

ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

DETERMINATION OF DEVELOPMENT APPLICATION NO. 232-05-2003

(FILE NO. S03/01611)

CONSTRUCTION OF NEWCASTLE FORESHORE PROMENADE – “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;
- (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 relevant environmental standards are met during the construction and operation of the development;
- (11) To ensure public safety and health is not compromised during construction and operation of the development;
- (12) To assist Council in the provision of Community Facilities and Infrastructure;
- (13) To ensure appropriate amenity, safety and health for residents and occupants of the development;
- (14) To indicate other approvals required for the development; and
- (15) 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:	232-5-2003
On land comprising:	Part Lot 51 DP 1036132. Honeysuckle Drive, Newcastle
For the carrying out of:	Development described in Condition A1, Part A, Schedule 2
Estimated Cost of Works	\$2,249,651
Type of development:	Integrated Development Advertised Development
S.119 Public inquiry held:	No
Approval Body / Bodies:	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. 232-05-2003***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.

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. 232-05-2003 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).

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

SCHEDULE 2 –**THE CONDITIONS OF CONSENT (INCLUDING ADVISORY NOTES)****DEVELOPMENT APPLICATION NO. 232-05-2003****PART A—ADMINISTRATIVE CONDITIONS****A1 Development Description**

Development consent is granted only to carrying out of a Public Domain Works as described in detail below:

- (1) Continuous Newcastle Harbour Foreshore Promenade with minimum 8 metre width.
- (2) Demolition of existing dilapidated remnants of wharf structure and sea wall.
- (3) 4 metre wide timber boardwalk.
- (4) 3 metre wide timber pontoon/floating walkway.
- (5) Landscaping of Public Open Space.

A2 Development in Accordance with Plans

The development shall be generally in accordance with development application number 232-05-2003 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
ADAZ1002	E	Podium Ground Floor Plan	16.02.04
ADAZ1022	A	Podium Site A Revised Floor Plan	24.10.03
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	—	Development Application Site Plan Showing Existing Lot Boundaries	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.
Lee Wharf Park, Newcastle Heritage Impact Statement prepared by Godden Mackay Logan dated June 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

Heritage Considerations

Additional details are required as to the recommendations contained in the Lee Wharf Park, Newcastle Heritage Impact Statement prepared by Godden Mackay Logan dated June 2003 in regard to the following matters:

- (1) Further consideration of the re-use of the timber from the wharves in respect of the proposed promenade and boardwalk.
- (2) Further consideration of the detailed treatment/conservation of the truncated ends of the existing timber wharf structure, where it abuts the proposed new timber deck in respect of the proposed promenade and boardwalk.

Such information is to be provided within a report prepared by a suitably qualified heritage professional that considers and assesses various alternative treatments. These details are to be submitted to and approved by the Team Leader prior to the issue of a Construction Certificate.

Promenade Construction

- (3) The proposed promenade deck is to be constructed of similar materials to that used at Merewether Wharf, including materials that will achieve a useful life of 50 years, with appropriate maintenance.

Details are to be provided to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate.

B2 Preservation of Rail Lines

The existing rail lines servicing the former wharf structures are to be retained and conserved as far as practical. Details of such conservation shall be submitted to and approved by the Team Leader prior to the issue of a Construction Certificate

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 the Team Leader, prior to the issue of a Construction Certificate.

B4 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 Certifying Authority prior to the issue of a Construction Certificate.

B5 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.

Remediation

B6 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 covered by such a Remedial Action Plan or Site Audit Statement.

B7 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.

B8 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.

B9 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

Landscaping

B10 Landscape Plan

A detailed landscape complying with the provisions of DCP 40 – City West shall be submitted to and approved by the Team Leader prior to the issue of a Construction Certificate incorporating the following:

- (1) Advanced tree planting being undertaken within structural soil vaults in the Foreshore Promenade on the southern side of the promenade as occurs elsewhere in the locality.

Evidence of consultation with Council's Landscape Architect and Council's response is required to accompany the submitted revised plan.

Engineering Works

B11 Stormwater and Drainage Works Design

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.

B12 Design of Wharf Structures

A report and design plans prepared by a suitably qualified practicing Hydrological Engineer shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate that indicates that the proposed Wharf Structure, including the proposed pontoon, has been designed in accordance with all relevant standards. The report should address but not be limited to:

- (1) An assessment of the impacts of flood and storm events on the structures;
- (2) The impacts of Port activities, such as shipping and tug boat wash on the structures; and
- (3) Verification of the anticipated life of the structures.

B13 Pavement Design

The proposed pavement treatment along the public promenade being designed to cater for emergency and maintenance vehicles in accordance with relevant emergency authorities and Council requirements. Separate approval for the design is to be obtained from the relevant authorities and submitted with the application for a Construction Certificate.

Compliance

B14 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 B7),
- (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.

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 Department 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 measures in condition B7.

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 Heritage Act Applications**

Applications under section 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 outside the boundaries of the State Heritage Register listing.

C12 Archaeological Research Design

An Archaeological Research Design is to be submitted to the Heritage Council in conjunction with the applications to be lodged under section 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 Seawall and other rare foreshore remains.

C13 *Archival Record*

A full archival quality record being prepared, focussing on the wharves, wharf piles, the Monier seawall, and the setting of the physical features within the curtilage of the Lee Wharf buildings. The required record is to be prepared prior to any disturbance of the site, is to include measured drawings of the timber wharves and is to follow the methodology prescribed by the NSW Heritage Office in the publication entitled '*A Guide to Archival Recordings*'.

C14 *Seawall Survey*

The extent of the Monier Sea Wall being established by survey and the configuration of the proposed piles arranged to avoid this wall.

C15 *Seawall Monitoring*

The remnants of the Monier Sea Wall, if surviving, be monitored and carefully avoided during construction.

C16 *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.

C17 *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.

C18 *Subsurface Disturbance*

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

C19 *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**C20 *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.

C21 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**C22 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.

C23 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**C24 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.

Compliance**C25 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) Remedial Action Plans that have been prepared by accredited site auditors for the land;
- (2) The terms of Development Consent No. 450-10-2003;
- (3) The Environmental Management Plan for the Honeysuckle Development Area, prepared by AGC Woodward-Clyde Pty Ltd, dated 14 January 1999; and/or
- (4) 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 works 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 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.

D8 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.

D9 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.

D10 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.

D11 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.

D12 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*.

D13 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.

D14 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**D15 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.

D16 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.

D17 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.

D18 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.

D19 Additional Relics

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

D20 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.

D21 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.

D22 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.

D23 Relic Safe Keeping

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

D24 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.

D25 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.

Compliance***D26 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**

There are no conditions applicable to this part.

PART F—PRIOR TO OCCUPATION CERTIFICATE

F1 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.

F2 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.

F3 Berthing Facility

Prior to the issue of an Occupation Certificate, the Applicant shall submit to the Team Leader a Management Plan for the berthing facility associated with the proposed pontoon. Such a plan is to detail responsibilities associated with the management and public liability of the facility.

F4 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.

F5 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.

F6 Landscaping

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

Remediation

F7 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.

Heritage

F8 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.

F9 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.

F10 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.

F11 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.

PART G—POST OCCUPATION

G1 *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.

G2 *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.

G3 *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.

G4 *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.

Hazardous Materials

G5 *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.

Public Access

G6 *Public Way to be Unobstructed*

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

Heritage

G7 *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.

G8 *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.

Compliance**G9 *Compliance Report***

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

PART H—GENERAL TERMS

Mine Subsidence Board

H1 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

H2 Part 3A Permit

The works to which these general terms of approval apply are not to commence until such time as the Waterways Authority has issued a Part 3A Permit under the Rivers and Foreshores Improvement Act 1948.

H3 Deposition of Material

The works are to be carried out so that:

- (1) 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
- (2) No materials are likely to be carried by natural forces to the bed, shore or waters of the Hunter River.

Any material that does enter the Hunter River must be removed immediately.

H4 Best Practice

Best practice methods shall be adopted for the on-site control of runoff, sediment and other pollutants during, and post, construction.

H5 Construction Methods

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 requirements.

H6 Sediment Control

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.

H7 Sediment Control Maintenance

The proposed 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 the site no longer acts as a source of sediment or pollution.

H8 Material Stockpiling

Any material that is to be stockpiled on site is to be stabilised and covered to prevent erosion or dispersal of the material.

H9 *Erosion Sediment Control Plan*

A plan to manage erosion, sedimentation and other pollutants during demolition and construction works is to be prepared by suitably qualified person and submitted to the Waterways Authority prior to a Part 3A Permit being issued. In particular, the methods to be implemented to manage the possibility of materials entering the waters of the Hunter River.

H10 *Construction Management Plan*

Limited information has been provided on construction methods and site management during the construction period, in particular the methods to be used for construction and design of the wharf (i.e. piling methods). A comprehensive 'Construction Management Plan' detailing methods to be used during the process and management for the site is to be submitted to the Waterways Authority prior to the issue of a Part 3A Permit.

H11 *Seawall Works*

Detailed information outlining any works to be undertaken to the Seawall, are to be submitted to the Waterways Authority prior to a Part 3A Permit being issued.

H12 *Works Below Mean High Water Mark*

No works are to be undertaken on land owned by the Waterways Authority (i.e. below MHW) without the relevant approvals being granted by the Authority.

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 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.

AN4 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.

AN5 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.

AN6 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) Structural concrete, including placing of reinforcement and formwork prior to pouring,
- (4) Structural beam and column framing, and
- (5) 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.

AN7 Noise Generation

Any noise generated during the construction of the development shall not exceed the limits specified in the *Protection of the Environment Operations Act, 1997* or exceed approved noise limits for the site.

AN8 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.