

ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979
DETERMINATION OF DEVELOPMENT APPLICATION NO. 230-05-2003
(FILE NO. S03/01611)
ERECTION OF 4 MIXED USE BUILDINGS – “LEE WHARF DEVELOPMENT”

I, the Minister for Infrastructure and Planning, pursuant to Section 80 (1) (a) of the *Environmental Planning & Assessment Act, 1979*, and clause 7(2) of the 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 confirm and clarify the terms of development consent;
- (2) To advise of matters to be resolved prior to the commencement of works;
- (3) To encourage good urban design and a high standard of architecture;
- (4) To encourage appropriate provision of landscaping to enhance the external appearance of the development and the overall landscape quality of the area.
- (5) To maintain the amenity of the local area;
- (6) To protect the environmental attributes and cultural heritage of the area;
- (7) To ensure compliance with relevant statutory provisions, including the Environmental Planning and Assessment Act and Regulation plus the Building Code of Australia;
- (8) To ensure the requirements of Approval Bodies, other government agencies, service providers and Council are adhered to;
- (9) To ensure the provision of the necessary infrastructure and utility services commensurate with the development without additional demands on public sector resources;
- (10) To ensure the mitigation of traffic impacts and that works within road reserves are suitably authorised;
- (11) To ensure relevant environmental standards are met during the construction and operation of the development;
- (12) To ensure public safety and health is not compromised during construction and operation of the development;
- (13) To assist Council in the provision of Community Facilities and Infrastructure;
- (14) To ensure appropriate amenity, safety and health for residents and occupants of the development;
- (15) To indicate other approvals required for the development; and

(16) To ensure development occurs on the basis on which it was assessed.

Craig Knowles MP
Minister for Infrastructure and Planning
Minister for Natural Resources

Sydney,

2004

SCHEDULE 1 –THE DEVELOPMENT**PART A—TABLE**

Application made by:	Caverstock Group Level 1, 185 Liverpool Street, Sydney NSW 2000
Application made to:	Minister for Infrastructure and Planning
Development Application:	230-5-2003
On land comprising:	Lot 4 DP 883474, Lot 11 DP 883474, Lot 12 DP 883474, Part Lot 51 DP 1036132 and Lot 21 DP 1051525. Honeysuckle Drive, Newcastle
For the carrying out of:	Development described in Condition A1, Part A, Schedule 2
Estimated Cost of Works	\$32,780,107
Type of development:	Integrated Development Advertised Development
S.119 Public inquiry held:	No
BCA building class:	Class 2 – Residential levels Class 6 – Ground level retail Class 7 – Basement carpark
Approval Body / Bodies:	Heritage Council Mine Subsidence Board Waterways Authority
Determination made on:	
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 accompanying letter.
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 substantially commenced.

PART B—NOTES RELATING TO THE DETERMINATION OF DA NO. 230-05-2003***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:

- (1) for a development application, within 12 months after the date on which the applicant received this notice, or
- (2) for a modification to the consent, within 3 months after the date on which the application 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 Deputy Director-General.

Section 94 Conditions

This development consent contains a levy for development imposed under section 94 of the Act. The imposing of levies where imposed in accordance with the Newcastle City Council's Contributions Plan No 1 adopted by Newcastle City Council and effective from 8 October 2001 and Division 6 of the Act. The Contribution Plan may be inspected at Newcastle City Council Customer Enquiry Centre, 282 King Street Newcastle during normal business hours.

The specific public amenity or service or both are identified in the monetary contributions conditions in Part B of Schedule 2.

PART C—DEFINITIONS

In this consent,

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

Applicant means Caverstock Group 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.

Certifying Authority has the same meaning as Part 4A of the Act.

Council means Newcastle City Council.

DA No. 230-05-2003 means the development application and supporting documentation submitted by the applicant on 28 May 2003 plus additional supporting material submitted during assessment of the application.

Department means the Department of Infrastructure, Planning and Natural Resources or its successors.

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

Director-General means the Director-General of the Department.

Deputy Director-General means the Deputy Director-General of the Department.

Minister means the Minister for Infrastructure and Planning.

PCA means a Principal Certifying Authority and has the same meaning as Part 4A of the Act.

Regulations mean the Environmental Planning and Assessment Regulations, 2000 (as amended).

RIC means the NSW Rail Infrastructure Corporation or its successors.

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

StateRail means the State Rail Authority of NSW or its successors.

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

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

SCHEDULE 2 –**THE CONDITIONS OF CONSENT (INCLUDING ADVISORY NOTES)****DEVELOPMENT APPLICATION NO. 230-05-2003****PART A—ADMINISTRATIVE CONDITIONS****A1 *Development Description***

Development consent is granted only to carrying out of a mixed use development consisting of 4 multi-storey buildings and other facilities as described in detail below:

- (1) Building A1: 7 storey mixed use development comprising basement level car parking (common with Building A2); ground level retail/commercial floor space (361m²); and 6 storeys of residential apartments comprising 8 one-bedroom apartments, 8 two-bedroom apartments and 10 three-bedroom apartments.
- (2) Building A2: 5 storey mixed used development comprising basement level car parking (common with Building A1); ground level retail/commercial floor space (650m²); and 4 storeys of residential apartments comprising 12 one-bedroom apartments; 8 two-bedroom apartments and 4 three-bedroom apartments.
- (3) Building B1: 9 storey mixed use development comprising basement level car parking spaces (common with Buildings B2 and B7*); ground level retail/commercial floor space (497m²); 8 storeys of residential apartments comprising 15 one-bedroom apartments, 19 two-bedroom apartments and 7 three-bedroom apartments.
- (4) Building B2: 6 storey mixed use development comprising basement level car parking spaces (common with Buildings B1 and B7*); ground level retail/commercial floor space (646m²) and 5 storeys of residential apartments comprising 23 one-bedroom apartments, 15 two-bedroom apartments and 6 three bedroom apartments.
- (5) 200 space temporary car park;
- (6) 2 lot subdivision readjusting the boundaries of Lot 4 DP 883474 (4000m²) and Lot 21 DP 1051525 (12141m²), creating Proposed Lot 24 of 6764m² and Proposed Lot 25 of 9377m²;
- (7) Vehicular, pedestrian and service rights of way proposed on lots 24 and 25, 10 m wide and variable on each lot to facilitate the public connection between Honeysuckle Drive and Wright Lane
- (8) Right of way located on part Lot 51 DP 1066132 containing 342m² and on part Lot 11 DP 883474 containing 250m² in favour of adjacent Lot 12 DP 883474 to facilitate access to the basement car park below Buildings A1 and A2.

* Note: Building B7 is not the subject of this consent. Refer to development application number 231-05-2003.

A2 Development in Accordance with Plans

The development shall be generally in accordance with development application number 230-05-2003 submitted by the applicant on 28 May 2003 and in accordance with the supporting documentation submitted with that application, including, but not limited to, the following:

Architectural Drawings prepared by Crone Nation Architects			
Drawing No.	Revision	Name of Plan	Date
ADAZ0001	C	Location Plan	23.05.03
ADAZ0002	C	Site Analysis Plan	23.05.03
ADAZ1001	F	Basement Floor Plan	8.04.04
ADAZ1021	A	Basement Revised Site A Floor Plan	24.10.03
ADAZ1002	E	Podium Ground Floor Plan	16.02.04
ADAZ1022	A	Podium Site A Revised Floor Plan	24.10.03
ADAZ1003	C	Level 1 Floor Plan	27.11.03
ADAZ1004	C	Level 2 Floor Plan	27.11.03
ADAZ1005	D	Level 3 Floor Plan	11.02.04
ADAZ1006	D	Level 4 Floor Plan	11.02.04
ADAZ1007	D	Level 5 Floor Plan	11.02.04
ADAZ1008	D	Level 6 Floor Plan	11.02.04
ADAZ1009	D	Level 7 Floor Plan	11.02.04
ADAZ1010	D	Level 8 Floor Plan	11.02.04
ADAZ1011	D	Level 9 Floor Plan	11.02.04
ADAZ1012	D	Roof Plan Floor Plan	11.02.04
ADAZ2001	E	East and West Elevations	11.02.04
ADAZ2002	C	North and South Elevations Buildings A1 & A2	24.10.03
ADAZ2003	D	North and South Elevations Buildings B1, B2 and B7.	11.02.04
ADAZ2011	D	West and East Elevations Miscellaneous	11.02.04
ADAZ2012	B	South and North Elevations Miscellaneous	23.05.03
ADAZ3001	E	North – South Section A & B	2.03.04
ADAZ3002	C	North – South Section C East – West Section D	11.02.04
Landscape Drawings prepared by Oculus			
Drawing No.	Revision	Name of Plan	Date
DA-L01	Rev B	Landscape Master Plan	April 2004
DA-L02	Rev B	Landscape Plan	April 2004
DA-L03	-	Landscape Sections 1	May 2003
DA-L04	-	Landscape Sections 2	May 2003
DA-L05	-	Landscape Sections 3	May 2003

DA-L06	-	Landscape Images	May 2003
Survey Drawings prepared by Monteath & Powys			
Drawing No.	Revision	Name of Plan	Date
02195X.DWG	1	Site Plan Showing Existing Lot Boundaries	5.11.03
02195Y.DWG	1	Site Plan Showing Proposed Lot Boundaries	5.11.03
02195M.DWG	1	Proposed Subdivision of Lot 21 DP 1051525 & Lot 4 DP 883474	22.05.03
02195Z.DWG	1	Site Plan Showing Site Areas for FSR Calculations	5.11.03

And in accordance with the following documents:

Statement of Environmental Effects prepared by Crone Nation Architects dated 27 May 2003.
Urban Landscape and Design Report prepared by Oculus dated 20 May 2003.
Civil and Maritime Works Flood Management report prepared by Patterson Britton Partners dated 22 May 2003.
DA Energy Performance Statement prepared by Richard Heggie Associates dated 1 May 2003.
Environmental Impact of the Development – Wind, Reflectivity and Solar Access prepared by Richard Heggie Associates dated 26 May 2003.
Acoustic Assessment prepared by Hunter Acoustics dated 1 May 2003.
Lee Wharf, Newcastle Heritage Impact Statement prepared by Godden Mackay Logan dated May 2003.
Waste Management Plan dated 12 May 2003.
Building Code of Australia Assessment Report prepared by BCA Logic dated 1 May 2003.
Traffic and Transportation Assessment prepared by Project Planning Associates dated 31 July 2003.
Additional information pertaining to Flood Management prepared by Patterson Britton and Partners dated 21 November 2003, incorporating Honeysuckle Flood Level Review prepared by Lawson and Treloar Pty Ltd dated 30 October 2003.
Additional information pertaining to Site Remediation submitted by Crone Nation Architects dated 20 January 2004.
Additional information concerning details of DA amendments submitted by Crone Nation Architects dated 16 February 2004.

A3 *Applicant's Responsibilities*

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.

A4 *Prescribed Conditions*

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

PART B—PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE***Design Details and Changes******B1 Additional Details***

Additional details in regard to the following matters shall be submitted to and approved by the Certifying Authority prior to the issue of a Construction Certificate:

- (1) Minimum clear sight lines for vehicles to pedestrians being provided within the site at the driveway entry/exit ramps to the underground carpark in accordance with AS 2890.1 – Parking Facilities.
- (2) Minimum 6.0m level landing being provided adjacent to the property boundary at the proposed vehicular entry/exit ramps to the underground carpark.
- (3) Disabled parking bays being located in close proximity to lift entrances/exits to the buildings.
- (4) Designated pedestrian pathways being provided within the proposed 200 space temporary public carpark, with links to the surrounding pedestrian pathway network.
- (5) Provision being made for two disabled persons parking spaces within the proposed 200 space temporary public carpark in accordance with AS. 2890.1- Parking Facilities.
- (6) Provision of storage facilities for residential apartments as per the standards contained in Newcastle Development Control Plan 40 – City West (Clause 6.7) and the Residential Flat Design Code (Part 3 – Building Design).

B2 Building B1

Details of the final design, façade materials and colour treatments of the southern and eastern elevations of Building B1 shall be submitted to and approved by the Team Leader prior to the issue of a Construction Certificate.

Note: such detail is also to be referred to and approved by the NSW Heritage Council as per condition H4.

B3 Details of Materials, Colours and Finishes

Final design details of the proposed external materials and finishes, including schedules and a sample board of materials and colours, shall be submitted to and approved by the Team Leader, prior to the issue of a Construction Certificate.

B4 Construction Car Parking

Details indicating that construction activities will not adversely impact upon local traffic flows and local car parking patterns during the construction period are to be submitted and approved by the Team Leader prior to the issue of the Construction Certificate. Such details are to include but not be limited to:

- (1) Analysis of the anticipated workforce numbers, with particular emphasis on peak construction times;
- (2) Proposed construction workforce parking arrangements;

- (3) Storage of equipment and machinery; and
- (4) The use of public transport, car pooling and other measures to limit the number of vehicles accessing the site and surrounding areas.

B5 Reflectivity

The visible light reflectivity from building materials used on the facades of the buildings shall not exceed 20% and shall be designed to minimise any nuisance or interference to any person or place. A report demonstrating compliance with these requirements is to be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

B6 Outdoor Lighting

All outdoor lighting, including that proposed in the temporary car park, 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 Certifying Authority prior to the issue of a Construction Certificate.

B7 Treatment of Vehicular Entry

In order to improve the appearance of the building when viewed from the street, any part of the walls and ceilings of vehicular entry points that are visible from the street shall be finished in high quality materials and no service ducts or pipes are to be visible. Details shall be submitted to and approved by the Team Leader prior to the issue of a Construction Certificate.

B8 Easement for Rail Impacts

A transfer Granting Easement is to be created over the land and buildings to permit vibration and electrolysis as may arise directly and indirectly from the current and future railway operations in the area. The easement must be created to the satisfaction of StateRail and RIC prior to the release of a Construction Certificate for any above ground works.

B9 Fire Safety

The Construction Certificate application 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.

B10 Disabled Access

The premises are to be provided with adequate means of access for persons with disabilities in order to comply with Part D3 of the BCA's Access Policy, Australian Standard AS. 1428.1 and the Disability Discrimination Act (1992).

In this regard, the applicant is to submit a design detail which has been certified by a qualified Access Advisor to the Certifying Authority prior to the issue of a Construction Certificate.

Compliance with the BCA only can still leave a building professional or building owner in contravention of the Disability Discrimination Act 1992.

A qualified Access Advisor should carry current and relevant public liability and public indemnity insurances for the practice of their trade.

B11 Toilet Facilities

Adequate, separately accessible toilet facilities are to be provided for persons with disabilities in accordance with Part F of the BCA. Full details are to be submitted to the Certifying Authority prior to issue of Construction Certificate.

B12 Flood Management

The proposed buildings are to meet the specific requirements of the Waterfront and Cottage Creek Flood Management Plan, including satisfying the minimum floor level, carpark entry level, and the provision of bunding and suitable flood refuge arrangements. A report demonstrating compliance with these requirements is to be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

Remediation**B13 Remediation of Land**

Prior to the issue of a Construction Certificate, the Applicant shall submit to the Director a Remedial Action Plan and a Hazardous Materials Survey. The Remedial Action Plan must be accompanied by a statement from a site auditor accredited by the Environmental Protection Agency to issue Site Audit Statements, for those areas of the site not already covered by such a Remedial Action Plan or Site Audit Statement.

B14 Erosion and Sedimentation Control

Soil erosion and sediment control and water management measures shall be designed in accordance with the document *Managing Urban Stormwater–Soils & Construction* (NSW Department of Housing, 1998.) Details are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

B15 Drainage

Any alteration to natural surface levels on the site being undertaken in such a manner as to ensure that no surface water is drained onto or impounded on adjoining properties. Details are to be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

B16 Dilapidation Reports

A Dilapidation Report detailing the current structural condition of the existing and adjoining buildings, infrastructure and roads shall be prepared and endorsed by a qualified structural engineer. Particular emphasis is placed upon nearby identified heritage items. The report shall be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate.

A second Dilapidation Report shall be prepared by a suitably qualified person at the completion of the works to ascertain if any structural damage has occurred to the adjoining buildings, infrastructure and roads. The report shall also be submitted to the satisfaction of the PCA and should be compared with the earlier report to ascertain if any change has occurred.

A copy of both reports is to be forwarded to the consent authority and Council.

Traffic & Parking

B17 Traffic Control Devices

Opposing traffic flows on the car park ramp to Buildings A1 and A2 being separated by the provision of an appropriate kerb and/or safety barrier. Full details are to be included in documentation for a Construction Certificate application.

B18 Number of Car Spaces

A minimum of 204 car parking spaces are to be provided on site in conjunction with the proposed development. The minimum number of car spaces to be allocated to the different components of the development shall comply with the table below.

Car parking allocation	Number	
Residential car parking spaces	135	
Spaces provided for residences within Buildings A1 and A2	50	
Spaces provided for residences within Buildings B1 and B2	85	
Number of residential car spaces to be disabled spaces		2*
Retail/Commercial car parking spaces	36	
Number of retail car spaces to be disabled spaces		1*
Car Wash Bay		2*

* Note: the disabled spaces and car wash bays are included in the minimum number of spaces required and do not represent additional spaces.

A car parking allocation plan is to be submitted and approved by the Team Leader prior to the issue of the Construction Certificate. This carparking allocation plan is also to address the allocation of spaces (46) associated with Building B7, the subject of DA No. 231-05-2003.

A maximum of 203 residential car parking spaces are to be shown on the car parking allocation plan, as any residential car parking in excess of 1.5 spaces per dwelling is to be included in FSR.

The proposed commercial, resident, visitor, disabled and small car parking bays being clearly delineated on site and indicated by means of appropriate signs and/or pavement markings. Details are to be shown on the car parking allocation plan.

Note: a minimum of 46 spaces are required for building B7 giving a minimum total of 250 spaces required on site.

B19 Number of Bicycle Spaces

Bicycle spaces are the provided at the following minimum rates:

- (1) 1 bicycle space for every 6 residential apartments; and
- (2) 1 bicycle space for every 500m² commercial and/or retail floor area.

Details shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

B20 Car Park and Service Vehicle Layout

- (1) The layout of the car park shall comply with Australian Standard AS2890.1: 1993 *Parking Facilities Part 1: Off Street Parking*. All parking spaces are to be linemarked.
- (2) Clear openings between car park columns, where door opening is obstructed, for single parking spaces being a minimum of 2.7 m and for double parking spaces of 5.0 m.
- (3) The minimum height between the car park floor surface and the lowest overhead obstruction is to comply with the BCA.
- (4) Details demonstrating compliance with these requirements shall be submitted to the satisfaction of the Certifying Authority prior the issue of a Construction Certificate.

B21 Construction Design

All proposed driveways, parking bays and vehicular turning areas being constructed with a basecourse of adequate depth to suit design traffic, being sealed with bitumen seal, asphaltic concrete, concrete or interlocking pavers and being properly maintained.

B22 Access Arrangements – Temporary Car Park

Suitable ticketing and access arrangements being provided at the entrance to the proposed temporary public carpark to minimise the potential for vehicle queuing or alternatively a pay and display system being provided with ticket machines throughout the carpark. Details are to be submitted to the satisfaction of the Certifying Authority prior the issue of a Construction Certificate.

B23 Pavement Design

A pavement design report for the construction of the proposed temporary public carpark being prepared and certified by a practising geotechnical engineer, such report being submitted to the satisfaction of the Certifying Authority prior the issue of a Construction Certificate.

B24 Footway Crossings

Commercial type vehicular crossing 6m wide, with appropriate splays, being constructed across the footway at the proposed driveway entrance/exit to the temporary public carpark, at the proposed driveway entrance/exit to the underground carpark for Buildings B1 and B2 and at the proposed driveway entrance/exit to the underground carpark for Buildings A1 and A2 in accordance with Council's Driveway Standard A17/6B (Concrete Vehicular Crossings) and such crossing being properly maintained.

(Note: The required driveway crossing is to incorporate a concrete median separation to define ingress and egress drives, as well as appropriate signposting and pavement markings.)

Landscaping**B25 Landscape Plan**

In order to ensure compliance with the provisions of Clause 10.3.2 of DCP 40 – City West, to provide shade along the public promenade and to properly delineate between public and

private domain associated with the development a revised landscape plan, prepared by a suitably qualified landscape designer, incorporating the following:

- (1) Details of the number, location, size and type of all proposed trees, shrubs and groundcovers, all paving and retaining wall materials and colours (where applicable), any proposed water features and/or public art, and all street furniture and lighting; and
- (2) Details of trees, including street trees to be retained;

shall be submitted to and approved by the Team Leader prior to the issue of a Construction Certificate. Evidence of consultation with Council's Landscape Architect and Council's response is required to accompany the submitted revised plan.

Energy Efficiency – Residential

B26 NatHERS Rating – Multi-Unit Housing

The following NatHERS rating requirements shall be complied with:

- (1) an average rating for all dwellings of 4 stars or better,
- (2) at least 20% of all dwellings shall achieve better than 4.5 stars,
- (3) at least 80% of all dwellings shall achieve better than 3.5 stars, and
- (4) no apartment shall achieve less than 3.5 stars.

Prior to the issue of a Construction Certificate, the Applicant shall submit to the Certifying Authority a NatHERS certificate, prepared by an accredited NatHERS assessor, demonstrating compliance with the requirements of this condition.

B27 Water Conservation

The development shall incorporate all practical measures to minimise the use of reticulated water on site through conservation practices and, where possible, the collection and reuse of rainwater in gardens and car washing areas. Details demonstrating the incorporation of these measures shall be submitted to and approved by the Team Leader prior to the issue of a Construction Certificate.

Health

B28 Mechanical Ventilation

All mechanical ventilation systems shall be installed in accordance with Part F4.5 of the Building Code of Australia and shall comply with Australian Standards AS1668.2 and AS3666 *Microbial Control of Air Handling and Water Systems of Building*, to ensure adequate levels of health and amenity to the occupants of the building and to ensure environment protection. Details shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

B29 Acoustic Report

Written certification is to be provided by a qualified acoustic consultant to the Certifying Authority prior to the issue of a Construction Certificate, confirming that the recommended acoustic treatment, as detailed in their Acoustic Assessment report, dated 1 May 2003, has been implemented.

Waste Management

B30 Storage and Handling of Waste

The design and management of facilities for the storage and handling of waste must comply with the requirements of Council's Waste Minimisation DCP (DCP 56). Such facilities are to be screened from the street. Details are to be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

Monetary Contributions

B31 Monetary Contributions – Inner Newcastle Catchment (Residential)

A total monetary contribution of \$1,398,759.84 being paid to Council, pursuant to Section 94 of the Environmental Planning and Assessment Act, towards the provision of the following public amenities and public services within the locality, such contribution to be payable prior to the issue of a Construction Certificate in respect of the proposed development:

Service or Facility	Contribution Rate per Dwelling (\$)		Contribution (\$)
	1 – 2 bedrooms	3 + bedrooms	
Community facilities	899.33	1,124.68	127,494.00
Open space and recreation	8,627.74	10,784.67	1,222,982.01
Foreshore promenade	58.16	72.69	8,243.91
Section 94 management	178.62	223.27	25,319.25
Traffic management	103.85	129.81	14,720.67
Totals	9867.70	12,335.12	1,398,759.84

B32 Monetary Contributions Inner Newcastle Catchment (Commercial)

A total open space monetary contribution of \$14,539.50 being paid to Council, pursuant to Section 94 of the Environmental Planning and Assessment Act, towards the provision of open space and recreation facilities within the locality, such contribution to be payable prior to the issue of a Construction Certificate in respect of the proposed development.

Note: The amount of contribution payable under conditions B33 and B34 have been calculated on the basis of current costs as at the date of consent and is to be indexed at the time of actual payment in accordance with the "Consumer Price Index" weighted average of eight capital cities published by the Australian Bureau of Statistics each quarter. Any party intending to act on this consent should contact Council's s94 Coordinator, City Strategy Group, for determination of the indexed amount of contribution as at the date of payment.)

B33 Monetary Contributions - Hunter Water

The applicant complying with all requirements of the Hunter Water Corporation Ltd 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 certificate of compliance is to be included in documentation for a Construction Certificate application.

Engineering Works

B34 Stormwater and Drainage Works Design

Stormwater runoff from the proposed new road (linking Honeysuckle Drive and Wright Lane) catchment being collected in a piped drainage system and conveyed to the harbour via the existing drainage system and/or a new drainage system.

Final design plans of the stormwater drainage systems within the proposed development, prepared by a suitably qualified, practicing engineer and in accordance with the requirements of Council's DCP 50 "*Stormwater Management for Development Sites*" and any relevant EPA Guidelines shall be submitted to the Certifying Authority prior to issue of a Construction Certificate. The hydrology and hydraulic calculations shall be based on models described in the current edition of Australian Rainfall and Runoff.

B35 Road Design

Kerb and gutter, stormwater drainage, cycleways, full road width pavement including traffic facilities (roundabouts, median islands etc.) and paved footpaths shall be constructed along the full length of the new roads. All roads shall be designed in consultation with the relevant requirements of Council and the RTA. Final road design plans shall be prepared by a suitably qualified practicing engineer and submitted to the Certifying Authority prior to the issue of any above ground Construction Certificate.

B36 Road Construction

The proposed new road (linking Honeysuckle Drive and Wright Lane) is to comprise 3m wide travel lanes, 3.5m wide combined kerbside cycle and parking lanes, minimum 3.5m wide footpaths and appropriate splays at road intersections.

The required works within the new road (linking Honeysuckle Drive and Wright Lane) are to be carried out generally as detailed in the submitted plans, at no cost to Council and to Council's requirements and design specifications, and are to include:

- (1) Road pavement;
- (2) Road shoulder pavement;
- (3) Kerb and gutter;
- (4) Footway formation;
- (5) Footpaving;
- (6) Landscaping; and
- (7) Associated drainage works.

Compliance

B37 Compliance Report

Prior to the issue of a Construction Certificate, the Applicant, or any party acting upon this consent, shall submit to the Department a report addressing compliance with all relevant conditions of this consent.

PART C—PRIOR TO COMMENCEMENT OF WORKS

Excavation Works

C1 Notice to be Given Prior to Excavation

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

C2 Utility Services

Conduits for the carriage of utility services are to be provided under roads at the time of construction of the roads. Such conduits are to be located clear of the design road pavement and are to be in accordance with the utility services designs for water, electricity, telecommunications and gas as appropriate.

Structural Works

C3 Structural Details

Prior to the commencement of construction, the Applicant shall submit to the satisfaction of the PCA structural drawings prepared and signed by a suitably qualified practising Structural Engineer that comply with:

- (1) the relevant clauses of the Building Code of Australia,
- (2) the relevant development consent,
- (3) drawings and specifications comprising the Construction Certificate, and
- (4) the relevant Australian Standards listed in the BCA (Specification A1.3).

Construction Management

C4 Construction Management Plan

Prior to the commencement of any works on the site, a Construction Management Plan shall be submitted to and approved by the Team Leader. 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) traffic management (see also C6 below),
- (4) noise management (see also C7 below),
- (5) waste management (see also C8 below),
- (6) dust management (see also C9 below),
- (7) erosion and sediment control (see also B14),
- (8) A community relations plan, which aims to inform local residents and other local stakeholders of the proposed nature and timeframes for activities, together with contact details for site management.

The Applicant shall submit a copy of the approved plan to Council prior to the commencement of construction.

C5 *Construction Traffic & Pedestrian Management Plan*

Prior to the commencement of any works on the site, a Traffic and Pedestrian Management Plan prepared by a suitably qualified person shall be submitted to and approved by the Team leader. Written evidence of consultation with Council and Council's response is to accompany the plan. The required plan is to ensure the provision for safe, continuous movement of traffic and pedestrians within the road reserve. The plan is to be prepared in accordance with Australian Standard 1742.3 – 1996.

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) measures undertaken to keep roads and footways clear of mud and sediment.

The Applicant shall submit a copy of the approved plan to the Council prior to the commencement of construction.

C6 *Construction Noise and Vibration Management Plan*

Prior to the commencement of any works on the site, a Noise and Vibration Management Plan prepared by a suitably qualified person shall be submitted to and approved by the Team Leader. Written evidence of consultation with Council and Council's response is to accompany the Plan. The Plan shall address, but not be limited to, the following matters:

- (1) anticipated airborne noise for all major noise generating activities and duration of these activities,
- (2) predicted noise levels at sensitive receivers,
- (3) construction noise goals,
- (4) specific physical and managerial measures for controlling noise,
- (5) noise and vibration monitoring and reporting procedures,
- (6) measures for dealing with exceedances,
- (7) arrangements to inform residents of noisy activities likely to affect their amenity, including:
 - (a) provision of a 24 hour contact point for residents,
 - (b) establishment of a system to handle and respond to complaints.

The Applicant shall submit a copy of the approved plan to Council prior to the commencement of construction.

C7 Construction Waste Management Plan

Prior to the commencement of works, the Applicant shall submit to the satisfaction of the PCA a Waste Management Plan prepared by a suitably qualified person in accordance with Council's Waste Minimisation Development Control Plan DCP 56. The Applicant shall submit a copy of the plan to the consent authority and Council. The plan is to maximise opportunities reuse, recycling and reprocessing of waste material.

C8 Dust Management

Prior to the commencement of works, the Applicant shall submit to the satisfaction of the PCA, a dust management strategy, detailing procedures to minimise dust generation, with particular reference to control techniques and operational limits under adverse meteorological conditions. This strategy is to be cross-referenced with the water management strategy in condition B14.

The Applicant shall submit a copy of the plan to the consent authority and Council.

C9 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.

C10 Hoardings

If the work involved in the erection / demolition of the building:

- (1) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
- (2) involves the closure of a public space,

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.

Heritage**C11 Excavation**

Any subsurface disturbance during site works being kept to a minimum.

C12 Archival Record

No works shall commence until an archival record of existing archaeological material on the site has been prepared and submitted to the Heritage Office. This shall include measured drawings and an archival photographic record before any work commences. This archival record shall be prepared in accordance with the NSW Heritage Council guidelines.

C13 Aboriginal Heritage

An assessment of the likelihood of the presence of any Aboriginal sites in relation to the proposed development area being undertaken to comply with the requirements of the National Parks and Wildlife Act, 1974 plus the significance and requirements for the protection of any sites. Written confirmation that the National Parks and Wildlife Service's requirements have been met shall be submitted to PCA prior to engineering works commencing. Any submitted archaeological study shall be accompanied by a letter from the Awabakal Local Aboriginal Land Council stating that they are satisfied with the study process

and that appropriate arrangements are in place for continued consultation during development of the site.

Hazardous Materials

C14 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 PCA prior to the removal of any hazardous materials.

C15 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 PCA.

Public Roads

C16 Road Works

No works are to take place within the public road until Council's separate written approval has been obtained. This includes the storage of building materials or the carrying out of building operations in Council's foot way or road way.

C17 Protective Crossing

A temporary protective crossing being provided over the footway for vehicular traffic before building operations are commenced. This approval does not permit access to the property over any adjacent private or public land.

Utilities

C18 Hunter Water

Compliance with the requirements of the Hunter Water Corporation Ltd in respect of any building or structure proposed to be erected over any services or stormwater drain under the Corporation's control.

C19 Energy Australia

Provision being made on the site for the installation of a 'kiosk' type electricity substation should such be required by Energy Australia and any such 'kiosk' being located in accordance with that authority's requirements.

C20 StateRail

No work is permitted in the rail corridor, or its easements, at any time unless prior approval or an Access Deed has been entered into with StateRail.

C21 Risk Assessment

A Risk Assessment/Management Plan and detailed Work Method Statements (WMS) for the proposed works are to be submitted to the satisfaction of RIC prior to the commencement of construction works. Copies of these documents are to be submitted to the consent authority together with written documentation of RIC's satisfaction.

Compliance***C22 Compliance Report***

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

PART D—DURING CONSTRUCTION

Site Maintenance

D1 Erosion and Sediment Control

All erosion and sediment control measures are to be effectively 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.

D2 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.

D3 Audit Statement Compliance

The development is to be undertaken in accordance with the conditions specified in:

- (1) Site Audit Statements Nos. WRR 15 (dated 30 October 1998), WRR 15A (dated 27 September 2002), WRR 16A (dated 27 September 2002), WRR 36A (dated 27 September 2002), produced by William R Ryall of Gutteridge Haskins & Davey Pty Ltd;
- (2) Remedial Action Plans that have been prepared by accredited site auditors over lot 4 DP 887434 and part Lot 51 DP 1036132;
- (3) The terms of Development Consent No. 450-10-2003;
- (4) The Environmental Management Plan for the Honeysuckle Development Area, prepared by AGC Woodward-Clyde Pty Ltd, dated 14 January 1999; and/or
- (5) Any other Site Audit Statement prepared as a consequence of compliance with State Environmental Planning Policy No. 55.

D4 Imported Fill

Any imported fill onto the site is to be validated to ensure its suitability for the proposed land use from a contamination perspective. Imported fill is to be certified that it is not contaminated, based upon analysis or the known past history of the site from which it is obtained.

D5 Excavated Material

Any excavated material to be removed from the site is to be assessed, classified, transported and disposed of in accordance with the EPA's Guidelines: *Assessment, Classification and Management of Liquid and Non-Liquid Wastes*.

Structural Works

D6 Setting Out of Structures

The buildings 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 PCA certifying that structural works are in accordance with the approved development application and construction certificate.

Construction Management

D7 Traffic Control

The Applicant or contractor is to provide for the safe, continuous movement of traffic and pedestrians in public roads and erecting traffic warning signs conforming to the Roads and Traffic Authority's General Specifications (RTA Spec. Part G10 "*Control of Traffic*" and RTA Spec. 3355). Traffic control is to be carried out only by flagmen with certification that they have been trained in accordance with Australian Standard 1742.3 – 1996.

D8 Vehicle Loads

All material transported to or from the site by vehicle being appropriately secured or restrained in order to meet the performance standards recommended in the *Load Restraint Guide – Guidelines for the Safe Carriage of Loads on Road Vehicles* published by the Australian Government Publishing Service on 12 December 1994.

D9 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 PCA.

D10 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. 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.

D11 Hours of Work

The hours of construction, including the delivery of materials to and from the site, shall be restricted as follows:

- (1) between 7:00 am and 6:00 pm, Mondays to Fridays inclusive;
- (2) between 7:00 am and 4:00 pm, Saturdays, if inaudible on residential premises, or between 8:00 am and 4:00 pm, Saturdays, if audible on residential premises;
- (3) no work on Sundays and public holidays.
- (4) Mechanical rock breaking or blasting is to be confined to between 9.00am and 3.30pm Monday to Friday excluding any Public Holiday.

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) relevant mitigation and management measures are included in the approved Noise Management Plan;
- (4) approval is obtained by the Team Leader prior to the carrying out of these works; and
- (5) 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.

D12 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.

D13 Noise Control

All work, including demolition, excavation and building work must comply with Chapter 171 of the NSW EPA's *Noise Control* and Australian Standard AS2436: 1981 *Guide to Noise Control on Construction, Maintenance and Demolition Sites*.

D14 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.

D15 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.

D16 Protection of Trees – On-site Trees

All existing trees on the site outside the envelope of the proposed buildings are to be preserved where practicable in accordance with Tree Management Order No 1/96. Such trees are to be detailed in the Landscape Plan required by condition B27. All trees on the 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.

D17 Dust Control Measures

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

- (1) 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,
- (2) Covers are to be adequately secured,
- (3) Cleaning of footpaths must be carried out regularly,

- (4) Roadways must be kept clean,
- (5) Gates are closed between vehicle movements,
- (6) Gates are fitted with shade cloth,
- (7) The site is hosed down when necessary, and
- (8) Wheel washes shall be installed for all vehicles exiting the site.

Heritage

D18 Heritage Superintendent

Works on heritage components of the site shall be superintended by a consultant(s) experienced in the conservation of similar heritage buildings.

D19 Use of Experienced Tradesmen

Works on heritage components of the site shall be carried out by suitably qualified tradesmen with practical experience in the conservation and restoration of similar heritage buildings.

D20 Impact of Below Ground (Sub-surface) Works – Non-Aboriginal Relics

If any archaeological relics are uncovered during the course of the work, then all works shall cease immediately in that area and the NSW Heritage Office contacted. Depending on the possible significance of the relics, an archaeological assessment and an excavation permit under the NSW *Heritage Act 1977* may be required for further works can be considered in that area.

D21 Impact of Below Ground (Sub-surface) Works – Aboriginal Relics

If any Aboriginal archaeological relics are exposed during construction works, the Applicant shall immediately notify the National Parks and Wildlife Service and obtain any necessary approvals to continue the work. The Applicant shall comply with any request made by the NPWS to cease work for the purposes of archaeological recording.

D22 Equipment and Machinery

The use of any crane, plant or machinery shall comply with RIC electrical safety manual and all relevant RIC standards and guidelines. It must be noted that no crane, plant or machinery is to be operated within three (3) metres (horizontally) of any electrified infrastructure, or with the potential to reach over the rail corridor at any time. Construction equipment such as scaffolding shall not impinge over the rail corridor.

No metal ladders, tapes, scaffolding and plant/machinery, or conductive material are to be used within six (6) metres of any live electrical equipment. This applies to the train pantographs and 1500V catenary, contact and pull off-wires of the adjacent tracks, and to any high voltage aerial supplies within or adjacent to the rail corridor. No metal ladders are to be used in the rail corridor.

Compliance

D23 Compliance Report

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

PART E—PRIOR TO ISSUE OF SUBDIVISION OR STRATA SUBDIVISION CERTIFICATE

Easements

E1 Access

Documentary easements for access must be created over the appropriate lots in the subdivision to provide for public access and access to lifts, lobbies, fire stairs, service areas, loading areas and car parking areas, and created pursuant to Section 88B of the *Conveyancing Act 1919*.

E2 Services

Documentary easements for services, drainage, support and shelter, use of plant, equipment, loading areas and service rooms, repairs, maintenance or any other encumbrances and indemnities required for joint or reciprocal use of part or all of the proposed lots as a consequence of the subdivision, must be created over the appropriate lots in the subdivision pursuant to Section 88B of the *Conveyancing Act 1919*.

E3 Car parking restrictions

The on-site car parking spaces, exclusive of service spaces, are not to be used by those other than an occupant or tenant of the subject building. Any occupant, tenant, lessee or registered proprietor of the development site or part thereof shall not enter into an agreement to lease, license or transfer ownership of any car parking spaces to those other than an occupant, tenant or lessee of the building.

These requirements are to be enforced through the following:

- (1) restrictive covenant placed on title pursuant to Section 88B of the *Conveyancing Act, 1919*,
- (2) restriction on use under Section 68 of the *Strata Schemes (Leasehold Development) Act, 1986* to all lots comprising in part or whole car parking spaces, and
- (3) signs visible at exits (excluding fire stairs and individual unit entries) from car parking areas.

All costs associated with the above requirements are to be borne solely by the applicant.

E4 Common areas and facilities

No right of exclusive use and enjoyment of the whole or any specified part of the designated common area or similar in the approved plans will be conferred on any person or persons without the prior consent of the relevant consent authority.

These requirements are to be made, at no cost to Council or the consent authority, and a restrictive covenant placed on title pursuant to Section 88E of the *Conveyancing Act, 1919*.

PART F—PRIOR TO OCCUPATION CERTIFICATE

F1 Separate Application

A separate Development Application being submitted for the Department's consideration in respect of any specific proposed use of the premises or portion of the premises, including restaurants, hotels, taverns and the like (other than retail or commercial premises as defined) prior to occupation. Pursuant to the provisions of the Newcastle Local Environmental Plan 2003 the following uses are not considered exempt development and require prior development consent:

- (a) premises for the sale, storage or handling of food,
- (b) hairdressing or beauty salons,
- (c) premises for ear piercing, tattooing or other skin-penetrating activities,
- (d) a brothel,
- (e) premises used for the sale or display of publications or objects primarily concerned with sexual activity.

F2 Strata Subdivision

A Strata Subdivision Plan defining the public access provisions associated with the private domain of the development site is to be submitted to the Team Leader and approved prior to the Issue of an Occupation Certificate.

F3 Signage Strategy

An external signage strategy which addresses the provisions of Councils DCP 19 – *Outdoor Advertising Code* is to be submitted to the consent authority as a separate development application and approved prior to the issue of an Occupation Certificate and prior to the placement of any signs.

Engineering

F4 Fire Safety Certificate

A Fire Safety Certificate shall be furnished to the PCA for all the Essential Fire or Other Safety Measures forming part of this approval prior to issue of an Occupation Certificate. A copy of the Fire Safety certificate must be submitted to the consent authority and Council by the PCA.

F5 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 consent authority initial Fire Safety Certificate is received.

F6 Mechanical Ventilation

Following completion, installation and testing of all the mechanical ventilation systems, the applicant shall provide evidence to the satisfaction of the PCA, prior to the issue of the Occupation Certificate, that the installation and performance of the mechanical systems complies with:

- (1) The Building Code of Australia;

- (2) Australian Standard AS1668 and other relevant codes;
- (3) The development consent and any relevant modifications; and,
- (4) Any dispensation granted by the New South Wales Fire Brigade.

F7 Structural Inspection Certificate

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

- (1) The site has been periodically inspected and the Certifier 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.

F8 Road Improvements

All road and public reserve improvement works proposed under DA Number 233-05-2003 are to be completed in accordance with the respective terms of consent prior to issue of an Occupation Certificate for any of the buildings subject to this consent, except in the circumstances where completion is delayed for reasons beyond the reasonable control of the applicant.

Note: As the works in the road reservation require the approval of Council, the applicant is to make best endeavours to ensure that the necessary works are completed within a suitable time frame.

F9 Floodways

All of the floodways on the subject land detailed in the Waterfront and Cottage Creek Flood Management Plan being completed as part of the development and prior to occupation of any of the proposed buildings.

F10 Road Damage

The Applicant is to make good any damage caused to a public road or associated structures, including drains and kerb and gutter, and to private property caused as a result of the works prior to the occupation of the buildings the subject of this development application.

The cost of repairing any damage caused to Council'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 prior to the issue of an Occupation Certificate. All public footways, footpaving, kerbs, gutters and road pavement damaged during the works being restored to match existing conditions at the applicant's expense.

F11 Survey Monuments

Where the proposed development involves the destruction or disturbance of any existing survey monuments, those monuments affected being relocated at no cost to Council by a surveyor registered under the Surveyor's Act.

F12 Redundant Crossings

Any redundant existing vehicular crossings are to be removed at no cost to Council. The public footway and kerb are to be restored to match the existing infrastructure.

F13 Temporary Carpark

Written certification from a practicing geotechnical engineer that the proposed temporary public carpark has been constructed in accordance with the geotechnical requirements is to be submitted to the PCA prior to the operation of the said carpark.

F14 Landscaping

All landscaping works associated with this development are to be completed prior to the issue of the Occupation Certificate.

F15 Landscaping Maintenance

A restriction on title, enforceable under the appropriate legislation, is to be incorporated on the strata plan referred to in condition F2 that:

- (1) Requires the body corporate to continually maintain all landscaping within the private domain of the development;
- (2) Requires the body corporate to replace any landscaping, including trees, that is dead or been removed from the private domain with landscaping of the same maturity as that lost within 3 months of the time it was lost; and
- (3) Allows Council to replace landscaping within the private domain that is dead or has been removed and that Council can recoup the cost for such landscaping replacement from the body corporate.

Such restriction is to stipulate that it may only be released, varied or modified by the Council.

F16 Flooding

A Flood Emergency and Evacuation Management Plan is to be prepared and submitted to the satisfaction of the PCA prior to the issue of the Occupation Certificate. Such plan is to be prepared by a suitably qualified person and is to ensure residents and occupants are aware of flood hazards and emergency procedures.

F17 Road Dedication

The portion of the site required for road widening to facilitate the installation of the roundabout at the intersection of Honeysuckle Drive and the proposed new road (linking Honeysuckle Drive and Wright Lane), being transferred to Council for dedication as road. A suitable survey plan providing for the dedication to be submitted to Council for certification prior to lodgement for registration with the Land and Property Information Office and to be registered prior to occupation of the buildings the subject of this development application. All associated survey and legal work to be undertaken at no cost to Council.

In the event that Council does not accept such dedication the said infrastructure is to be dedicated to the Honeysuckle Development Corporation.

Easements**F18 Common Driveways**

The common driveways being the subject of an appropriate reciprocal right-of-way and the necessary survey plan and accompanying instrument under Section 88B of the Conveyancing Act being registered with the Land Titles Office prior to occupation of the premises, 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.

F19 Easement Registration

The appropriate notation being made on a survey plan and accompanying instrument under Section 88B of the Conveyancing Act setting out the terms of easements, rights of carriageway and rights of public access as required by the development in respect of the following where applicable:

- (1) interallotment drainage lines in favour of upstream properties utilising the lines;
- (2) rights of carriageway in favour of the property serviced;
- (3) easements for services in favour of the property serviced and /or the appropriate utility provider;
- (4) rights of public access in favour of Council; and
- (5) stormwater mains and overland flow paths in favour of Council.

The required survey plan and 88B instrument is to be submitted to Council for certification and registered with the Land and Property Information Office prior to occupation of the premises. Council is to be a party whose consent is needed to release or vary easements.

Prior to the issue of an Occupation Certificate, the applicant shall provide to the PCA evidence that all easements required by this consent, approvals, and other consents have been or will be registered on the certificates of title.

F20 Road Easement

The appropriate notation being made on a survey plan and accompanying instrument under Section 88B of the Conveyancing Act dedicating the proposed new road (linking Honeysuckle Drive and Wright Lane) as public road and setting out the terms of easements, rights of carriageway and rights of public access as required in association with the development in respect of the following where applicable:

- (1) interallotment drainage lines in favour of upstream properties utilising the lines;
- (2) rights of carriageway in favour of the property serviced;
- (3) easements for services in favour of the property serviced and /or the appropriate utility provider;
- (4) rights of public access in favour of Council; and
- (5) stormwater mains and overland flow paths in favour of Council.

Note: The required survey plan and 88B instrument is to be submitted to Council for certification and registered with the Land & Property Information Office.

Council is to be a party whose consent is needed to release or vary easements.

F21 Parking Easement

Any car parking spaces, as identified in the car parking allocation plan in condition B20, that are to be provided within the basement carparking area of Buildings A1 and A2 for use in association with the proposed serviced apartments within Building B7 and such being the subject of caveat to be registered as a positive covenant against the Title of the land.

(Note: The required positive covenant is to stipulate that it may only be released, varied or modified with the concurrence of Council, is to be ratified by Council's Solicitors and is to be

registered with the Land Titles office prior to occupation of the premises. All costs in this regard are to be borne by the Applicant.)

Energy Efficiency

F22 Energy Star Rating

All white goods installed by the applicant within the premises are to have an energy star rating of 3 stars or more (excluding clothes dryers which are to have a rating of 2.5 stars or more). Prior to the issue of an Occupation Certificate, the Applicant shall submit to the PCA a statement demonstrating compliance with the requirements of this condition.

Water Conservation

F23 Water Conservation Devices

The development shall include water-saving devices such as low consumption dishwashers and washing machines, dual flush toilets, AAA-rated shower heads and tap aerators. Prior to the issue of an Occupation Certificate, the Applicant shall provide to the PCA evidence demonstrating that such measures have been incorporated.

Remediation

F24 Site Audits

Upon completion of the remediation works on the site, the Applicant shall submit a detailed Site Audit Summary Report and Site Audit Statement and Validation Report to the Director. The site audit must be prepared in accordance with the *Contaminated Land Management Act 1997* and completed by a site auditor accredited by the Environmental Protection Agency to issue site audit statements. The site audit must verify that the land is suitable for the proposed uses.

Mail Services

F25 Mail Box

A group type mailbox being provided at the street frontage in accordance with the requirements of Australia Post such to clearly display individual unit numbers and the required house number.

PART G—POST OCCUPATION

Fire Safety

G1 *Annual Fire Safety Certification*

The owner of the building shall certify to Council every year that the essential services installed in the building 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 persons in the building in the event of fire and for the prevention of fire, the suppression of fire and the prevention of spread of fire.

Traffic and Parking

G2 *Unobstructed Driveways and Parking Areas*

All driveways, parking areas, manoeuvring areas, service bays, ramps and the like shall be unobstructed at all times. Such areas shall not be used for the manufacture, storage or display of goods, waste materials or any other equipment and shall be used solely for vehicular access, the parking of vehicles or loading and unloading associated with the use of the premises.

G3 *Vehicular Access*

Signs shall be exhibited in a prominent location on the site advising that all vehicles entering or leaving the site are to be driven in a forward direction at all times.

G4 *Noise Control – Music and Entertainment*

Any recorded music, live music or other entertainment played or provided within the premises shall be controlled to comply with the requirements of the *Environmental Noise Control Manual* (1985) and the *Protection of the Environment Operations Act, 1997*. Noise shall not exceed 5dB(A) above the background noise level when measured at the boundary of the nearest residential property.

G5 *Noise Control – Plant and Machinery*

Noise associated with the operation of any plant, machinery or other equipment on the site, shall not exceed 5dB(A) above the background noise level when measured at the boundary of the site.

G6 *Lighting*

Any proposed floodlighting of the premises is to be positioned, directed and shielded as to not interfere with traffic safety or detract from the amenity of the adjacent premises.

G7 *Landscaping*

A Landscape Establishment Report is to be submitted to the PCA following the completion of a 3 month maintenance period after the issue of the Occupation Certificate verifying that satisfactory maintenance of the landscape works has been undertaken and any necessary mitigation measures have been undertaken to the necessary professional standards.

G8 *Flooding*

The appropriate recommendations of the Flood Emergency Evacuation and Management Plan are to be implemented such that all residents and occupants are aware of the procedures to take place in flood events.

G9 *Flood Warning Sign*

A flood warning sign (or signs) of suitable material is to be displayed in prominent locations within areas subject to inundation advising that the area may be subject to inundation during flood events.

Hazardous Materials**G10 *Storage of Hazardous or Toxic Material***

Any hazardous or toxic materials must be stored in accordance with Workcover Authority requirements and all tanks, drums and containers of toxic and hazardous materials shall be stored in a bunded area. The bund walls and floors shall be constructed of impervious materials and shall be of sufficient size to contain 110% of the volume of the largest tank plus the volume displaced by any additional tanks within the bunded area.

G11 *Waste Materials*

Adequate facilities are to be provided in an appropriately screened location within the premises for the separate storage of recyclable and non-recyclable material, and arrangements being made for regular removal and disposal of same.

Public Access**G12 *Public Way to be Unobstructed***

The public way must not be obstructed by any materials, vehicles, refuse, skips or the like, under any circumstances.

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PART H—GENERAL TERMS

Heritage Council

H1 Section 60 and 140 Applications

Applications under sections 60 and 140 of the Heritage Act are to be submitted to and approved by the Heritage Council prior to the commencement of construction or excavation for those parts of the site within and outside the boundaries of the State Heritage Register listing respectively.

H2 Tree Protection

The Norfolk Island Hibiscus tree located near the western end of the former Divisional Engineer's Office is to be protected from harm at all times during construction.

H3 Tree Planting

The proposed planting between the car park entry under Building B7 and the heritage item to the east should be designed in consultation with the owner and occupier of the adjoining land to screen the proposed car park entry but not intrude on view lines to the heritage building and from Wright Lane to Hunter Square and to have regard to the location of the Norfolk Island Hibiscus tree on the adjoining site.

H4 Façade Details

Details of the façade materials and colour treatments of the southern and eastern elevations of Building B1 are to be submitted to the Heritage Council with the section 60 applications for those buildings which provide a solid base to those buildings and have a satisfactory relationship with the former Divisional Engineer's Office and Boiler House and Machine Shop.

H5 Excavation

Excavation which extends below the level of the base of the footings of the adjacent heritage items must protect the items from damage and if necessary support the buildings in a manner approved by the PCA.

H6 Vibration Monitoring

Vibration and structural monitoring is to be undertaken during critical and sensitive phases of the excavation and foundation construction to ensure that site conditions do not lead to vibration levels that could have a detrimental impact on the structural fabric of the heritage items.

H7 Archaeological Research Design

An Archaeological Research Design is to be submitted to the Heritage Council in conjunction with the applications to be lodged under sections 60 and 140 of the Heritage Act which must include a comprehensive mitigation strategy in relation to:

- (1) subsurface disturbance for landscaping, grading and temporary work; and
- (2) the use of heavy machinery so that the proposed works do not directly impact on the areas immediately adjacent to the site boundary, as they are likely to contain significant archaeological remains associated with the Monier Sea Wall and other rare foreshore remains.

H8 *Approved Excavation*

The approved excavation must be carried out under the direction of a nominated Excavation Director and in accordance with the approved Archaeological Research Design.

H9 *Site Access for Archaeological Purposes*

The Applicant must ensure that the Excavation Director and team are given sufficient time and access to the site to complete their work to the satisfaction of the Director of the NSW Heritage Office. If necessary, conflicting work schedules shall be adjusted to accommodate the archaeological excavation works.

H10 *Excavation Procedures*

Throughout the archaeological excavation works and post-excavation analysis, the applicant must ensure that:

- (1) Appropriate signage to explain the history of the site and the archaeological excavation works is placed at the site during any archaeological excavation;
- (2) A local public information program is implemented including press releases to ensure the public is informed about the project and its outcomes;
- (3) The services of a conservator must be utilised for conservation of significant artefacts; and
- (4) The NSW Heritage Office is to be notified, in writing, at least once a month of the progress of work during excavation and during post excavation analysis.

H11 *Site Induction*

As part of a detailed site specific induction, all personnel involved in any demolition and excavation works are required to attend a comprehensive briefing on the requirements of the NSW Heritage Act, 1977 in relation to archaeological relics and the need for compliance with the proposed archaeological program approved as part of the s.60 application. Location maps of any potential archaeological sites must be distributed to all personnel and a signed record of attendance sheet created.

H12 *Additional Relics*

The nominated Excavation Director must immediately contact the NSW Heritage Office when relics not identified in 'Lee Wharf Newcastle Heritage Impact Statement' prepared by Godden Mackay Logan (2003) are disturbed by construction work on site.

H13 *Interpretation Strategy*

At the completion of archaeological works, the results of the archaeological program are to be interpreted within the completed redevelopment of the site. This interpretation strategy must outline how the archaeological results will be publicly interpreted and is required to be submitted to the Director of the NSW Heritage Office for approval and then implemented to the satisfaction of the Director of NSW Heritage Office.

H14 *Interpretation Strategy Requirements*

The required interpretation strategy must help the public understand the history and significance of the site and must include recommendations regarding the display of selected artefacts and other relevant material to help achieve this and a multimedia strategy. The interpretation strategy should include opportunities to interpret the technology used and adapted on site during the various periods of occupation as well as opportunities to describe the site within a wider State context and its impacts and contributions to associated industries. The alignment of former shorelines and seawalls, pre-railway occupation of the

site including Aboriginal occupation, and the former rail usage of the site are to be recognised by the Interpretation Strategy.

H15 Submission of Draft Interpretation Strategy

The draft Interpretation Strategy is to be submitted to the NSW Heritage Office for comment within one month of the completion of excavation works on site.

H16 Interpretation Strategy Implementation

The Interpretation Strategy is to be implemented to the satisfaction of the Director of the NSW Heritage Office prior to the release of any occupation certificate for the development.

H17 Protection of Turntable

The former turntable in the vicinity of Wright Lane is to be protected from harm and conserved in-situ before, during and after grading, landscaping and car park construction.

H18 Preservation of Rail Lines

The existing rail lines servicing the former wharf structures are to be retained and conserved as far as practical within the proposed park.

H19 Notification

The NSW Heritage Office must be informed of the commencement and completion of the archaeological program at least 5 days prior to the commencement and within 5 days of the completion of work on site.

H20 Relic Safe Keeping

The applicant is responsible for the safe-keeping of all relics recovered from the site.

H21 Artefact Logging

The applicant must ensure that the Excavation Director cleans, stabilises, identifies, labels, catalogues and stores any artefacts uncovered from the site in a way that allows them to be retrieved according to both type and provenance.

H22 Record Inspection

The Heritage Council of NSW and the NSW Heritage Office reserve the right to inspect the site and records at all times and access any relics recovered from the site.

H23 Final Archaeological Report

In accordance with section 146(b) of the NSW Heritage Act, 1977, the Applicant must ensure that a final archaeological report is prepared by the nominated Excavation Director, to publication standard, within one (1) year of the conclusion of the project unless an extension of time is approved by the Director of the NSW Heritage Office. Two copies of this report must be submitted to the NSW Heritage Office. One electronic copy must also be submitted to the NSW Heritage Office. A further copy must be lodged in the local library or another appropriate local repository in the area in which the site is located.

H24 Final Report Contents

The Heritage Council of NSW requires that the final report shall include:

- (1) An executive summary;
- (2) Due credit to the client undertaking the excavation on the title page;
- (3) An accurate site location and site plan;

- (4) Historical research, references, and bibliography;
- (5) An archival photographic recording of the site prior to and during the archaeological investigation;
- (6) Detailed information on the excavation including the aim, the context for the excavation, procedures, post-excavation analysis, treatment of artefacts (such as cleaning, conserving, sorting, cataloguing, labelling, and scale drawings);
- (7) Nominated repository for the artefacts;
- (8) Detailed response to research questions; and
- (9) Details of how this information about the excavation has been publicly disseminated.

H25 Aboriginal Artefacts

If any Aboriginal relics are uncovered, excavation or disturbance of the area is to stop immediately and the National Parks and Wildlife Service is to be informed in accordance with Section 91 of the National Parks and Wildlife Act, 1974.

Mine Subsidence Board

H26 Final Drawings

The final drawings being submitted prior to the commencement of construction, which contains a certification from a qualified structural engineer that the improvements constructed meet the specifications of such final drawings and will be safe serviceable and repairable taking into account the following subsidence parameters;

- | | |
|---------------------------------|---------|
| (1) Maximum vertical subsidence | 100mm |
| (2) Maximum ground strains | ±1mm/m |
| (3) Maximum tilt | 2.4mm/m |

In confirming the above subsidence parameters, the Board considers that any subsidence effecting the above structures, particularly ground strains, would not be of a uniform nature and as such require rounding up to ± 1mm/m

H27 Survey Marks

Permanent Survey marks are to be established on each of the buildings following their completion. Surveys shall be undertaken on these points at three (3) monthly intervals during the first 12 months and at six (6) monthly intervals during the second 12 months.

The location of all permanent survey points and survey results shall be provided to the Mine Subsidence Board.

Waterways Authority**H28 Part 3A Permit**

The Waterways Authority has advised that a Part 3A Permit would **not** be required for this proposed development provided that all of the following requirements are met:

- (1) The proposed works are carried out so that:
 - (a) 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
 - (b) 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 & 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 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 screens and barriers may be required when carrying out particular works.
- (8) Material to be used as fill is to be clean and free from any contaminants.
- (9) Foreshore landscaping is to be comprised of locally indigenous species, which represent the original plant communities that would have been found along the shoreline in the vicinity of the subject land.

ADVISORY NOTES

AN1 Hunter Water Requirements

The Applicant shall obtain from Compliance Certificate from Hunter Water under section 50 of the Hunter Water Act 1991.

The section 50 Certificate must be submitted to the consent authority prior to the issue of a Subdivision Certificate and/or Occupation Certificates, where relevant, under Part 4A of the Environmental Planning and Assessment Act 1979.

AN2 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, WorkCover 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 PCA prior to the issue of the Construction Certificate.

AN3 Access to Rail Facilities

Should access to the rail corridor, or its easements prior to entering into an Access Deed with StateRail, as referred to in condition C21, the Applicant is required to enter into a release and Indemnity Agreement, which will cover all rail parties whilst work is carried out within or adjacent to the rail corridor.

AN4 Compliance with Building Code of Australia

All building work must be carried out in accordance with the provisions of the BCA. The applicant is advised to consult with the PCA about any modifications needed to comply with the BCA prior to submitting the application for a Construction Certificate.

AN5 Structural Capability for Existing Structures

The structural capabilities of an 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 fence or structure is to comply with the Construction Safety Act 1912 and Regulation 1950. Notice of intention of commencement must be given to Workcover.

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 PCA:

- (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 PCA 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 Application under Part 4A of the Act

An application under Part 4A of the Act shall be submitted to the consent authority along with a plan of subdivision prepared by a registered surveyor, for certification prior to the issue of the Subdivision Certificate.

AN11 Other Details Required prior to Issue of Subdivision Certificate

Where required, the applicant shall submit to the satisfaction of the consent authority, the following information, prior to the issue of the Subdivision Certificate:

- (1) Documentary evidence of the payment of the open space/ community facility/ transport and access contribution(s),
- (2) An Occupation Certificate, and
- (3) Documentary evidence that the property has been developed in accordance with all relevant development consents applicable to the subdivision and of compliance (or a Compliance Certificate) with the conditions of those consents.

AN12 Application under Section 37 of Strata Titles (Freehold Development) Act, 1973

Section 37 of the *Strata Titles (Freehold Development) Act, 1973* requires an application to be submitted to the consent authority for approval prior to the issue of the certified strata plan of subdivision.

AN13 Remediation and Validation Report

Following the completion of remediation works on the site a Remediation and Validation Report is to be prepared by a suitably qualified environmental consultant. This report, together with a final site audit statement by an Environmental Protection Agency accredited environmental consultant, including Notice of Completion statement, pursuant to clauses 17(2) and 18 of *State Environmental Planning Policy No.55—Remediation of Land*, is to be submitted to the satisfaction of the consent authority prior to occupation of the building.

AN14 Street Numbering

Street numbers and the building name(s), if any, will need to be clearly displayed at either end of the ground level frontages in accordance with Council's requirements (listed under), prior to the occupation of the building(s) or commencement of the use.

The minimum numeral heights shall be -

- (1) Exterior of the building and individual suites, flats or units = 75 mm.
- (2) Group mailbox: house number = 150 mm; suite number = 50 mm.

If street numbers, or a change to street numbers, are required, a separate application shall be made to Council.

AN15 Place of Public Entertainment

The applicant will be required to obtain approval for the use of the premises as a "Place of Public Entertainment" under the provisions of the *Local Government Act, 1993*. The applicant shall provide evidence of receipt of the approval to the satisfaction of the PCA prior to the occupation of the building(s) or commencement of the use.