	Newcastle
N407	407/153	Hunter	Street	Newcastle
N408	408/149	Hunter	Street	Newcastle
N409	409/149	Hunter	Street	Newcastle
N410	410/149	Hunter	Street	Newcastle
N411	411/149	Hunter	Street	Newcastle
N412	412/14	Thorn	Street	Newcastle
N413	413/14	Thorn	Street	Newcastle
N414	414/14	Thorn	Street	Newcastle
N501	501/27	Wolfe	Street	Newcastle
N502	502/27	Wolfe	Street	Newcastle
N503	503/27	Wolfe	Street	Newcastle
N504	504/149	Hunter	Street	Newcastle
N505	505/149	Hunter	Street	Newcastle
N506	506/149	Hunter	Street	Newcastle
N507	507/149	Hunter	Street	Newcastle
N508	508/14	Thorn	Street	Newcastle
N509	509/14	Thorn	Street	Newcastle
N510	510/14	Thorn	Street	Newcastle
N601	601/27	Wolfe	Street	Newcastle
N602	602/27	Wolfe	Street	Newcastle
N603	603/27	Wolfe	Street	Newcastle
N604	604/153	Hunter	Street	Newcastle
N605	605/153	Hunter	Street	Newcastle
N606	606/153	Hunter	Street	Newcastle
N607	607/153	Hunter	Street	Newcastle
N608	608/149	Hunter	Street	Newcastle
N609	609/149	Hunter	Street	Newcastle
N610	610/149	Hunter	Street	Newcastle
N611	611/149	Hunter	Street	Newcastle
N612	612/14	Thorn	Street	Newcastle
N613	613/14	Thorn	Street	Newcastle
N614	614/14	Thorn	Street	Newcastle
N701	701/27	Wolfe	Street	Newcastle
N702	702/27	Wolfe	Street	Newcastle
N703	703/27	Wolfe	Street	Newcastle

Unit on plan	Council Allocated Street Addresses			
	House Number	Street Name	Street Type	Suburb
N704	704/153	Hunter	Street	Newcastle
N705	705/153	Hunter	Street	Newcastle
N706	706/153	Hunter	Street	Newcastle
N707	707/159	Hunter	Street	Newcastle
N708	708/149	Hunter	Street	Newcastle
N709	709/149	Hunter	Street	Newcastle
N710	710/149	Hunter	Street	Newcastle
N711	611/14	Thorn	Street	Newcastle
N712	612/14	Thorn	Street	Newcastle
N713	613/14	Thorn	Street	Newcastle
98 King	98	King	Street	Newcastle
100 King	100	King	Street	Newcastle
104 King	104	King	Street	Newcastle
108 King	108	King	Street	Newcastle
110 King	110	King	Street	Newcastle
S301	1/102	King	Street	Newcastle
S302	2/102	King	Street	Newcastle
S303	3/102	King	Street	Newcastle
S304	4/102	King	Street	Newcastle
S305	5/102	King	Street	Newcastle
S306	6/102	King	Street	Newcastle
S401	101/102	King	Street	Newcastle
S402	102/102	King	Street	Newcastle
S403	103/102	King	Street	Newcastle
S404	104/102	King	Street	Newcastle
S405	105/102	King	Street	Newcastle
S406	106/102	King	Street	Newcastle
S501	201/102	King	Street	Newcastle
S502	202/102	King	Street	Newcastle
S503	203/102	King	Street	Newcastle
S504	204/102	King	Street	Newcastle
S505	205/102	King	Street	Newcastle
S506	206/102	King	Street	Newcastle
S507	207/102	King	Street	Newcastle
S508	208/102	King	Street	Newcastle
S601	301/102	King	Street	Newcastle
S602	302/102	King	Street	Newcastle
S603	303/102	King	Street	Newcastle
S604	304/102	King	Street	Newcastle
S605	305/102	King	Street	Newcastle

Unit on plan	Council Allocated Street Addresses			
	House Number	Street Name	Street Type	Suburb
S606	306/102	King	Street	Newcastle
S701	401/102	King	Street	Newcastle
S702	402/102	King	Street	Newcastle
S703	403/102	King	Street	Newcastle
S704	404/102	King	Street	Newcastle
S705	405/102	King	Street	Newcastle
S706	406/102	King	Street	Newcastle

## **E - CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE**

### **E1 BASIX Commitments**

All commitments listed in the relevant BASIX certificate for the development are to be satisfactorily completed prior to the issue of an Occupation Certificate. Should there be any changes to the specifications of the dwelling that have implications for compliance with the approved certificate, except where restricted or excluded by any other condition of consent, an amended BASIX Certificate can be relied upon as having complied with this condition. A copy of any amended BASIX Certificate is to be provided to Council within fourteen days of receipt.

### **E2 Design Verification Statement**

A design verification statement from a qualified designer shall be submitted to the Principal Certifying Authority prior to the issue of an Interim or Final Occupation Certificate, whichever occurs first. The statement shall confirm the development has been constructed in accordance with the quality principles set out in Part 4 of *State Environmental Planning Policy No. 65 – Design Quality of Residential Flat Development*.

Note: 'Qualified Designer' means a person registered as an architect in accordance with the *Architects Act 2003*. This condition is imposed in accordance with Clauses 154A of the *Environmental Planning and Assessment Regulation 2000*.

### **E3 Fire and life safety upgrade**

Prior to the issue of the Occupation Certificate, Building B is to be upgraded to comply with the Performance Requirements of Parts C, D and E of Volume One of the Building Code of Australia. Full details on means of compliance are to be provided to the Principal Certifying Authority.

### **E4 Existing Buildings and BCA**

Prior to the issue of an Occupation Certificate, existing retained buildings are to be upgraded so as to comply with the Performance Requirements of Parts C, D and E of Volume One of the Building Code of Australia. Full details on means of compliance are to be provided to the Principal Certifying Authority.

### **E5 Food – Notice to Agencies**

Prior to issue of an Occupation Certificate, any food premises must notify the relevant enforcement agencies, under the Food Act 2003 and (for licensed food businesses) under the Food Regulation 2010.

Note: To arrange notification of the food business with Council go 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.

### **E6 Site Validation**

Following completion of the remediation works, a validation report shall be prepared by a suitably qualified consultant in accordance with the relevant Environment Protection Authority

Guidelines and submitted to the Principal Certifying Authority and Council prior to the issuing of Occupation Certificate.

#### **E7 Historical Archaeology**

Prior to the release of the Occupation Certificate for this site, the Applicant must write to Council and demonstrate they have satisfied the requirements for lodging all final archaeological excavation reports required under any and all s.140 applications under the Heritage Act 1977 which have been approved by the Heritage Council of NSW for this site.

#### **E8 Internal Accessway Right of Public Access and Naming**

The proposed laneway connection between Thorn and Wolfe Streets shall be the subject of an appropriate reciprocal '*right-of-public access*' and the necessary survey plan and accompanying instrument under Section 88B of the *Conveyancing Act 1919* (NSW) being registered with NSW Government Land & Property Information prior to the issuing of an Occupation Certificate for the proposed development, it being noted that the instrument is to provide that the right-of-way is unable to be relinquished, varied or modified without the concurrence of the Newcastle City Council.

NB: The naming of the laneway will need to be amended to meet the requirements of the Geographical Names Board and Council approval granted to any proposed naming of this laneway.

#### **E9 Right of Way – King Street**

A right of carriageway, 2.5m wide x 1.2m high, which benefits No. 106 King Street and which burdens 108 King Street (Lot 100 DP 810457) and 110 King Street (Lot 1 DP735255) is to be the subject of a formal right of carriageway. The necessary survey plan and accompanying instrument under Section 88B of the *Conveyancing Act 1919* (NSW) shall be registered with NSW Government Land & Property Information prior to the issuing of an Occupation Certificate for the proposed development, it being noted that the instrument is to provide that the right-of-way is unable to be relinquished, varied or modified without the concurrence of Council.

#### **E10 Repair of footpath damage**

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.

#### **E11 Works within Road Reserve**

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

#### **E12 Redundant Crossings**

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 any Occupation Certificate for the proposed development

#### **E13 Stormwater– WAE**

A copy of the stormwater drainage design plans approved with the Construction Certificate with 'work as executed' levels indicated, shall be submitted to the Principal Certifying Authority and to Newcastle City Council prior to the issue of an Occupation Certificate. The plans shall be prepared by a Practising Professional Engineer or Registered Surveyor experienced in the design of stormwater drainage systems.

#### **E14 Water management measures**

The water management measures as indicated on the stormwater management report prepared by Northrop Engineers Job No. NL167241 Drawing No.'s P2-C-03.01, P2-C-03.03 & P2-C-03.04 Revision A dated 29/03/18 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.

#### **E15 Maintenance Manual**

A Maintenance Manual for all water quality devices is to be prepared in accordance with Council's Stormwater and Water Efficiency for Development Technical Manual (Updated 2013). The Maintenance Manual is to address maintenance issues concerning the water quality devices including routine monitoring and regular maintenance and be kept on site at all times. Establishment and maintenance of the water quality devices in accordance with the Maintenance Manual, prepared by the applicant, is to be completed prior to issue of an Occupation Certificate.

#### **E16 Acoustics**

Appropriate acoustic treatment is to be implemented in accordance with the recommendations set out in the report prepared by Acoustic Logic, dated 10 April 2018. Written final certification from an appropriately qualified acoustic consultant 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. This written certification must also confirm that noise from all mechanical plant and equipment achieves the required acoustic attenuation to comply with the conditions of consent and the requirements of the Protection of the Environment Operations Act 1997.

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

#### **E17 Dilapidation Report**

A post construction dilapidation report prepared by a suitability qualified person shall be submitted to the Principal Certifying Authority prior to the issue of any 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.

#### **E18 Section 88B Instrument: Easements**

An appropriate notation is to be placed on the plan of subdivision and an instrument under Section 88B of the *Conveyancing Act 1919* (NSW) being submitted to Council setting out the terms of easements as required by this consent. Council in addition to the owner of the land benefited by the easement is to be a party whose consent is needed to release or vary easements.

#### **E19 Green Travel Plan**

A detailed Green Travel Plan in accordance with Element 7.03 'Traffic, Parking and Access' of Council's adopted Newcastle Development Control Plan 2012 must be submitted to Council for written approval prior to the issue of the Occupation Certificate for implementation upon occupation of the development. The Green Travel Plan shall encourage use of alternative modes of transport and include Public Transport Routes and Bicycle Network Plans. The Green Travel Plan is to be prepared and made available to the new residents and commercial premises tenants. The Public Transport and Bicycle Network Plans are to be installed in common areas prior to the issue of the Final Occupation Certificate.

#### **E20 Waste Collection arrangements**

All garbage and recycling waste collection arrangements indicating vehicle movement to and from the site and hours/days of collection are to be submitted to Council prior to the issue of an Occupation Certificate.

*Note: Section 496 (1) of the Local Government Act 1993 (NSW) states "a council must make and levy an annual charge for the provision of domestic waste management services for each parcel of rateable land for which the service is available". Council will charge the domestic waste management service levy, notwithstanding that the waste is collected by a private contractor.*

**E21 Public Artwork Installation**

Details confirming the installation of the public artwork, required as part of this consent, shall be submitted to the Principal Certifying Authority and Council prior to the issue of the Occupation Certificate.

**E22 On site Parking**

On-site parking accommodation is to be provided for a minimum of 137 vehicles as per the approved basement plans. In accordance with Condition 19 of Concept Development Consent DA-2017/00701, this must comprise a minimum of 102 spaces allocated to residents (14 of these to be accessible spaces); a minimum of 7 spaces to be allocated for visitors to the residential apartments; and a minimum of 13 spaces to be allocated to retail staff

**E23 Parking Bays**

All parking bays are to be permanently marked out on the pavement surface.

**E24 Visitor Parking**

The proposed visitor parking bays are to be clearly indicated by means of signs and/or pavement markings

**E25 Driveway**

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.

**E26 Landscaping**

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.

**E27 Separate Consent Required for Advertising Signage**

This consent does not authorise the erection of any advertising signage. Any advertising signage will require separate Council approval, in the event that such signage is not exempt development. Any new application for advertising signage must be in accordance with the approved Signage Strategy prepared by CKDS Drawing DA-7003, DA-7004 and DA-7005 dated 14.5.18.

**E28 CCTV**

The proponent shall consult with NSW Police regarding their requirements for provision of closed circuit television (CCTV) throughout the development. Documentary evidence shall be submitted prior to the issue of the Occupation Certificate confirming that their requirements have been met.

**E29 Implementation of Conservation Works**

Conservation Works as detailed in the Schedule of Conservation Works are to be implemented to the written approval of Council's Heritage Advisor prior to the issue of the Occupation Certificate.

**F- CONDITIONS TO BE SATISFIED DURING THE OPERATION AND USE OF THE DEVELOPMENT****F1 Noise**

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.

## **F2 Air Impurity**

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.

## **F3 Waste Servicing**

Waste servicing shall occur before 9.00am and after 6.00pm from the loading/service zone in Wolfe Street. Garbage bins must not be stored on the street for collection but shall be accessed by the service provider from the storage area, emptied and returned to the bin enclosure.

## **F4 Vehicles – Unobstructed Use**

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.

## **F5 Hours of operation of commercial premises**

The hours of operation or trading of the ground floor 'Retail Premises' or 'Business Premises' are to be not more than from 7am to 10pm Monday to Sunday unless a separate application to vary the hours of operation or trading has been submitted to and approved by Council.

# **G - ADVISORY MATTERS**

**G1 Future Uses:** A separate development application is to be submitted to and approved by Council in respect of any specific proposed use of the premises or portion of the premises prior to occupation, except as authorised by being exempt development or as approved by a complying development certificate.

**G2 Dial before you dig:** 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.

**G3 Public utilities:** 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.

**G4 Pre-construction process:** Prior to commencing any construction works, the following provisions of the Environmental Planning and Assessment Act 1979 (the 'Act') are to be complied with:

- a) A Construction Certificate is to be obtained in accordance with Part 6 of the Act.
- b) A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Part 6 of the Act.
- c) Council is to be given at least two days notice of the date intended for commencement of building works, in accordance with Division 6.3 of the Act.

**G5 Fire safety measures:** 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.

**G6 Building work:** 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 Regulations.

**G7 Fire Safety Certificate:** 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.

**G8 Annual Fire Safety Statement:** An annual Fire Safety Statement in the form described in Clause 175 of the Environmental Planning and Assessment Regulation 2000 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.

**G9 POEO Act Offence:** 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.

**G10 EP & A Act Offence:** 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.

**G11 Building Code of Australia and Flood Hazard:** For the purpose of applying the provisions of the National Construction Code for class 1, 2, 3, 4, 9a (health care) and 9c (aged care) buildings, it is advised that the proposed building is located in a Flood Hazard

Area and the:

- a) Defined Flood Level (DFL) is 3.1m Australian Height Datum (AHD)
- b) Flood Hazard Level is 3.6m AHD (Freeboard is 500mm above DFL)
- c) Maximum Flow Velocity of floodwaters for the Defined Flood Event is 1.0m/s