

ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979
DETERMINATION OF DEVELOPMENT APPLICATION NO. 212-9-2004
(FILE NO. 9035756)

**DEMOLITION OF EXISTING DERELICT JETTIES AND CONSTRUCTION OF
FINGER WHARVES FOR UP TO 7 VESSELS AND THE RELOCATION OF THE
STEEL PONTOON USED BY THE VESSEL *WILLIAM THE FOURTH***

I, Sam Haddad, delegate of the Minister for Planning, pursuant to Sections 80 (1)(a), 80A and 116C of the *Environmental Planning & Assessment Act 1979*, and clause 7(2) of *Newcastle Local Environmental Plan 2003* determine the development application referred to in the attached Schedule 1, by **granting consent** to the application subject to the conditions of consent in the attached Schedule 2.

The reasons for the imposition of conditions are:

- (1) To advise of matters to be resolved prior to the commencement of works;
- (2) To protect the environmental attributes and cultural heritage of the area;
- (3) To ensure compliance with relevant statutory provisions, including the Environmental Planning and Assessment Act and Regulation and the Building Code of Australia;
- (4) To ensure the requirements of Approval Bodies, other government agencies, service providers and Council are adhered to;
- (5) To ensure the provision of the necessary infrastructure and utility services commensurate with the development without additional demands on public sector resources;
- (6) To ensure relevant environmental standards are met during the construction and operation of the development;
- (7) To ensure public safety and health is not compromised during construction and operation of the development;
- (8) To indicate other approvals required for the development; and
- (9) To ensure development occurs on the basis on which it was assessed.

Sam Haddad

Deputy Director-General

Sustainable Development Assessment and Approvals

Determined as a delegate for the Minister for Planning as described by the Instrument of Delegation dated 12 September 2005

Sydney, 23 September 2005

SCHEDULE 1

PART A—TABLE

Application made by:	Honeysuckle Development Corporation PO Box 813, NEWCASTLE NSW 2300
Application made to:	Minister for Planning
Development Application:	DA 212-9-2004
On land comprising:	Part Lot 51 DP 1036132 Merewether Street Finger Wharves, NEWCASTLE NSW 2300
Local Government Area	Newcastle
For the carrying out of:	Development described in Conditions A1, Part A, Schedule 2
Estimated Cost of Works	\$738,000
Type of development:	Crown Development Integrated Development State Significant Development
S.119 Public inquiry held:	No
Approval Body / Bodies:	NSW Maritime
Determination made on:	23 September 2005
Determination:	Development consent is granted subject to the conditions in the attached Schedule 2.
Date of commencement of consent:	This development consent commences on the date identified in the formal notification letter accompanying the Determination.
Date consent is liable to lapse	This consent will lapse 5 years from the date of commencement of consent, unless: ▪ a shorter period of time is specified by the Regulations or ▪ a condition in Schedule 2, or ▪ the development has physically commenced.

PART B—NOTES RELATING TO THE DETERMINATION OF DA NO. 212-9-2004

Responsibility for other approvals / agreements

The Applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

Appeals

The Applicant has the right to appeal to the Land and Environment Court under Section 97 of the *Environmental Planning and Assessment Act, 1979*. The right to appeal is only valid, for a development application, within 12 months after the date on which the Applicant received this notice.

Appeals—Third Party

A third party right to appeal to this development consent is available under Section 123, subject to Section 101, of the *Environmental Planning and Assessment Act, 1979*.

Legal notices

Any advice or notice to the consent authority shall be served on the Director-General.

PART C—DEFINITIONS

In this consent,

Act means the *Environmental Planning and Assessment Act, 1979* (as amended).

Applicant means Honeysuckle Development Corporation or any party acting upon this consent.

Approval Body has the same meaning as within Division 5 of Part 4 of the Act,

BCA means the Building Code of Australia.

Council means Newcastle City Council.

DA No. 212-9-2004 means the development application and supporting documentation submitted by the Applicant on 7 September 2004.

Department means the Department of Planning or its successors.

Director means the Director of the Urban Assessments (or its successors) within the Department or the nominees of the Director.

Minister means the Minister for Planning.

Regulation means the *Environmental Planning and Assessment Regulation, 2000* (as amended).

Senior Planner means the Senior Planner of the Urban Assessments (or its successors) within the Department.

Subject Site has the same meaning as the land identified in Part A of this schedule.

Team Leader means the Team Leader of the Urban Assessments (or its successors) within the Department.

Works Manager means a suitably qualified person engaged by the Crown to fulfil the requirements of Part 116G(2) of the *Environmental Planning and Assessment Act 1979*.

SCHEDULE 2**CONDITIONS OF CONSENT****DEVELOPMENT APPLICATION No. 212-9-2004****PART A—ADMINISTRATIVE CONDITIONS****A1 *Development Description***

Development consent is granted only to carrying out the development described in detail below:

- (1) Demolition of the four (4) existing derelict jetties;
- (2) The construction of finger wharves consisting of marina style concrete pontoons, comprising a 3 metre wide main walkway and three (3) x 2.4 metre wide fingers; and mooring piles, gangways and ramps, for up to seven (7) vessels; and
- (3) The relocation and use of the steel pontoon currently used by the vessel *William the Fourth*.

A2 *Exclusions*

- (1) Use of the marina, other than of the steel pontoon relocated and approved for use by the vessel the *William the Fourth* only, does not form part of this consent and is specifically excluded. Approval for all other uses for the marina is to be by separate development application to the relevant consent authority and in accordance with all relevant conditions of this consent.
- (2) Any development application for use of the marina is to be accompanied by a report detailing arrangements that ensure that public access to the wharves is protected and maintained, and details of the inclusion and location of gates proposed to prevent unauthorised access consistent with the public access arrangements.

Agreement is to be reached with the Harbour Master in relation to the schedule of charter vessels proposed to access the wharf and the necessary navigational criteria and requirements. Such requirements are to be incorporated into the development application for use and implemented to the Harbour Master's satisfaction. Any costs associated with implementing these requirements are to be borne solely by the proponent, without resource to Newcastle Port Corporation.

- (3) Use of the wharves must include arrangements for public access. Any development application for use of the marina is to incorporate public access arrangements.
- (4) Any development application for use of the marina is to be accompanied by a Traffic Management Plan detailing the location of any proposed vehicle drop-off / pick-up area. NSW Maritime Authority and Newcastle Port Corporation must be consulted in the preparation of any Traffic Management Plan and any requirements incorporated into the Plan.

A3 *Development in Accordance with Plans*

The development shall be in accordance with development application number DA 212-9-2004 submitted by the Applicant on 7 September 2004, and in accordance with the following:

Statement of Environmental Effects entitled <i>Merewether St Wharf Finger Wharves</i> prepared by Patterson Britton & Partners Pty Ltd, dated Issue No. 2, August 2004 and additional information submitted under cover of letters dated 10 January and 12 July 2005 prepared by Honeysuckle Development Corporation			
Architectural (or Design) Drawings prepared by <i>Patterson Britton & Partners Pty Ltd</i>			
Drawing No.	Revision	Name of Plan	Date
2073-88-01	I	General Arrangement	22.08.05

And as amended by the following conditions:

A4 *Inconsistency between documents*

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent prevail.

A5 *Prescribed Conditions*

The Applicant shall comply with the prescribed conditions of development consent under clause 98 of the Regulation.

A6 *Exclusion – Signage*

Other than exempt and complying development or signs required to satisfy conditions elsewhere in this consent, the erection or use of signage does not form part of this consent and is specifically excluded.

Strictly no advertising signage is permitted on the pontoon, ramps or associated structures unless approved by separate development consent.

A7 *Applicant's Responsibilities*

- (1) The Applicant shall ensure that all contractors engaged to carry out works on the site are aware of the conditions of this consent and that these contractors are able to comply with the relevant conditions.
- (2) The Applicant is to take full responsibility to meet all expenses incurred in undertaking the development, including expenses incurred in complying with conditions imposed under this consent.
- (3) The Applicant shall notify the Works Manager for a final inspection on completion of work.

END OF PART A.

PART B—PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE

A Construction Certificate is not issued for this type of development.

PART C—PRIOR TO COMMENCEMENT OF WORKS

Demolition Works

C1 Statement of Compliance with Australian Standards

The demolition work shall comply with the provisions of Australian Standard AS2601: 2001 *The Demolition of Structures*. The work plans required by AS2601: 2001 shall be accompanied by a written statement from a suitably qualified person that the proposals contained in the work plan comply with the safety requirements of the Standard. The work plans and the statement of compliance shall be submitted to the satisfaction of the Works Manager prior to the commencement of works.

Design Details and Changes

C2 Additional Details

- (1) Prior to the commencement of works, a report shall be prepared by a suitably qualified person, and submitted to NSW Maritime, detailing the most suitable pile height to cater for vessels likely to be using the pontoons.

The final report, endorsed by NSW Maritime and incorporating any changes, shall be submitted to and approved by the Works Manager prior to the commencement of works.

- (2) Detailed construction drawings, showing the length, beam, draft and laden displacement of the largest/heaviest vessel(s) likely to use the wharf, are to be submitted to the NSW Maritime and Newcastle Harbour Master for comment and for the approval of the Works Manager prior to the commencement of works. If the details of particular vessel(s) are not known at this stage, the required details for 'design' vessels are to be shown.

Final drawings endorsed by NSW Maritime and the Newcastle Harbour Master are to be submitted to the Works Manager, prior to the commencement of works. Any comments detailing specific design requirements are to be incorporated into the final drawings.

C3 Details of Materials, Colours and Finishes

- (1) To ensure longevity and a robust public domain, all finishes and materials of the pontoons shall be constructed of high-quality materials such as hard-wood and stainless or galvanised steel suitable for marine use.

A report addressing the requirements of Council and the landowner (being Honeysuckle Development Corporation) in regard to lifecycle of materials is to be submitted along with final design details of the materials and finishes (including schedules and a sample board of materials and colours) shall be submitted to and approved by the Works Manager prior to the commencement of works.

C4 Outdoor Lighting

All outdoor lighting shall comply with, where relevant, AS/NZ1158.3: 1999 *Pedestrian Area (Category P) Lighting* and AS4282: 1997 *Control of the Obtrusive Effects of Outdoor Lighting*. Details demonstrating compliance with these requirements are to be submitted to the satisfaction of the Works Manager prior to the commencement of works.

C5 Access to Pontoons

The width of the access way (the ramps) between the pier and the pontoon shall be in accordance with the requirements for accessibility as specified in the *Standards for Accessible Public Transport* (part of the *Federal Disability Discrimination Act*).

C6 Disabled Access

Access and facilities for people with disabilities shall be provided in accordance with Part D3 of the BCA's Access Policy. Prior to the commencement of works, a certificate certifying compliance with this condition from an appropriately qualified person shall be provided to the Works Manager.

Construction Issues**C7 Erosion and Sedimentation Control**

Best practice methods are to be adopted for the on-site control of run-off, sediment and other pollutants during, and post, construction. Soil erosion and sediment control measures shall be designed in accordance with the document *Managing Urban Stormwater-Soils & Construction* (NSW Department of Housing, 1998) and any other relevant Council requirements, with particular attention to temporary measures that minimise the potential for materials, including sediment and other pollutants, to enter the Hunter River. Details are to be submitted to the satisfaction of the Works Manager prior to the commencement of works.

C8 Pre-Construction Dilapidation Reports

The Applicant is to engage a qualified structural engineer to prepare a Pre-Construction Dilapidation Report detailing the current structural condition of all existing and adjoining infrastructure and roads. The report shall be submitted to the satisfaction of the Works Manager prior to the commencement of works.

A copy of the report is to be forwarded to the Director and Council.

Site**C9 Site Boundary**

No part of the development approved under this development consent, activity, moored vessels or construction shall extend beyond the alignment and intersection of Merewether Street Wharf and Lee Wharf 1 & 2 prolongation. Final construction drawings, showing compliance with this condition, shall be submitted to the Works Manager prior to the commencement of works.

Protected Species

C10 Protected Species

Divers skilled in the identification of species of syngnathiformes, particularly seahorses, are to be engaged to identify and report on the presence of any species within the Subject Site.

If any species of syngnathiformes are identified within the Subject Site, the Applicant is to arrange their relocation to a similar habitat in consultation with the Conservation Manager, Threatened Species, NSW Fisheries. All costs are to be incurred by the Applicant.

Evidence of compliance with this condition is to be demonstrated to the satisfaction of the Works Manager prior to the commencement of any demolition works.

Works

C11 Hunter Water Requirements

- (1) The Applicant shall comply with all requirements of the Hunter Water Corporation Ltd regarding the connection of water supply services, including the payment of any cash contribution necessary towards the amplification of service mains in the locality as a result of the increased intensity of land-use proposed. A copy of the Corporation's certificate of compliance is to be forwarded to the Works Manager prior to the commencement of works.
- (2) The relevant approved plans must be submitted to Hunter Water to determine whether the development will affect Hunter Water's water mains, stormwater drains and/or easements, and if further requirements need to be met prior to the commencement of works.

Excavation Works

C12 Notice to be Given Prior to Excavation

The Works Manager and Council shall be given written notice, at least 48 hours prior to the commencement of excavation, shoring or underpinning works on the site.

Structural Works

C13 Structural Details

Prior to the commencement of construction, the Applicant shall submit to the satisfaction of the Works Manager, structural drawings prepared and signed by a suitably qualified practising Structural Engineer (experienced in the design of maritime structures) that comply with:

- (1) the relevant clauses of the BCA,
- (2) the relevant development consent,
- (3) drawings and specifications comprising the Construction Certificate,
- (4) the *Guidelines for Waterside Structures*, and
- (5) the relevant Australian Standards listed in the BCA (Specification A1.3).

Construction Management

C14 Construction Management Plan

Prior to the commencement of any works on the site, a Construction Management Plan shall be submitted to and approved by Works Manager. The Plan shall address, but not be limited to, the following matters where relevant:

- (1) hours of work,
- (2) contact details of site manager,
- (3) environmental health and safety matters,
- (4) site security,
- (5) traffic management (see also C5 below),
- (6) noise and vibration management (see also C6 below),
- (7) waste management (see also C7 below),
- (8) erosion and sediment control (see also B6),
- (9) flora and fauna management,
- (10) dust management strategy (see also D13), and
- (11) the location of site shed/s and materials storage to minimise disruption to surrounding land uses and public thoroughfares.

The Applicant shall submit a copy of the approved plan to the Department and Council. The required plans shall be kept on site and made available to authorised Council Officers upon request.

C15 Construction Traffic & Pedestrian Management Plan

Prior to the commencement of any works on the site, a Construction Traffic and Pedestrian Management Plan prepared by a suitably qualified person shall be submitted to and approved by the Works Manager. The Plan shall address, but not be limited to, the following matters:

- (1) ingress and egress of vehicles to the site,
- (2) loading and unloading, including construction zones,
- (3) predicted traffic volumes, types and routes,
- (4) pedestrian and traffic management methods, and
- (5) means to ensure that current public thoroughfare around the site is not impeded.

The Applicant shall submit a copy of the approved plan to the Department and Council.

C16 Construction Noise and Vibration Management Plan

Prior to the commencement of any works on the site, a Construction Noise and Vibration Management Plan prepared by a suitably qualified person shall be submitted to and approved by the Works Manager. The Plan shall address, but not be limited to, the following matters:

- (1) Identification of the specific activities that will be carried out and associated noise sources,
- (2) Identification of all potentially affected sensitive receivers including residences, schools, and properties containing noise sensitive equipment,
- (3) The construction noise objective specified in the conditions of this consent,

- (4) The construction vibration criteria specified in the conditions of this consent,
- (5) Determination of appropriate noise and vibration objectives for each identified sensitive receiver,
- (6) Noise and vibration monitoring, reporting and response procedures,
- (7) Assessment of potential noise and vibration from the proposed construction activities including noise from construction vehicles and any traffic diversions,
- (8) Description of specific mitigation treatments, management methods and procedures that will be implemented to control noise and vibration during construction
- (9) Justification of any proposed activities outside the construction hours specified in the conditions of this consent.
- (10) Construction timetabling to minimise noise impacts including time and duration restrictions, respite periods, and frequency,
- (11) Procedures for notifying residents of construction activities that are likely to affect their amenity through noise and vibration,
- (12) A pier installation schedule that identifies the proposed (per day) vibro and impact piling activities (if proposed) and respite periods and the estimated duration of the total piling installation task, and
- (13) Contingency plans to be implemented in the event of non-compliances and/or noise complaints.

The Applicant shall submit a copy of the approved plan to the Department and Council.

C17 Construction Waste Management Plan

Prior to the commencement of works, the Applicant shall submit to the satisfaction of the Works Manager a Waste Management Plan prepared by a suitably qualified person in accordance with Council's relevant policies. The Applicant shall submit a copy of the plan to the Department and Council.

C18 Contact Telephone Number

Prior to the commencement of the works, the Applicant shall forward to the Department and Council a 24 hour telephone number to be operated for the duration of the construction works.

Hazardous Materials

C19 Removal of Hazardous Materials

All hazardous materials shall be removed from the site and shall be disposed of at an approved waste disposal facility in accordance with the requirements of the relevant legislation, codes, standards and guidelines, prior to the commencement of any building works. Details demonstrating compliance with the relevant legislative requirements, particularly the method of containment and control of emission of fibres to the air, are to be submitted to the satisfaction of the Works Manager prior to the removal of any hazardous materials.

C20 Site Audit

Prior to the commencement of building works, a Site Audit conducted by a suitably qualified person shall be undertaken to ascertain that all identified hazardous materials have been removed from the site and shall be submitted to the Works Manager.

Heritage and Re-use**C21 Re-use of Materials**

Prior to any demolition work on the subject site, consideration is to be given to the re-use of any salvageable material from the existing structures. A report, prepared by a suitably qualified person, shall be submitted to the Works Manager showing that an assessment of the existing structures has been undertaken and detailing any material identified for re-use.

C22 Archival Record

No works shall commence until an archival record of existing structures on the site have been prepared and submitted to the Heritage Office. This shall include measured drawings and an archival photographic record. This archival record shall be prepared in accordance with the NSW Heritage Council guidelines.

Utilities**C23 Hunter Water**

Any structure proposed to be erected over any services or stormwater drain under the Corporation's control, shall comply with the requirements of the Hunter Water Corporation Ltd.

Compliance**C24 Compliance Report**

Prior to the commencement of works, the Applicant, or any party acting upon this consent, shall submit to the Works Manager a report addressing compliance with all relevant conditions of this consent.

END OF PART C.

PART D—DURING CONSTRUCTION

Site Maintenance

D1 Erosion and Sediment Control

- (1) All erosion and sediment control measures, as designed in accordance with Condition C7, are to be effectively implemented and maintained at or above design capacity for the duration of the construction works and until such time as all ground disturbed by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment.
- (2) The erosion, sediment and pollution controls shall be installed and stabilised before commencement of works of the subject site. This does not include the works associated with the construction of the appropriate controls.
- (3) Any material that is to be stockpiled on site is to be stabilised to prevent contamination, erosion or dispersal of the material. Stockpiles shall be covered when not in use. All redundant piles are to be removed from the bed of the Hunter River.

D2 Pollution into the Hunter River

- (1) Construction works are to be carried out in a manner that ensures that no materials, including sediment and other pollutants, are eroded, or likely to be eroded, or deposited, or likely to be deposited, including materials likely to be carried by natural forces, on the bed or shore or into the waters of the Hunter River or the Newcastle Harbour. In this regard, a combination of temporary measures such as tarpaulins, booms, silt screens and barriers may be required when carrying out particular works.
- (2) Any material that enters the Hunter River must be immediately removed.
- (3) Appropriate silt curtains and oil absorbent booms shall be installed and maintained to contain silt and other water pollutants which are generated by the proposed substructure works. The silt curtains and oil absorbent booms shall be installed and maintained to completely surround the proposed works whilst construction occurs on the substructure of the wharf. The pollution control measures should ensure that the proposed works do not cause any deterioration of water quality outside the curtailed-off area of the Hunter River or Newcastle Harbour.
- (4) Silt generating activities shall be suspended in circumstances where:
 - (a) Weather or sea conditions are likely to inhibit the effectiveness of the silt curtain and oil absorbent booms to control the mitigation of pollutants beyond the curtailed-off area of the Hunter River;
 - (b) A silt plume is detected beyond the confines of the curtailed-off area;
 - (c) Monitoring reveals continued activity would be likely to result in a breach of the suspended particulate matter limit of 50 milligrams per litre measured as total suspended;
- (5) Adequate water quality monitoring (including sampling, sample analysis and result reporting) shall be carried out to confirm the concentration of suspended particulate matter, measured as total suspended solids. The details of the water quality monitoring shall be submitted to the Works Manager on a monthly basis during the construction period. Such water quality monitoring shall be linked to an action program to remedy any breach and to notify Council, within 24 hours of any incident, of the nature and extent to of any breach and the measures undertaken to remediate the breach and prevent any reoccurrence.

D3 *Disposal of Seepage and Stormwater*

Any seepage or rainwater collected on-site during construction shall not be pumped to the street stormwater system unless separate prior approval is given in writing by Council.

D4 *Excavated Material*

Any excavated material removed from the site shall be addressed, classified, transported and disposed of in accordance with the *NSW EPA Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes*.

Structural Works**D5 *Setting Out of Structures***

The pontoon structures shall be set out by a registered surveyor to verify the correct position of each structure in relation to property boundaries and the approved alignment levels. The registered surveyor shall submit a plan to the Works Manager certifying that structural works are in accordance with the approved development application.

Construction Management**D6 *Approved Plans to be On-site***

A copy of the approved and certified plans, specifications and documents incorporating conditions of approval and certification shall be kept on the site at all times and shall be readily available for perusal by any officer of the Department, Council or the Works Manager.

D7 *Site Notice*

A site notice(s) shall be prominently displayed at the boundaries of the site for the purposes of informing the public of project details including, but not limited to the details of the Builder, Works Manager and Structural Engineer. The notice(s) is to satisfy all but not be limited to, the following requirements:

- (1) Minimum dimensions of the notice are to measure 841mm x 594mm (A1) with any text on the notice to be a minimum of 30 point type size;
- (2) The notice is to be durable and weatherproof and is to be displayed throughout the works period;
- (3) The approved hours of work, the name of the site/project manager, the responsible managing company (if any), its address and 24 hour contact phone number for any inquiries, including construction/noise complaint are to be displayed on the site notice; and
- (4) The notice(s) is to be mounted at eye level on the perimeter hoardings/fencing and is to state that unauthorised entry to the site is not permitted.

D8 *Contact Telephone Number*

The Applicant shall ensure that the 24 hour contact telephone number is continually attended by a person with authority over the works for the duration of the development.

D9 Public Way

The public way must not be obstructed and the roadway, footway and waterfront promenade is to be kept clear at all times. All loading/unloading of vehicles is to take place inside the designated loading/unloading zone approved under condition C15 of this consent.

D10 External Lighting

External Lighting shall comply with AS4282: 1997 *Control of the Obtrusive Effects of Outdoor Lighting*. Upon installation of lighting, but before it is finally commissioned, the Applicant shall submit to the consent authority evidence from an independent qualified practitioner demonstrating compliance in accordance with this condition.

D11 Protection of Trees – Street Trees

All street trees shall be protected at all times during construction. Any tree on the footpath, which is damaged or removed during construction, shall be replaced, to the satisfaction of Council.

D12 Protection of Trees – On-site Trees

All trees on the construction site that are not approved for removal are to be suitably protected by way of tree guards, barriers or other measures as necessary are to be provided to protect root system, trunk and branches, during construction.

D13 Dust Control Measures

Adequate measures shall be taken to prevent dust from affecting the amenity of the surrounding areas during construction. In particular, the following measures must be adopted:

- (1) Physical barriers shall be erected at right angles to the prevailing wind direction or shall be placed around or over dust sources to prevent wind or activity from generating dust emissions,
- (2) Earthworks and scheduling activities shall be managed to coincide with the next stage of development to minimise the amount of time the site is left cut or exposed,
- (3) All materials shall be stored or stockpiled at the best locations (see D1 above),
- (4) The surface should be dampened slightly to prevent dust from becoming airborne but should not be wet to the extent that run-off occurs,
- (5) All vehicles carrying spoil or rubble to or from the site shall at all times be covered to prevent the escape of dust or other material,
- (6) All equipment wheels shall be washed before exiting the site using manual or automated sprayers and drive-through washing bays,
- (7) Gates shall be closed between vehicle movements and shall be fitted with shade cloth, and
- (8) Cleaning of footpaths and roadways shall be carried out regularly.

Noise and Vibration

D14 Hours of Work

The hours of construction, including the delivery of materials to and from the site, but excluding those activities identified in Condition D16(1), shall be restricted as follows:

- (1) between 7:30 am and 5:00 pm, Mondays to Fridays inclusive;
- (2) between 8:00 am and 1:00 pm, Saturdays;
- (3) no work on Sundays and public holidays.

Works may be undertaken outside these hours where:

- (1) the delivery of materials is required outside these hours by the Police or other authorities;
- (2) it is required in an emergency to avoid the loss of life, damage to property and/or to prevent environmental harm;
- (3) the work is approved through the Construction Noise and Vibration Management Plan; and
- (4) residents likely to be affected by the works are notified of the timing and duration of these works at least 48 hours prior to the commencement of the works.

D15 Construction Noise Objective

The construction noise objective is to comply with AS 2436-1981 "Guide to Noise Control on Construction". If the noise from a construction activity is substantially tonal or impulsive in nature (as described in Chapter 4 of the NSW Industrial Noise Policy), 5dB(A) must be added to the measured construction noise level when comparing the measured noise with the construction noise objective.

D16 Construction Noise Management

The Applicant shall:

- (1) Schedule rock breaking, rock hammering, sheet piling, pile driving and any similar activity only between the following hours unless otherwise approved in the Construction Noise and Vibration Management Plan:
 - (a) 9.00 am to 12.00 pm, Monday to Friday;
 - (b) 2.00 pm to 5.00 pm Monday to Friday; and
 - (c) 9.00 am to 12.00 pm, Saturday; and
- (2) Ensure that wherever practical, and where sensitive receivers may be affected, piling activities are completed using bored piles. If driven piles are required they must only be installed where approved in the Construction Noise and Vibration Management Plan.
- (3) Impact piling must be limited to:
 - (a) Driving of final sections of each pile into bedrock before final setting (where vibration methods are inadequate);
 - (b) Driving of the final section of each steel pile into bedrock;
 - (c) Week days, excluding public holidays; and
 - (d) Fixed time periods during any one day with significant respite breaks between periods of impact piling;

UNLESS:

- i. An Operational Management Plan (OMP) is prepared detailing all proposed impact piling and measures to manage and contain likely adverse impacts including, but not limited to, vibration, noise and protection of the structural integrity of adjoining buildings and infrastructure.
- ii. The OMP must be prepared in consultation with adjoining and surrounding property owners and all relevant agencies and approved by the Director prior to the commencement of works on site.
- iii. Any approved impact piling as a result of the OMP shall adhere to all time periods and hours of construction detailed elsewhere in this consent.

D17 *Vibration Criteria*

Vibration caused by construction at any residence or structure outside the subject site must be limited to:

- (1) for structural damage vibration, German Standard DIN 4150 Part 3 Structural Vibration in Buildings. Effects on Structures; and
- (2) for human exposure to vibration, the evaluation criteria presented in British Standard BS 6472- Guide to Evaluate Human Exposure to Vibration in Buildings (1Hz to 80 Hz) for low probability of adverse comment.

These limits apply unless otherwise approved in the Construction Noise and Vibration Management Plan.

D18 *Vibration Management*

Vibratory compactors must not be used closer than 30 metres from residential buildings unless vibration monitoring confirms compliance with the vibration criteria specified above.

Ecologically Sustainable Development**D19 *Recycling of Concrete***

Any existing concrete of suitable volume, which is not used as fill, shall be taken to a concrete recycling works and evidence that this has occurred shall be provided to the Works Manager.

Compliance**D20 *Relevant Approvals***

No works are to be undertaken on land owned by NSW Maritime without the relevant approvals being granted by NSW Maritime.

D21 *Compliance Report*

The Applicant, or any party acting upon this consent, shall, for the duration of construction period, submit to the Works Manager a three monthly report addressing compliance with all relevant conditions of this consent.

END OF PART D.

PART E—PRIOR TO SUBDIVISION OR STRATA SUBDIVISION

Subdivision does not form part of this consent.

PART F—PRIOR TO OCCUPATION OR COMMENCEMENT OF USE***Design Modifications******F1 Impacts on the Port***

Prior to the commencement of use, the Applicant shall be required to demonstrate, by way of an assessment report prepared by a suitably qualified consultant, that no aspect of the lighting or other design elements including, but not limited to, reflective materials, external glazing or cladding, do not represent hazards to safe navigation within the port. This report shall be submitted to, and approved by, the Works Manager prior to the commencement of use.

In the event that the results of this assessment show any significant interference with navigation or maritime operations, the Applicant will be required to undertake appropriate remedial work to ameliorate these impacts, to the satisfaction of the Newcastle Port Corporation, prior to the commencement of use.

Engineering***F2 Fire Safety Certificates***

Any certificates required in relation to fire safety equipment shall be furnished to the Works Manager prior to the commencement of use. Copies of any Fire Safety certificates required must be submitted to the Department and Council by the Works Manager.

F3 Annual Fire Safety Statement

An Annual Fire Safety Statement must be provided to Council and the NSW Fire Brigade commencing within 12 months after the date on which the initial Fire Safety Certificate(s) are issued.

F4 Structural Inspection Certificate

A Structural Inspection Certificate or a Compliance Certificate must be submitted to the satisfaction of the Works Manager prior to the commencement of use. A copy of the Certificate with an electronic set of final drawings (contact consent authority for specific electronic format) shall be submitted to the consent authority and the Council after:

- (1) The site has been periodically inspected and the Works Manager is satisfied that the Structural Works is deemed to comply with the final Design Drawings; and,
- (2) The drawings listed on the Inspection Certificate have been checked with those listed on the final Design Certificate/s.

F5 Road Damage

The cost of repairing any damage caused to Council or other Public Authority's assets in the vicinity of the subject site as a result of construction works associated with the approved development, is to be met in full by the Applicant/developer prior to the commencement of use.

Note: Should the cost of damage repair work not exceed the road maintenance bond, Council will automatically call up the bond to recover the costs. Should the repair costs exceed the bond amount; a separate invoice will be issued.

Second Dilapidation Report

F6 Post-construction Dilapidation Report

- (1) The Applicant shall engage a suitably qualified person to prepare a post-construction dilapidation report at the completion of the construction works. This report to ascertain whether the construction works created any structural damage to adjoining buildings, infrastructure and roads.
- (2) The report is to be submitted to the Works Manager. In ascertaining whether adverse structural damage has occurred to adjoining buildings, infrastructure and roads, the Works Manager must:
 - (a) compare the post-construction dilapidation report with the pre-construction dilapidation report required by Condition C8.
- (3) A copy of this report is to be forwarded to the Director and Council.

Operational Management

F7 Operations Environmental Management Plan

Any development application for use of the marina is to be accompanied by an Operations Environmental Management plan (OEMP) prepared in consultation with and as agreed to by NSW Maritime. The OEMP shall include, but not be limited to, the following:

- (1) Details of vessel berthing arrangements for the safe berthing of vessels in all wind and wave conditions;
- (2) Maintenance/cleaning requirements for the pontoons;
- (3) Program for maintenance for the checking of the facility;
- (4) A description of the management system to deal with complaints and environmental incidents;
- (5) Details of signage that alerts vessels and cautions them regarding the fact that the pontoon facility is in "Rough Water";
- (6) Other matters deemed to be necessary for the safe continued use of the facility;
- (7) Any requirements of NSW Maritime and Newcastle Port Corporation; and
- (8) An Emergency Plan to cover in the events of fire hazards to persons or property; personal accidents; collisions of vessels and collisions within the facility; and oil, sewerage and bilge water spillage.

The OEMP shall be prepared in accordance with the conditions of this consent, any other approvals, all relevant Acts or Regulations and accepted Best Practice management procedures. The OEMP shall be updated every 2 years or as required by the Department or NSW Maritime.

F8 24-hour Contact

A person or persons shall be appointed to accept responsibility for the management of the wharf and shall be contactable on a 24-hour basis. Responsibilities shall include

administration of the OEMP, maintenance of the facility, services and waste disposal practices at the facility. The details of the contact person(s) shall be submitted to the Department and NSW Maritime prior to the commencement of use.

Compliance

F9 Navigation Issues

Prior to the commencement of use of the wharf facilities, the Applicant is to obtain any requirements of Newcastle Port Corporation and NSW Maritime regarding the installation and maintenance of a navigation beacon or aid.

Evidence of consultation and implementation of any requirements of these agencies shall be provided to the Works Manager prior to the issue of any Structural Certificate for the Subject Site

F10 Structural Work

Prior to the commencement of use, a structural engineer's inspection certificate (Compliance Certificate) and evidence stating that the site has been periodically checked and the Certifier is satisfied that the structural works comply with the final design drawings is to be submitted to the satisfaction of the Works Manager and a copy of the certificate and final set of drawings submitted to Council.

END OF PART F.

PART G—POST OCCUPATION

Fire Safety

G1 Annual Fire Safety Certification

The owner of the Subject Site shall certify to Council every year that any essential services installed for the purpose of fire safety have been inspected and at the time of inspection are capable of operating to the required minimum standard. This purpose of this condition is to ensure that there is adequate safety of users of the wharves in the event of fire and for the prevention of fire, the suppression of fire and the prevention of spread of fire.

Public Access

G2 Public Way to be Unobstructed

The public way must not be obstructed by any materials, vehicles, refuse, booths, seats, bins, signs (except for those approved elsewhere in this consent) skips or the like, under any circumstances.

G3 Public Use

Once public access arrangements have been made by a separate development application for use in accordance with Condition A2 of this consent, public access shall be made available in accordance with that approved.

Note: Use of the wharves must include arrangements for public access.

Guidelines

G4 Boating Guidelines

Any yacht or small craft using the pontoon or any part of the wharf facility shall adhere to boating guidelines jointly produced by Newcastle Port Corporation and NSW Maritime namely; *A Guide for Yachts using Newcastle Harbour*.

Compliance

G5 Water Quality

Pollution of navigable water in the course of the occupation or use of the wharf facility or the use or any operation or activity on any vessel using the wharf is not permitted.

G6 Discharge

Any discharge of sewerage (including treated sewage and effluent of any kind) from a vessel using the premises into any navigable waters, is not permitted.

G7 *Control of Activities*

At the marina, the following conditions must be adhered to at all times:

- No person shall reside on any vessel using the facility/premises;
- Incineration or open burning is not permitted;
- Vessel repairs are not permitted (including painting and engine repairs and use of any power tools);
- Fuelling or servicing vessels using the wharf is not permitted;
- Handling of any material which could result in a toxic or hazardous spill in the navigable waters is not permitted;
- Litter bins are not permitted on the Subject Site without the approval of NSW Maritime;
- Public address systems and tone enhanced telephone systems are not permitted without the approval of NSW Maritime;
- Night lighting on the Subject Site is to be shielded in order to prevent light spillage beyond the immediate vicinity of the Subject Site;
- Loading and unloading of any vessels using the wharf or anywhere on the Subject Site is not permitted, except as otherwise permitted under this consent; and
- Boat fuelling systems and pump-out facilities are not permitted to be installed on the Subject Site.

G8 *Compliance Report*

The Applicant, or any party acting upon this consent, shall submit to the Works Manager a report addressing compliance with all relevant conditions of this consent within three (3) months of commencing use.

END OF PART G.

PART H—GENERAL TERMS

NSW Maritime

H1 Rivers and Foreshores Improvement Act 1948 (Part 3A Permit)

NSW Maritime advised that a Part 3A Permit would not be required for development the subject of this consent provided that all of the following requirements are met:

- (1) The proposed works are to be carried out so that:
 - i. No materials are eroded, or likely to be eroded, are deposited, or likely to be deposited, on the bed or shore or into the waters of the Hunter River; and
 - ii. No materials are likely to be carried by natural forces to the bed, shore or waters of the Hunter River.
- (2) Any material that does enter the Hunter River must be removed immediately.
- (3) In relation to the above, best practice methods shall be adopted for the on-site control of runoff, sediment and other pollutants during, and post, construction. Methods shall be in accordance with the relevant specifications and standards contained in the manual *Managing Urban Stormwater – Soils and Construction* issued by the NSW Department of Housing in 1998 and any other relevant Council requirements.
- (4) The erosion, sediment and pollution control system is to be effectively maintained at or above design capacity for the duration of the works and until such time as all ground disturbed by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment.
- (5) The erosion, sediment and pollution controls shall be installed and stabilised before commencement of site works. This does not include the works associated with the construction of the appropriate controls.
- (6) Any material that is to be stockpiled on site is to be stabilised to prevent contamination, erosion or dispersal of the material. Consideration should be given to covering stockpiles when not in use.
- (7) Construction works are to be carried out in a manner that minimises the potential for materials, including sediment and other pollutants, to enter the Hunter River. In this regard, a combination of temporary measures such as tarpaulins, booms, silt screen and barriers may be required when carrying out particular works.
- (8) All redundant piles are to be removed from the bed of the Hunter River.
- (9) No works are to be undertaken on land owned by NSW Maritime (i.e. below MHWM) without the relevant approvals being granted by NSW Maritime.

END OF PART G.

ADVISORY NOTES

AN1 *Hunter Water*

An application shall be made to Hunter Water for a Certificate under section 50 of the *Hunter Water Act 1991* (Compliance Certificate). Evidence that a Compliance Certificate has been applied for (i.e. Notice of Requirements) shall be produced to the satisfaction of the Works Manager prior to the issue of the relevant Construction Certificate. The Section 50 Certificate shall be submitted to the Works Manager prior to the commencement of use.

Water

Note: A potable water supply is available to the Subject Site from existing 200 diameter mains located in Honeysuckle Drive and Merewether Street. Fire supply at a flow rate of 22 l/s is also available from these mains. Hunter Water will require details of both the domestic and fire water demands, as determined by the developer's consultants, to confirm supply availability.

Sewer

Note: This development consent excludes on-site servicing of sewerage.

AN2 *Compliance Certificate, Water Supply Authority Act, 2000*

Prior to commencement of use, a Compliance Certificate shall be provided to the consent authority showing that the development has met with the detailed requirements of the relevant water supply authority for the region that the subject site is located within.

The developer shall obtain the Compliance Certificate from the relevant local water supply authority and produce this to the satisfaction of:

- (1) the certifying authority before release of the Construction Certificate,
- (2) the consent authority before the release of the subdivision certificate, and
- (3) the principal certifying authority prior to occupation.

AN3 *Requirements of Public Authorities for Connection to Services*

The Applicant shall comply with the requirements of any public authorities (e.g. Energy Australia, Hunter Water, Telstra Australia, AGL, etc) in regard to the connection to, relocation and/or adjustment of the services affected by the construction of the proposed structure. Any costs in the relocation, adjustment or support of services shall be the responsibility of the Applicant. Details of compliance with the requirements of any relevant public authorities are to be submitted to the satisfaction of the Works Manager prior to the commencement of works.

AN4 *Compliance with Building Code of Australia*

The Applicant is advised to consult with the Works Manager about any modifications needed to comply with the BCA prior to submitting the commencement of works.

AN5 *Structural Capability for Existing Structures*

The structural capabilities of any existing structure will need to meet the requirements of the BCA and may require engaging a structural engineer.

AN6 Application for Hoardings and Scaffolding

A separate application shall be made to Council for approval under Section 68 of the *Local Government Act, 1993*, to erect a hoarding or scaffolding in a public place. Such an application shall include:

- (1) Architectural, construction and structural details of the design in accordance with the relevant Council Policy,
- (2) Structural certification prepared and signed by a suitably qualified practising structural engineer.

The Applicant shall provide evidence of the issue of a Structural Works Inspection Certificate and structural certification shall be submitted to the satisfaction of the Works Manager prior to the commencement of works.

AN7 Use of Mobile Cranes

The Applicant shall obtain all necessary permits required for the use of mobile cranes on or surrounding the site, prior to the commencement of works. In particular, the following matters shall be complied with to the satisfaction of the Works Manager:

- (1) For special operations including the delivery of materials, hoisting of plant and equipment and erection and dismantling of on site tower cranes which warrant the on street use of mobile cranes, permits must be obtained from Council:
 - (a) at least 48 hours prior to the works for partial road closures which, in the opinion of Council will create minimal traffic disruptions, and
 - (b) at least 4 weeks prior to the works for full road closures and partial road closures which, in the opinion of Council, will create significant traffic disruptions.
- (2) The use of mobile cranes must comply with the approved hours of construction and shall not be delivered to the site prior to 7.30am without the prior approval of Council.

AN8 Movement of Trucks Transporting Waste Material

The Applicant shall notify the Roads and Traffic Authority's Traffic Management Centre (TMC) of the truck route(s) to be followed by trucks transporting waste material from the site, prior to the commencement of the removal of any waste material from the site.

AN9 Construction Inspections

Compliance certificate/s shall be issued by the Works Manager and submitted to Council in accordance with the mandatory inspection requirements of the *Building Legislation Amendment—Quality of Construction Act, 2002* for each stage of construction, such as the following:

- (1) Foundations,
- (2) Footings,
- (3) Damp proof courses and waterproofing installation,
- (4) Structural concrete, including placing of reinforcement and formwork prior to pouring,
- (5) Structural beam and column framing,
- (6) Timber wall and roof framing, and

(7) Stormwater disposal.

Any Compliance Certificate issued for the above stages of construction shall certify that all relevant ancillary or dependent work has been undertaken in accordance with the Building Code of Australia and any other conditions of consent.

AN10 Noise Generation

Any noise generated during the construction of the development shall not exceed limits specified in any relevant noise management policy prepared pursuant to the *Protection of the Environment Operations Act, 1997* or exceed approved noise limits for the site.

AN11 Compliance with Conditions

The Applicant will be required to submit, documentary evidence that the property has been developed in accordance with plans approved by Development Application No. 212-9-2004 and of compliance (or a Compliance Certificate) with the conditions of that consent, prior to commencement of use.

AN12 Noise Generation

Any noise generated during the construction of the development shall not exceed the limits specified in any relevant noise management policy prepared pursuant to the *Protection of the Environment Operations Act 1997*, or exceed approved noise limits for the site.

AN13 Temporary Structures

An approval under Section 68 of the *Local Government Act 1993* must be obtained from the Council for the erection of the temporary structures. The application must be supported by a report detailing compliance with the provisions of the Building Code of Australia.

Structural certification from an appropriately qualified practicing structural engineer must be submitted to the Council with the application under Section 68 of the *Local Government Act 1993* to certify the structural adequacy of the design of the temporary structures.

END OF CONDITIONS.
