

Development Consent

Section 4.38 of the Environmental Planning and Assessment Act 1979

As the Minister for Planning and Public Spaces, I approve the Development Application referred to in Schedule 1, subject to the conditions specified in Schedule 2.

Anthea Sargeant
Executive Director
Key Sites and Regional

Sydney

2021

File: SF19/108608

SCHEDULE 1

Application Number:

SSD 10378

Applicant:

DOMA HOLDINGS (HONEYSUCKLE) PTY LTD

Consent Authority:

Minister for Planning and Public Spaces

Site:

42 Honeysuckle Drive, Newcastle

Lot 22 DP 1072217

Development:

Construction of a mixed-use commercial development including:

- 187 hotel rooms
- 5,442 m² of commercial office space
- A café and gym
- a licenced bar and outdoor terrace
- 177 car parking spaces
- associated landscaping.

DEFINITIONS

Applicant	DOMA HOLDINGS (HONEYSUCKLE) PTY LTD or any person carrying out any development to which this consent applies
BCA	Building Code of Australia
BC Act	<i>Biodiversity Conservation Act 2016</i>
Certifying Authority	A person who is authorised by or under section 6.17 of the EP&A Act to issue Part 6 certificates
Conditions of this consent	Conditions contained in Schedule 2 of this document
Construction	The demolition and removal of buildings or works, the carrying out of works for the purpose of the development, including bulk earthworks, and erection of buildings and other infrastructure permitted by this consent.
Council	City of Newcastle Council
Day	The period from 7 am to 6 pm on Monday to Saturday, and 8 am to 6 pm on Sundays and Public Holidays
Demolition	The deconstruction and removal of buildings, sheds and other structures on the site
Department	NSW Department of Planning, Industry and Environment
Development	The development described in the EIS and Response to Submissions, including the works and activities comprising construction and operation, as modified by the conditions of this consent.
EIS	The Environmental Impact Statement titled “ <i>Environmental Impact Statement – Construction of a mixed use development including commercial / retail uses and hotel accommodation</i> ”, prepared by KDC dated February 2020, submitted with the application for consent for the development, including any additional information provided by the Applicant in support of the application
ENM	Excavated Natural Material
Environment	Includes all aspects of the surroundings of humans, whether affecting any human as an individual or in his or her social groupings
EPA	NSW Environment Protection Authority
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
EPL	Environment Protection Licence under the POEO Act
Feasible	Means what is possible and practical in the circumstances
Incident	An occurrence or set of circumstances that causes or threatens to cause material harm and which may or may not be or cause a non-compliance Note: “material harm” is defined in this consent
Land	Has the same meaning as the definition of the term in section 1.4 of the EP&A Act
Material harm	Is harm that: <ul style="list-style-type: none"> involves actual or potential harm to the health or safety of human beings or to the environment that is not trivial, or results in actual or potential loss or property damage of an amount, or amounts in aggregate, exceeding \$10,000, (such loss includes the reasonable costs and expenses that would be incurred in taking all reasonable and practicable measures to prevent, mitigate or make good harm to the environment)
Minister	NSW Minister for Planning and Public Spaces (or delegate)
Non-compliance	An occurrence, set of circumstances or development that is a breach of this consent
OEH	NSW Office of Environment and Heritage
Operation	The use of the building upon completion of construction.
PA	Means a planning agreement within the meaning of the term in section 7.4 of the EP&A Act.

Planning Secretary	Planning Secretary under the EP&A Act, or nominee
POEO Act	<i>Protection of the Environment Operations Act 1997</i>
Reasonable	Means applying judgement in arriving at a decision, taking into account: mitigation benefits, costs of mitigation versus benefits provided, community views, and the nature and extent of potential improvements.
Response to submissions	The Applicant's response to issues raised in submissions received in relation to the application for consent for the development under the EP&A Act.
RMS	NSW Roads and Maritime Services

DRAFT

SCHEDULE 2

PART A ADMINISTRATIVE CONDITIONS

OBLIGATION TO MINIMISE HARM TO THE ENVIRONMENT

- A1. In addition to meeting the specific performance measures and criteria in this consent, all reasonable and feasible measures must be implemented to prevent, and if prevention is not reasonable and feasible, minimise, any material harm to the environment that may result from the construction and operation of the development, and any rehabilitation required under this consent.

TERMS OF CONSENT

- A2. The development may only be carried out:
- (a) in compliance with the conditions of this consent;
 - (b) in accordance with all written directions of the Planning Secretary;
 - (c) in accordance with the EIS, Response to Submissions and additional information;
 - (d) in accordance with the management and mitigation measures
 - (e) in accordance with the approved plans in the table below:

Architectural Drawings prepared by BatesSmart			
Drawing No.	Revision	Name of Plan	Date
A.03.1000	6	General Arrangement Plan Ground- Café/Gym	08.12.20
A.03.1010	5	General Arrangement Plan Ground- 1 st Floor- Hotel / Office Podium	18.09.20
A.03.1020	5	General Arrangement Plan Ground- 2 nd Floor – Hotel/Office Podium	18.09.20
A.03.1030	5	General Arrangement Plan Ground- 3rd Floor – Parking	18.09.20
A.03.1040	5	General Arrangement Plan Ground- 3 rd Floor- Hotel/Office	08.12.20
A.03.1041	5	General Arrangement Plan Ground- 4 th Floor- Hotel/Office Tower	08.12.20
A.03.1050	5	General Arrangement Plan Ground- 5 th Floor- Hotel/Office Tower	08.09.20
A.03.1060	5	General Arrangement Plan Ground- 6 th Floor- Hotel/Office Tower	08.09.20
A.03.1070	5	General Arrangement Plan Ground- 7 th Floor- Hotel/Office Tower	08.09.20
A.03.1080	5	General Arrangement Plan Ground- 8 th Floor- Hotel/Office Tower	08.09.20
A.03.1090	6	General Arrangement Plan- 9 th Floor- Hotel Roof/Plant	08.12.20
A.07.001[5]	5	North Elevation	08.12.20
A.07.002[5]	5	West Elevation	08.12.20
A.07.003[5]	5	East Elevation	08.12.20
A.07.004[5]	5	South Elevation	08.12.20
A.07.005[4]	4	West Commercial Elevation	08.12.20
A.07.006[4]	4	East Hotel Elevation	08.12.20
A.08.001[6]	6	Section AA-BB	08.12.20

A.08.002[5]	5	Section BB-CC	08.12.20
A.08.003[5]	5	Section DD	08.12.20
Landscape Plans prepared by Terras Landscape Architects			
Drawing No.	Revision	Name of Plan	Date
L100	A	Landscape Plan, LG	21/10/20
L101	A	Green Wall System, L1:L4	21/10/20
L102	A	Awning, L1	21/10/20
L103	A	Bar Terrace, L3	21/10/20
L104	A	Courtyard, L4	21/10/20
L301	A	Planting	21/10/20

- A3. Consistent with the requirements in this consent, the Planning Secretary may make written directions to the Applicant in relation to:
- (a) the content of any strategy, study, system, plan, program, review, audit, notification, report or correspondence submitted under or otherwise made in relation to this consent, including those that are required to be, and have been, approved by the Planning Secretary; and
 - (b) the implementation of any actions or measures contained in any such document referred to in condition A3(a).
- A4. The conditions of this consent and directions of the Planning Secretary prevail to the extent of any inconsistency, ambiguity or conflict between them and a document listed in condition A2(c). In the event of an inconsistency, ambiguity or conflict between any of the documents listed in condition A2(c), the most recent document prevails to the extent of the inconsistency, ambiguity or conflict.

SURRENDER OF EXISTING CONSENTS OR APPROVALS

- A5. Within 12 months of the date of commencement of development to which this consent applies, or within another timeframe agreed by the Planning Secretary, the Applicant must surrender the existing development consent dated 25 June 2019 for SSD 8440 in accordance with the EP&A Regulation.
- A6. Upon the commencement of development to which this consent applies, and before the surrender of existing development consents or project approvals required under condition A5, the conditions of this consent prevail to the extent of any inconsistency with the conditions of those consents or approvals.

Note: This requirement does not extend to the surrender of construction and occupation certificates for existing and proposed building works under the former Part 4A of the EP&A Act or Part 6 of the EP&A Act as applies from 1 September 2018. The surrender should not be understood as implying that works legally constructed under a valid consent or approval can no longer be legally maintained or used.

LAPSING OF APPROVAL

- A7. This consent will lapse five years from the date of the consent unless the works associated with the development have physically commenced.

LIMITS ON CONSENT

- A8. This consent does not approve:
- (a) fit-out works for the commercial, gym, bar or cafe
 - (b) signage
 - (c) demolition of existing buildings, structures and tree removal.

Separate development application(s) must be lodged and consent obtained for the above works and uses (except where exempt and complying development applies).

PRESCRIBED CONDITIONS

- A9. The Applicant must comply with all relevant prescribed conditions of development consent under Part 6, Division 8A of the EP&A Regulation.

LONG SERVICE LEVY

- A10. For work costing \$25,000 or more, a Long Service Levy must be paid. For further information please contact the Long Service Payments Corporation on their Helpline 13 1441.

EVIDENCE OF CONSULTATION

- A11. Where conditions of this consent require consultation with an identified party, the Applicant must:
- (a) consult with the relevant party prior to submitting the subject document to the Planning Secretary for approval; and
 - (b) provide details of the consultation undertaken including:
 - (i) the outcome of that consultation, matters resolved and unresolved; and
 - (ii) details of any disagreement remaining between the party consulted and the Applicant and how the Applicant has addressed the matters not resolved.

EASEMENTS

Within 12 months after the date of this consent, an easement under section 88A and restriction or public positive covenant under section 88E of the *Conveyancing Act 1919* naming the Council as the prescribed authority, which can only be revoked, varied or modified with the consent of the Council, and which provides for drainage of water for the proposed development being minimum 3.0m wide over the existing stormwater pipeline leading from the property to Cottage Creek must be registered on title of Lot 22 DP 1072217.

STRUCTURAL ADEQUACY

- A12. All new buildings and structures, and any alterations or additions to existing buildings and structures, that are part of the development, must be constructed in accordance with
- (a) the relevant requirements of the BCA;
 - (b) any additional requirements of the Subsidence Advisory NSW where the building or structure is located on land within a declared Mine Subsidence District.

Notes:

- Under Part 6 of the EP&A Act, the Applicant is required to obtain construction and occupation certificates for the proposed building works.
- Part 8 of the EP&A Regulation sets out the requirements for the certification of the development.
- Under section 21 of the Coal Mine Subsidence Compensation Act 2017, the Applicant is required to obtain the Chief Executive of Subsidence Advisory NSW's approval before carrying out certain development in a Mine Subsidence District.

OPERATION OF PLANT AND EQUIPMENT

- A13. All plant and equipment used on site, or to monitor the performance of the development must be:
- (a) maintained in a proper and efficient condition; and
 - (b) operated in a proper and efficient manner.

APPLICABILITY OF GUIDELINES

- A14. References in the conditions of this consent to any guideline, protocol, Australian Standard or policy are to such guidelines, protocols, Standards or policies in the form they are in as at the date of this consent.
- A15. However, consistent with the conditions of this consent and without altering any limits or criteria in this consent, the Planning Secretary may, when issuing directions under this consent in respect of ongoing monitoring and management obligations, require compliance with an updated or revised version of such a guideline, protocol, Standard or policy, or a replacement of them.

MONITORING AND ENVIRONMENTAL AUDITS

- A16. Any condition of this consent that requires the carrying out of monitoring or an environmental audit, whether directly or by way of a plan, strategy or program, is taken to be a condition requiring monitoring or an environmental audit under Division 9.4 of Part 9 of the EP&A Act. This includes conditions in respect of incident notification, reporting and response, non-compliance notification and independent environmental auditing.

Note: For the purposes of this condition, as set out in the EP&A Act, "monitoring" is monitoring of the development to provide data on compliance with the consent or on the environmental impact of the development, and an "environmental audit" is a periodic or particular documented evaluation of the development to provide information on compliance with the consent or the environmental management or impact of the development.

INCIDENT NOTIFICATION, REPORTING AND RESPONSE

- A17. The Department must be notified in writing to compliance@planning.nsw.gov.au immediately after the Applicant becomes aware of an incident. The notification must identify the development (including the development application number and the name of the development if it has one), and set out the location and nature of the incident.
- A18. Subsequent notification must be given and reports submitted in accordance with the requirements set out in Appendix 1.

NON-COMPLIANCE NOTIFICATION

- A19. The Department must be notified in writing to compliance@planning.nsw.gov.au within seven days after the Applicant becomes aware of any non-compliance. The PCA must also notify the Department in writing to compliance@planning.nsw.gov.au within seven days after they identify any non-compliance.
- A20. The notification must identify the development and the application number for it, set out the condition of consent that the development is non-compliant with, the way in which it does not comply and the reasons for the non-compliance (if known) and what actions have been, or will be, undertaken to address the non-compliance.
- A21. A non-compliance which has been notified as an incident does not need to also be notified as a non-compliance.

REVISION OF STRATEGIES, PLANS AND PROGRAMS

- A22. Within three months of:
- (a) the submission of a compliance report under condition C6 and C8;
 - (b) the submission of an incident report;
 - (c) the submission of an Independent Audit under condition C2223;
 - (d) the approval of any modification of the conditions of this consent; or
 - (e) the issue of a direction of the Planning Secretary under condition A2 which requires a review,
- A23. the strategies, plans and programs required under this consent must be reviewed, and the Department must be notified in writing that a review is being carried out.
- A24. If necessary to either improve the environmental performance of the development, cater for a modification or comply with a direction, the strategies, plans and programs required under this consent must be revised, to the satisfaction of the Planning Secretary. Where revisions are required, the revised document must be submitted to the Planning Secretary for approval within six weeks of the review.

Note: This is to ensure strategies, plans and programs are updated on a regular basis and to incorporate any recommended measures to improve the environmental performance of the development.

FURTHER APPROVAL

- A25. The Applicant shall seek development consent for all signage prior to occupation and use of the works approved in this consent. All signage shall be in accordance with *State Environmental Planning Policy No 64 – Advertising and Signage* and illumination must not exceed relevant Australian Standards.

PART B PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

NO WORKS PRIOR TO CONSTRUCTION CERTIFICATE

- B1. Work must not commence until a Construction Certificate in respect of the work has been issued.

EXTERNAL WALLS AND CLADDING

- B2. The external walls of all buildings including additions to existing buildings must comply with the relevant requirements of the BCA.
- B3. Before the issue of a Construction Certificate and an Occupation Certificate, the Applicant must provide the Certifying Authority with documented evidence that the products and systems proposed for use or used in the construction of external walls including finishes and claddings such as synthetic or aluminium composite panels comply with the requirements of the BCA.
- B4. The Applicant must provide a copy of the documentation given to the Certifying Authority to the Planning Secretary within seven days after the Certifying Authority accepts it.

COST OF WORKS

- B1. A signed costs of works estimate is to be prepared to reflect the amended approved plans and submitted to the Certifying Authority and Newcastle City Council prior to the issue of the Construction Certificate.

BUILDING CODE OF AUSTRALIA (BCA) COMPLIANCE

- B5. The proposed works must comply with the applicable performance requirements of the BCA to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the ongoing benefit of the community. Compliance with the performance requirements can only be achieved by:
- a) complying with the deemed to satisfy provisions; or
 - b) formulating an alternative solution which:
 - i) complies with the performance requirements; or
 - ii) is shown to be at least equivalent to the deemed to satisfy provision; or
 - iii) a combination of a) and b).

DESIGN INTEGRITY

- B6. The Applicant must ensure Bates Smart are engaged in the design documentation phase to ensure the integrity of the design quality of the approved development is maintained through the construction phase to completion of the building works.

Details confirming compliance with this requirement must be submitted to the Certifier prior to the issue of any Construction Certificate.

SECTION 7.11 CONTRIBUTIONS

- B7. A total monetary contribution of \$1,338,264 is to be paid to City of Newcastle (CN) (unless otherwise agreed to in writing by Council that contributions made under previous consents may be deducted), pursuant to Section 4.17(1) of the Environmental Planning and Assessment Act 1979, such contribution to be payable prior to the issue Construction certificate for the proposed development.

Note:

- a) *This condition is imposed in accordance with the provisions of the City of Newcastle's Section 7.12 Newcastle Local Infrastructure Contributions Plan 2019 (December 2020). A copy of the plan may be inspected at City of Newcastle's Customer Service Centre ground floor of the City Administration Centre, 22 Stewart Avenue, Newcastle West between 8:30am to 5:30pm, Monday to Friday excluding public holidays, or on the City of Newcastle website at www.newcastle.nsw.gov.au.*
- b) *CN's Section 7.12 Newcastle Local Contributions Plan 2019 permits deferred or periodic payment of levies in certain circumstances. A formal modification of this condition will be required to enter into a deferred or periodic payment arrangement.*
- c) *The amount of contribution payable under this condition has been calculated on the basis of the current rate as at the date of consent and is based on the most recent quarterly Consumer Price Index (CPI) release made available by the Australian Bureau of Statistics (ABS). The CPI index rate is expected to rise at regular intervals and therefore the actual contribution payable is indexed and recalculated at the CPI rate applicable on the day of payment.*

CPI quarterly figures are released by the ABS on a date after the indexation quarter and as a guide, these approximate dates are provided below. Indexation quarters from the ABS are as follows:

Indexation quarters	Approx. release date
September	Late October
December	Late January
March	Late April
June	Late July

Any party intending to act on this consent should contact City of Newcastle's Customer Service Centre on 4974 2000 or mail@ncc.nsw.gov.au for determination of the indexed amount of contribution on the date of payment.

COMPLIANCE WITH ACOUSTIC REPORT

- B8. All performance parameters, requirements, engineering assumptions and recommendations contained in the Acoustic Assessment report prepared by, Acoustic Logic, dated 22 October 2020, must be implemented as part of the detailed design assessment and implemented into the design drawings prior to the commencement of the use of the premises, and in accordance with the requirements below and to the satisfaction of the Certifying Authority.

In order to minimise noise impacts from port operations and traffic along Honeysuckle Drive to residents of the development, the use of the following window glazing is required:

Facade	Space	Room description
All	Commercial	6.38mm laminated
	Library	6.38mm laminated
	Meeting	6.38mm laminated
West		6mm float
East		6mm float

Prior to the issue of a Construction Certificate, the construction drawings and construction methodology must be assessed and certified by a suitably qualified acoustic consultant to be in accordance with the requirements of the aforementioned Report.

- B9. Prior to a construction certificate being granted, verification be provided to the consent authority that the development has been designed and will be constructed to achieve the Design Noise Levels noted in the EIS.
- B10. Prior to the issue of Construction Certificate, a detailed Acoustic Assessment for the ground floor gym and café, mechanical plant and building services equipment shall be submitted to the satisfaction of Council.

MECHANICAL PLANT NOISE MITIGATION

- B11. Details of noise mitigation measures for all mechanical plant are to be detailed on the Construction Certificate drawings. Certification from an appropriately qualified acoustic engineer that the proposed measures will achieve compliance with the requirements of the NSW Industrial Noise Policy and other guidelines applicable to the development is required to be submitted to the Certifying Authority prior to the issue of the relevant Construction Certificate.

COMPLIANCE WITH WIND REPORT

- B12. Prior to the issue of Construction Certificates for above ground building work, all recommended measures as set out in Pedestrian Wind Environment Study by Windtech, dated 18 May 2020 must be incorporated on the plans to the satisfaction of the certifier.

PRE-CONSTRUCTION DILAPIDATION REPORT

- B13. A dilapidation report prepared by a suitably qualified person shall be submitted to the Certifying Authority prior to the issue of the Construction Certificate. The dilapidation report shall document and photograph the current structural condition of the City of Newcastle infrastructure and roads. An electronic copy of the dilapidation report is to be provided to City of Newcastle.

HUNTER WATER NOTICE OF REQUIREMENTS

- B14. The applicant is to comply with all requirements of the Hunter Water Corporation regarding the connection of water supply, sewerage services and any drainage connections, 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 (Refer s50 *Hunter Water Act 1991*) is to be included in documentation for a Construction Certificate application.

SURVEY CERTIFICATE

- B15. A Registered Surveyor's certificate detailing the setting out of the proposed building on the site, including the relationship of the set out building to property boundaries, is to be submitted to the Certifying Authority before construction is commenced.

CAR AND MOTORBIKE PARKING

- B16. The development shall provide car parking in accordance with the following requirements:

- a) a total of 177 on-site car parking spaces comprising:
 - (i) 44 car parking spaces for the hotel
 - (ii) 68 commercial car parking spaces
 - (iii) 65 unmarked car parking spaces
 - (iv) 12 accessible car parking spaces
- b) a total of 6 motorbike spaces

This parking is to be set out generally in accordance with the minimum parking layout standards indicated in Section 7.03 'Traffic, Parking and Access' of the Newcastle Development Control Plan 2012 and the plans submitted with the development application. Full details are to be included in documentation for a Construction Certificate application.

- B17. The car park is to be designed to comply with AS/NZS 2890.1:2004: *Parking facilities – Off-street car parking* and AS/NZS 2890.6:2009: *Parking facilities – Off-street parking for people with disabilities*. Full details are to be included in documentation for a Construction Certificate application.

VEHICULAR ACCESS

- B18. The vertical height clearance of the ground floor shall be increased to 4.5m for Medium Rigid Vehicles to comply with AS2890. 2-2002 *Parking facilities: Off-street commercial vehicle facilities*. Full details are to be included in documentation for a Construction Certificate application.
- B19. Traffic management devices in the form of 'Stop' and 'Give way to pedestrian' signs and line marking are to be installed at the entry of the proposed driveways within the property, such devices are to be constructed in accordance with AS/NZS 2890.1:2004: *Parking facilities – Off-street car parking*. Full details are to be included in documentation for a Construction Certificate application.
- c) all motorised vehicles should enter and leave the site in a forward direction
 - d) car park entry/exit shall be designed in such a manner as to ensure that the future queuing areas and capacity requirements comply with Appendix D of AS 2890.1-2004
 - e) the layout of the proposed car parking areas associated with the subject development (including driveways, ramps, grades, turn paths, sight distance requirements, aisle widths, aisle lengths, and parking bay dimensions) shall be accordance with AS 2890.1-2004, AS 2890.6 for accessible spaces and AS2890.2-2002 for heavy vehicles where applicable.
- B20. Any parking changes associated with provision of the Works Zone will need to be consulted with and approval attained from City of Newcastle prior to the issue of the Construction Certificate.

TRAFFIC COMMITTEE APPROVAL

- B21. The approval of the Newcastle City Traffic Committee shall be obtained for any proposed on-street loading zone (if any proposed) in Honeysuckle Drive for this development, prior to the issue of a Construction Certificate.

BICYCLE PARKING

- B22. The development shall provide bicycle parking in accordance with the following:
- a) 50 bicycle spaces, including 9 spaces in the ground carpark for hotel and café staff or guests, 35 spaces in an internal storage room for commercial employees and an external bicycle rack for up to six visitors.
 - b) the layout, design and security of bicycle facilities either on-street or off-street must comply with the minimum requirements of *Australian Standard AS 2890.3 – 1993 Parking Facilities Part 3: Bicycle Parking Facilities* except that:
 - (i) all bicycle parking for occupants of residential buildings must be Class 1 bicycle lockers
 - (ii) all bicycle parking for staff / employees of any land uses must be Class 2 bicycle facilities
 - (iii) all bicycle parking for visitors of any land uses must be Class 3 bicycle rails.

ACCESS FOR PEOPLE WITH DISABILITIES

- B23. Access and facilities for people with disabilities must be designed in accordance with the BCA. Prior to the issue of the relevant Construction Certificate, a certificate certifying compliance with this condition from an appropriately qualified person must be provided to the Certifying Authority.

STORMWATER MANAGEMENT AND WATER QUALITY

- B24. All onsite stormwater retention and water quality treatment systems are to be individually identified and sign posted in accordance with City of Newcastle's Stormwater and Water Efficiency for Development Technical Manual (Updated 2017). Full details are to be included in documentation for a Construction Certificate application.
- B25. All stormwater runoff from the proposed development being managed in accordance with the requirements of Section 7.06 'Stormwater' of Newcastle Development Control Plan 2012 and the associated Stormwater Technical Manual. Full details are to be included in documentation for any Construction Certificate application
- B26. An easement to drain water for the proposed development being minimum 3.0m wide over the existing stormwater pipeline leading from the property to Cottage Creek is to be clearly noted in the documentation for a Construction Certificate application.

The easement to drain water is to be shaped to contain any overland stormwater flow from the development along the course of the easement and is to be kept clear of obstruction at all times. Full details are to be included in documentation for a Construction Certificate application.

FLOOD MANAGEMENT

- B27. All stormwater runoff from the proposed development being managed in accordance with the requirements of Section 7.06 'Stormwater' of Newcastle Development Control Plan 2012 and the associated Stormwater Technical Manual. Full details are to be included in documentation for any Construction Certificate application
- B28. An on-site flood refuge is to be provided within the proposed development. The minimum refuge level is to be at the level of the Probable Maximum Flood (PMF) of RL3.65m Australian Height Datum (peak velocity of 2.2m/s). On site refuge is to easily accessible to all building users and visitors, to be structurally designed to resist the forces of the PMF and to cater for the number of people reasonably expected to be on the development site. Openings such as fire doors, exhaust ducts, car park air intake, vents and the like that could potentially allow for flood waters to enter the basement (except for vehicular access) are to be designed for the PMF Level. Full details are to be included in documentation for a Construction Certificate application.
- B29. All new impervious surfaces, including driveways and paved areas are to be drained to the nominated discharge controls. Full details are to be provided with the Construction Certificate application.

FLOOD EMERGENCY RESPONSE PLAN

- B30. An appropriate flood emergency response plan is to be prepared by a consulting engineer, who is experienced in flood management, and put in place by the Applicant prior to occupation of this site for the intended use. Such plan is to be effectively updated and maintained by the occupiers, is to include an education and awareness component for the workforce and detailed evacuation procedures to interface with the Bureau of Meteorology's flood warning system and the local State Emergency Services plan (where appropriate) and to include provisions for any third parties likely to be involved.

A flood emergency response plan is to describe the following components:

- a) likely flood behaviour
- b) flood warning systems
- c) education awareness program
- d) evacuation and evasion procedures
- e) evacuation routes and flood refuges
- f) flood preparedness and awareness procedures for residents and visitors.

Considerations should include the full range of flood risks, the proposed use of the site, site access constraints and local area evacuation routes to high ground. As much as possible, the plan is to be aimed at self-directed evacuation or evasion to minimise the draw on limited State Emergency Services resources. Full details are to be included in documentation for a Construction Certificate application.

INSTALLATION OF DUAL FLUSH OR VACUUM TOILETS

- B31. All toilets installed within the development must be of water efficient dual flush capacity or vacuum design with at least a 4-star rating under the Water Efficiency and Labelling Scheme (WELS). The details must be submitted for the approval of the Certifying Authority, prior to the issue of the relevant Construction Certificate.

INSTALLATION OF WATER EFFICIENT TAPS

- B32. All taps and shower heads installed must be water efficient with at least a 4-star rating under the Water Efficiency and Labelling Scheme (WELS), where available. The details are to be submitted for the approval of the Certifying Authority, prior to the issue of the relevant Construction Certificate.

LANDSCAPE PLAN

- B33. All proposed planting and landscape elements indicated on the submitted landscape concept plans or otherwise required under the conditions of this consent to be implemented and comprehensive landscape design plans and specifications in respect thereof to be prepared by a qualified landscape designer and submitted with a Construction Certificate application.

Note: The required comprehensive landscape design plan and specifications is to be in accordance with the provisions of the Newcastle Development Control Plan, 2012 and is to include cross sections through the site where appropriate, proposed contours or spot levels, botanical names, quantities and container size of all proposed trees, shrubs and ground cover, details of proposed soil preparation, mulching and staking as well as treatment of external surfaces and retaining walls where proposed, drainage, location of taps and the nominated maintenance periods.

PUBLIC DOMAIN

- B34. The Applicant is to design and construct the following works in connection with the proposed development within the Honeysuckle Drive public road reserve adjacent to the site, at no cost to City of Newcastle and in accordance with the Newcastle City Centre Public Domain Manual guidelines and City of Newcastle's design specifications:
- Full width foot paving to be designed as a shared path to allow for use by cyclist and pedestrians and to connect with the adjoining developments.
 - New street trees and verge areas and adjust service pit levels to match new footpath level.
 - Required parking signs, line markings, mandatory signage and any civil works associated with road and on-street parking infrastructure including the design of any approved Loading Zone.
 - New street furniture including bicycle racks or rings and new seats and bins.
 - Street lighting along the frontage and under awning lighting.
 - New driveway crossing

Engineering design plans and specifications for the works being undertaken within the public road reserve are required to be prepared by a suitably qualified practising civil engineer with experience and competence in the related field and submitted to City of Newcastle for approval pursuant to Section 138 of the *Roads Act 1993 (NSW)*. The consent must be obtained, or other satisfactory arrangements confirmed in writing from City of Newcastle, before the issue of a Construction Certificate.

- B35. The Applicant is to consult with Hunter Development Corporation to confirm that no additional public domain works are required. Evidence of consultation is to be provided to Council prior to the issue of a Construction Certificate.

LIGHTING

- B36. The proposed lighting including the car park lighting and all outdoor lighting within the site 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 Certifying Authority prior to the issue of the relevant Construction Certificate.

WASTE COLLECTION

- B37. The waste collection pick-up services proposed to be undertaken by Newcastle City Council and/or any private contractor for the development are to be approved by Council's Waste Management Services prior to the issue of the Construction Certificate. Full details are to be included in documentation for a Construction Certificate application.

WASTE MANAGEMENT (DEMOLITION AND CONSTRUCTION)

- B38. Site Waste Minimisation and Management Plan being approved before the issue of a Construction Certificate.
- B39. Waste management shall be implemented in accordance with the approved Waste Management Plan. At a minimum, the following measures shall be implemented during the construction phase:
- a waste container of at least one cubic metre capacity shall be provided, maintained and regularly serviced from the commencement of operations until the completion of the building for the reception and storage of waste generated by the construction of the building and associated waste
 - the waste container is to be, at minimum, constructed with a 'star' picket (corners) and weed control mat (sides), or equivalent. The matting is to be securely tied to the pickets
 - appropriate provision is to be made to prevent windblown rubbish leaving the site
 - footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.

Note: Fines may be issued for pollution/littering offences under the Protection of the Environment Operations Act 1997 (NSW).

REFLECTIVITY

- B40. The building materials used on the facades of the buildings shall have a maximum normal specular reflectivity of visible light of 20 per cent and shall be designed so as not to result in glare that causes any discomfort or threatens the safety of pedestrians or drivers. A report/statement demonstrating compliance with these requirements is to be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for above ground façade works.

MECHANICAL VENTILATION

- B41. All mechanical ventilation systems shall be installed in accordance with the BCA 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, and are to include electro static filtration and ozone odour treatment. Details shall be submitted to the Certifying Authority prior to the issue of the relevant Construction Certificate.

COMPLIANCE REPORT

- B42. Prior to the issue of each Construction Certificate, the Applicant, or any party acting upon this consent, shall submit to the Certifying Authority a report addressing compliance with all relevant conditions of this Part.

TfNSW CONDITIONS

- B43. The applicant must consult with TfNSW, and the Newcastle Light Rail Operator to confirm the timing of each construction certificate and associated documentation and activities prior to preparation of requested documentation. The applicant should provide the information to TfNSW for review and endorsement. The Principal Certifying Authority (PCA) is not to issue the relevant Construction Certificate until received written confirmation from TfNSW that the following conditions (B30 to B42) have been complied with.
- B44. Prior to the issue of any Construction Certificates, the applicant is to confirm in writing with TfNSW what each Construction Certificate stage will involve.
- B45. Prior to issue of the first construction certificate, the applicant shall provide the following to TfNSW for review and endorsement:
- Final geo-technical and structural report / drawings. Geotechnical reports should include any potential impact on the light rail corridor, easement and substratum, and include consideration for a Finite Element analysis and any potential dewatering;
 - Final construction methodology with construction details pertaining to structural support during excavation or ground penetration.
 - Final cross-sectional drawings showing ground surface, rail tracks, sub soil profile, proposed excavation and structural design of sub ground support adjacent to the Rail Corridor. Cross sectional drawings should also include the accurate RL depths and horizontal distances from assets (tracks, overhead lines, structures and cables) to the nearest point of excavation or ground penetration works. All measurements are to be verified by a Registered Surveyor;
 - Details of the vibration and movement monitoring system that will be in place before excavation commences;
 - Final Track Monitoring Plan in accordance with TfNSW ASA Standard SPC 207 Track Monitoring Requirements; and
 - Detailed survey plan.
- B46. Prior to the issue of the relevant Construction Certificate, the applicant shall liaise with TfNSW to ascertain its requirements in relation to the protection of TfNSW's infrastructure. The applicant is to submit to TfNSW all relevant documentation as requested by TfNSW and obtain TfNSW's written endorsement.
- B47. Prior to the Issue of the relevant Construction Certificate, the applicant shall undertake a services search to establish the existence and location of any rail services. Persons performing the service search shall use equipment that will not have impact on rail services and signalling. In the event rail services are identified within the subject development site or within close proximity to the development site, the applicant must discuss with TfNSW to whether these services could be affected by the works proposed or if they are to be relocated or incorporated within the site.
- B48. Prior to the issue of the relevant Construction Certificate, the applicant shall provide an engineering drawing which illustrates the delineation of the Newcastle Light Rail Corridor located adjacent to the subject development site in relation to the work site. This engineering drawing shall include any site fencing, hoarding and scaffolding within ten (10) metres of the Newcastle Light Rail Corridor.

- B49. Prior to the issue of the relevant Construction Certification, a final Cranage Layout Plan is to be submitted to TfNSW and the Newcastle Light Rail Operator for review and endorsement. The final Cranage Layout Plan will include details of aerial cranage installation locations, mobilisation and erection plans, radial jib lengths, details of slew restrictions for prevention of cranage operations over the Newcastle Light Rail Corridor boundary.
- B50. Prior to the issue of the relevant Construction Certificate, a pre-construction work Dilapidation Report of the Newcastle Light Rail and its assets shall be prepared by a qualified structural engineer. The dilapidation survey shall be undertaken via a joint site inspection by the representatives of the Newcastle Light Rail Operator, TfNSW and the applicant. These dilapidation surveys will establish the extent of existing damage and enable any deterioration during construction to be observed.
- B51. Prior to the issue of the relevant Construction Certificate, the final acoustic assessment is to be submitted to TfNSW demonstrating how the proposed development will comply with the Department of Planning's document titled "Development Near Rail Corridors and Busy Roads- Interim Guidelines". The Final Acoustic Report will detail existing noise levels, modelled noise and vibration levels generated by the building and building systems and any mitigations or acoustic treatments proposed for the building shell including doors, glazing and acoustic sealing; All recommendations of the acoustic assessment are to be incorporated in the construction documentation.
- B52. Prior to the issue of the relevant Construction Certificate, the applicant is to engage an Electrolysis Consultant to prepare a report on the Electrolysis Risk to the development from stray currents. The applicant must incorporate in the development all the measures recommended in the report to control that risk. A copy of the report is to be provided to the PCA with the application for the relevant Construction Certificate.
- B53. Prior to the issue of the relevant Construction Certificate, the applicant shall design lighting, signs and surfaces with reflective materials, whether permanent or temporary, which are (or from which reflected light might be) visible from the rail corridor limiting glare, light spill and reflectivity to the satisfaction of TfNSW and the Newcastle Light Rail Operator.
- B54. Given the possible likelihood of objects being dropped, thrown or blown onto the rail corridor from balconies, windows and other external features (eg roof terraces and external fire escapes) that face the rail corridor, the Applicant is required to install measures (eg awning windows, louvres, enclosed balconies etc) which prevent the throwing of objects onto the rail corridor. The Principal Certifying Authority shall not issue the Construction Certificate until it has confirmed that these measures are to be installed and have been indicated on the Construction Drawings.
- B55. Prior to the issue of the relevant Construction Certificate, a detailed regime is to be prepared for consultation with and approval by, TfNSW for the excavation of the site and the construction of the building foundations (including ground anchors) for the approved development, which may include geotechnical and structural certification in the form required by TfNSW.
- B56. Prior to the issue of the relevant Construction Certificate, the applicant must hold current public liability insurance cover for a sum acceptable to TfNSW. This insurance shall not contain any exclusion in relation to works on or near the rail corridor, or rail infrastructure. The applicant is to contact TfNSW to obtain the level of insurance required for this particular proposal. Prior to issuing the relevant Construction Certificate the PCA must witness written proof of this insurance in conjunction with TfNSW's written advice to the applicant on the level of insurance required.

SITE WATER BALANCE

- B57. Prior to the issue of a Construction Certificate, the proponent should provide a detailed site water balance to who outlining water quantity and water source for the construction and operation of the development. If the detailed site water balance identifies a requirement for surface or groundwater take, a Water Access Licence (WAL) must be obtained or a detailed assessment provided on how the works comply with any applicable WAL exemption in the Water Management (General) Regulation 2018.
- B58. Should any additional dewatering be required for the site, the following are to be addressed and approved by DPIE Water prior to any dewatering taking place:
- an assessment of impacts on surface and ground water sources (both quality and quantity), related infrastructure, adjacent licensed water users, basic landholder rights, watercourses, riparian land, and groundwater dependent ecosystems, and measure proposed to reduce and mitigate these impacts
 - identify proposed surface and groundwater monitoring activities and methodologies.

STRUCTURAL DETAILS

- B59. Prior to the issue of the relevant Construction Certificate, the Applicant must submit to the Certifying Authority, the relevant structural drawings prepared and signed by a suitably qualified practising Structural Engineer that demonstrates compliance with:
- the relevant clauses of the BCA; and
 - the development consent.

PART C PRIOR TO COMMENCEMENT OF WORKS

NOTIFICATION OF COMMENCEMENT

- C1. The Department must be notified in writing of the dates of commencement of physical work and operation at least 48 hours before those dates.
- C2. If the construction or operation of the development is to be staged, the Department must be notified in writing at least 48 hours before the commencement of each stage, of the date of commencement and the development to be carried out in that stage.

COMMUNITY COMMUNICATION STRATEGY

- C3. A Community Communication Strategy must be prepared to provide mechanisms to facilitate communication between the Applicant, the relevant Council and the community (including adjoining affected landowners and businesses, and others directly impacted by the development), during the design and construction of the development and for a minimum of 12 months following the completion of construction.

The Community Communication Strategy must:

- a) identify people to be consulted during the design and construction phases
- b) set out procedures and mechanisms for the regular distribution of accessible information about or relevant to the development
- c) provide for the formation of community-based forums, if required, that focus on key environmental management issues for the development
- d) set out procedures and mechanisms:
 - i. through which the community can discuss or provide feedback to the Applicant
 - ii. through which the Applicant will respond to enquiries or feedback from the community
 - iii. to resolve any issues and mediate any disputes that may arise in relation to construction and operation of the development, including disputes regarding rectification or compensation.

The Community Communications Strategy must be submitted to the Secretary for approval no later than one month before the commencement of any work.

Work for the purposes of the development must not commence until the Community Communication Strategy has been approved by the Secretary, or within another timeframe agreed with the Secretary.

The Community Communication Strategy, as approved by the Secretary, must be implemented for a minimum of 12 months following the completion of construction.

- C4. A Community Liaison Officer is to be appointed prior to development works commencing to act as a point of contact for adjacent occupiers throughout the construction phase of the development. The Community Liaison Officer is to be engaged until construction works are completed. Contact details of the Community Liaison Officer are to be provided to City of Newcastle and adjoining occupiers via a letterbox drop/community newsletter and signage at the site.

ACCESS TO INFORMATION

- C5. At least 48 hours before the commencement of construction until the completion of all works under this consent, or such other time as agreed by the Planning Secretary, the Applicant must:
 - (a) make the following information and documents (as they are obtained or approved) publicly available on its website:
 - (i) the documents referred to in condition A2 of this consent;
 - (ii) all current statutory approvals for the development;
 - (iii) all approved strategies, plans and programs required under the conditions of this consent;
 - (iv) regular reporting on the environmental performance of the development in accordance with the reporting arrangements in any plans or programs approved under the conditions of this consent;
 - (v) a comprehensive summary of the monitoring results of the development, reported in accordance with the specifications in any conditions of this consent, or any approved plans and programs;
 - (vi) a summary of the current stage and progress of the development;
 - (vii) contact details to enquire about the development or to make a complaint;
 - (viii) a complaints register, updated monthly;
 - (ix) audit reports prepared as part of any independent environmental audit of the development and the Applicant's response to the recommendations in any audit report;
 - (x) any other matter required by the Planning Secretary; and

- (b) keep such information up to date, to the satisfaction of the Planning Secretary.

COMPLIANCE REPORTING

- C6. A Pre-Construction Compliance Report must be prepared for the development, and submitted to the PCA for approval before the commencement of construction. A copy of the endorsed compliance report must be provided to the Department at compliance@planning.nsw.gov.au before the commencement of construction.
- C7. The Pre-Construction Compliance Report must include:
- (a) details of how the terms of this consent that must be addressed before the commencement of construction have been complied with; and
 - (b) the expected commencement date for construction.
- C8. Construction Compliance Reports must be submitted to the Department at compliance@planning.nsw.gov.au for information every six months from the date of the commencement of construction, for the duration of construction. The Construction Compliance Reports must provide details on the compliance performance of the development for the preceding six months and must be submitted within one month following the end of each six-month period for the duration of construction of the development, or such other timeframe as required by the Planning Secretary.
- C9. The Construction Compliance Reports must include:
- (a) a results summary and analysis of environmental monitoring;
 - (b) the number of any complaints received, including a summary of main areas of complaint, action taken, response given and proposed strategies for reducing the recurrence of such complaints;
 - (c) details of any review of the CEMP and the Environmental Management Strategy and associated sub-plans as a result of construction carried out during the reporting period;
 - (d) a register of any modifications undertaken and their status;
 - (e) results of any independent environmental audits and details of any actions taken in response to the recommendations of an audit;
 - (f) a summary of all incidents notified in accordance with this consent; and
 - (g) any other matter relating to compliance with the terms of this consent or requested by the Planning Secretary.

CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN

- C10. Prior to the commencement of any works on the site, Construction Environmental Management Plan (CEMP) is to be provided to Certifying Authority for construction works on the site, which is to be kept on site and made available to authorised City of Newcastle officers on request. The CEMP is to include but not be limited to:
- A site management strategy, identifying and addressing issues such as environmental health and safety, site security, and traffic management.
 - A water management strategy, detailing erosion and sediment control, management of soil stockpiles, control and management of surface water, groundwater and process water. Procedures should also be included to ensure that all roads adjacent to the site are kept free and clear from mud and sediment.
 - A dust management strategy, detailing procedures to minimise dust generation, with particular reference to control techniques and operational limits under adverse meteorological conditions. This strategy should be cross-referenced with the water management strategy
 - A soil management strategy, detailing measures to be implemented to manage the identification and control and disposal of any acid sulphate soils or soil contamination identified during site works.
 - A noise and vibration management program detailing measures to minimise the impact of the construction phase on the amenity of the locality in accordance with Australian Standard AS 2436. 2010 (Guide to Noise and Vibration control on Construction, Demolition and Maintenance Sites).
 - A waste minimisation strategy, which aims to avoid production of waste and maximise reuse, recycling or reprocessing of potential waste material.
 - A community relations plan, which aims to inform local residents and other local stakeholders of the proposed nature and timeframes for demolition and construction activities together with contact details for site management.

The CEMP must not include works that have not been explicitly approved in the development consent. In the event of any inconsistency between the consent and the CEMP, the consent shall prevail.

The Applicant shall submit a copy of the CEMP to the Department and to the Council, prior to commencement of work.

DUST CONTROL

- C11. All necessary measures are to be undertaken to control dust pollution from the site. These measures must include, but not are limited to:
- a) a) restricting topsoil removal
 - b) b) regularly and lightly watering dust prone areas (note: prevent excess watering as it can cause damage and erosion
 - c) c) alter or cease construction work during periods of high wind and erect green or black shade cloth mesh or similar products 1.8m high around the perimeter of the site and around every level of the building under construction.

SOIL AND WATER MANAGEMENT PLAN

- C12. Prior to the commencement of works a **Soil and Water Management Plan** (SWMP) must be prepared and submitted to the Certifier. The SWMP must include:
- d) details of all erosion and sediment controls to be implemented during construction;
 - e) a plan of how all construction works will be managed in a wet-weather event (i.e. storage of equipment, stabilisation of the site);
 - f) a summary of any ground investigations to date;
 - g) detail all off-site stormwater flows from the site and methods to ensure that sediment is not mobilised in stormwater flows leaving the site;
 - h) the measures that must be implemented to manage stormwater and flood flows for small and large sized events, including but not limited to 1 in 1-year ARI, 1 in 5-year ARI and 1 in 100-year ARI;
 - i) the proposed stormwater disposal and drainage from the development, designed in accordance with:
 - (i) Australian Rainfall and Runoff – A Guide to Flood Estimation, Volumes 1 and 2 (1987);
 - (ii) SA/NZS 3500.3.2 National Plumbing and Drainage Part 3.2: Stormwater Drainage – Acceptable Solutions;
 - (iii) Managing Urban Stormwater – Soils and Construction Volume 1 (4th Edition March 2004)
 - j) monitoring techniques;
 - k) methods for testing of the water quality (suspended solids, turbidity and contaminants) prior to discharging from the site to ensure compliance with Managing Urban Stormwater – Soils and Construction Volume 1 (4th Edition March 2004).

CONSTRUCTION PEDESTRIAN AND TRAFFIC MANAGEMENT PLAN

- C13. A Construction Traffic Management Plan is to be prepared by a Roads & Maritime Services accredited person with a Design and Audit Traffic Control Plans Certificate in accordance with Australian Standard 1742.3:2009 - *Manual of uniform traffic devices - traffic control for works on roads*. The plan is to ensure the provision for safe, continuous movement of traffic and pedestrians within the road reserve.

The plan is to be submitted to the City of Newcastle for approval prior to the commencement of works and is to be implemented during the construction phase.

- C14. Prior to commencement of development works the developer is to submit to the Secretary for approval a Construction Parking Management Plan (CPMP) addressing the parking of construction vehicles and the transportation of construction personnel to the site. The CPMP is to detail a common location for the parking of construction vehicles outside of the Newcastle City Centre and utilise shuttle buses and for the transportation of construction personnel and their equipment to the site.

CONSTRUCTION NOISE AND VIBRATION

- C15. Prior to the commencement of construction activities, a detailed Construction Noise and Vibration Management Plan prepared by a suitably qualified person shall be submitted to the Certifying Authority. The Plan shall include, but not be limited to:
- (a) describe the relevant stages and phases of construction including work program outlining relevant timeframes for each stage/phase;

- (b) describe all activities to be undertaken on the site during site establishment and construction of the development;
- (c) clearly outline the stages/phases of construction that require ongoing environmental management monitoring and reporting;
- (d) detail statutory and other obligations that the Applicant is required to fulfil during site establishment and construction, including approvals, consultations and agreements required from authorities and other stakeholders, and key legislation and policies;
- (e) describe the roles and responsibilities for all relevant employees involved in the site establishment and construction of the works;
- (f) detail how the environmental performance of the site preparation and construction works will be monitored, and what actions will be taken to address identified potential environmental impacts, including but not limited to noise, traffic and air impacts;
- (g) document and incorporate all relevant environmental management plans, control plans, studies and monitoring programs required under this part of the consent;
- (h) include arrangements for community consultation and complaints handling procedures during construction;
- (i) address air quality management, which includes the monitoring and management of air quality and dust to protect the amenity of the neighbourhood;
- (j) address the management of erosion and sediment control; and
- (k) address the management of construction waste.

In the event of any inconsistency between the consent and the CEMP, the consent shall prevail.

EROSION AND SEDIMENT CONTROL

- C16. Erosion and sediment control measures are to be implemented prior to the commencement of works and maintained during the period of construction in accordance with the details set out on an Erosion and Sediment Control Plan that is to be submitted for approval with the Construction Certificate application. The Erosion and Sediment Control Plan shall satisfy the requirements of *Managing Urban Stormwater: Soils and Construction 4th Edition - Vol. 1* (the "Blue Book") published by Landcom, 2004 and Newcastle City Council's Technical Manual: Stormwater and Water Efficiency for Development 2013. Controls are not to be removed until the site is stable with all bare areas supporting an established vegetative cover.

ABORIGINAL CULTURAL HERITAGE

- C17. All excavation works are to be carried out in accordance with the Aboriginal Cultural Heritage Management Plan prepared by Streat Archaeological Services Pty Ltd, Version 4, February 2020.

DE-WATERING MANAGEMENT PLAN

- C18. Prior to development works commencing the developer is to submit to the Department for approval a de-watering management plan, the plan is to be prepared by an appropriately qualified environmental consultant and demonstrate that water pollution will not occur as a result of dewatering activities. Should the use of stormwater infrastructure of City of Newcastle be proposed for de-watering purposes, de-watering is not to commence until City of Newcastle is notified and agreement is provided such that City of Newcastle can confirm it is satisfied with the proposed impacts and reduced capacity upon its stormwater assets during dewatering activities.

HOARDINGS

- C19. An application is to be made to and approved by Newcastle City Council for the erection of a hoarding or part closure of the footway prior to construction being commenced. Such overhead structure or protective fence shall comply with the Work Health and Safety Act 2011 (NSW), Work Health and Safety Regulation 2011 (NSW) and any relevant approved industry code of practice. Notice of intention of commencement must be given to WorkCover New South Wales.

UTILITY SERVICES

- C20. Prior to the commencement of work the Applicant is to negotiate with the utility authorities (e.g. Ausgrid and Telecommunications Carriers) in connection with the relocation and/or adjustment of the services affected by the construction of the underground structure.
- C21. Prior to the commencement of works written advice shall be obtained from the electricity supply authority, an approved telecommunications carrier and an approved gas carrier (where relevant) stating that satisfactory arrangements have been made to ensure provision of adequate services.

INDEPENDENT ENVIRONMENTAL AUDIT

- C22. No later than one month before the commencement of construction or within another timeframe agreed with the Planning Secretary, a program of independent environmental audits must be prepared for the development in accordance with *AS/NZS ISO 19011-2014: Guidelines for Auditing Management Systems* (Standards Australia, 2014) and submitted to the Planning Secretary for information.
- C23. The scope of each audit must be defined in the program. The program must ensure that environmental performance of the development in relation to each compliance requirement that forms the audit scope is assessed at least once in each audit cycle.
- C24. The environmental audit program prepared and submitted to the Planning Secretary in accordance with conditions C22 and C23 above must be implemented and complied with for the duration of the development.
- C25. All independent environmental audits of the development must be conducted by a suitably qualified, experienced and independent team of experts and be documented in an audit report which:
- (a) assesses the environmental performance of the development, and its effects on the surrounding environment including the community;
 - (b) assesses whether the development is complying with the terms of this consent;
 - (c) reviews the adequacy of any document required under this consent; and
 - (d) recommends measures or actions to improve the environmental performance of the development, and improvements to any document required under this consent.
- C26. Within three months of commencing an Independent Environmental Audit, or within another timeframe agreed by the Planning Secretary, a copy of the audit report must be submitted to the Planning Secretary, and any other NSW agency that requests it, together with a response to any recommendations contained in the audit report, and a timetable for the implementation of the recommendations. The recommendations must be implemented to the satisfaction of the Planning Secretary.
- Note:** *The audit team must be led by a suitably qualified auditor and include experts in any fields specified by the Planning Secretary.*
- C27. The Applicant must ensure that all of its employees, contractors (and their sub-contractors) are made aware of, and are instructed to comply with, the conditions of this consent relevant to activities they carry out in respect of the development.

MINE SUBSIDENCE

- C28. Prior to and during works the development is to comply with the approval and all conditions issued under Section 22 of the *Coal Mine Subsidence Compensation Act 2017*, by Subsidence Advisory NSW on 18 February 2020.
- C29. Any conditions issued as part of the approval/certification by Subsidence Advisory NSW also form part of the consent conditions that the Applicant is required to comply with.

TRANSPORT FOR NSW AGREEMENT

- C30. Prior to the commencement of works on site, an Agreement between TfNSW and the applicant must be signed and accepted by all parties. This agreement will include, but is not limited to;
- Pre and post construction dilapidation reports;
 - TfNSW costs associated with review of plans and designs;
 - The need for track possessions;
 - Review of the machinery to be used during excavation/ground penetration / construction works;
 - The need for track monitoring;
 - Design and installation of lights, signs and reflective material;
 - Access by representatives of TfNSW, and the Newcastle Light Rail Operator to the site of the approved development and all structures on that site;
 - Endorsement of Risk Assessment/Management Plan and Safe Work Method Statements (SWMS);
 - Endorsement of plans regarding proposed craneage and other aerial operations;
 - Erection of scaffolding/hoarding; o Newcastle Light Rail Operator's rules and procedures; and
 - Alteration of rail assets such as the OHW along of track and associated hoarding demarcation system, if undertaken by the applicant.

INTERFACE AGREEMENT

- C31. Prior to the commencement of works, an Interface Agreement between the Newcastle Light Rail Operator and the applicant must be signed and accepted by all parties. This agreement will include, but is not limited to:
- Newcastle Light Rail Operational requirements;

- Newcastle Light Rail access requirements;
- Newcastle Light Rail Operator policies, rules and procedures compliance requirements;
- Indemnities and releases;
- Insurance requirements and conditions;
- TfNSW and the Newcastle Light Rail Operator's recovery of costs from the applicant for costs incurred by these parties in relation to the development (e.g. review of designs, shutdown /power outages costs including alternative transport, customer communications, loss of revenue etc) risk assessments and configuration change processes;
- Interface coordination between the Newcastle Light Rail Operator and the subject development construction works;
- The Newcastle Light Rail Operator's reviews and impact assessment of the applicant's proposal, engineering design and construction works methodology on Newcastle Light Rail Operations and assets;
- Attendance and participation in the construction works risk assessment of construction activities to be performed in, above, about, and/or below the Newcastle Light Rail Corridor;
- Arrangements for shutdowns; and
- Newcastle Light Rail restricted operations related costs attributed to the applicant requested and approved Newcastle Light Rail site works access approval and access permit to work.

VEHICULAR CROSSINGS

- C32. A commercial/industrial type vehicular crossing having a width of 8 metres is to be constructed across the road reserve, in accordance with the following criteria:
- a) Constructed in accordance with City of Newcastle A374 – Driveway Crossings Standard Design Details.
 - b) Letterboxes, landscaping and any other obstructions to visibility should be kept clear of or limited in height to 1.2 metre, in the 2 metre by 2.5 metre splay within the property boundary each side of the driveway entrance.
 - c) The proposed driveway shall be a minimum of 3 metres clear of the trunk of any tree within the public reserve.
 - d) The proposed driveway shall be a minimum of 750mm clear of the centre of any pole or obstruction within the public reserve and 1 metre clear of any drainage pit.
 - e) Driveway cross-fall over the footpath is to be maximum of 2.5%.

These works are not approved until consent under Section 138 of the Roads Act 1993 (NSW) has been granted by City of Newcastle. An application under Section 138 must be applied for and approved before the commencement of works.

WORKS WITHIN THE ROAD RESERVE

- C33. A separate application must be lodged and consent obtained from Newcastle City Council for any works within the road reserve pursuant to Section 138 Roads Act 1993 (NSW), before the commencement of works.

PORT AUTHORITY

- C34. Prior to the issue of a construction certificate, written confirmation from Port Authority NSW confirming that the proposal would not obscure land-based navigational aids located within the Throsby Basin shall be submitted to the satisfaction of the certifier.

PART D DURING CONSTRUCTION

DEMOLITION

- D1. Demolition work must comply with *Australian Standard AS 2601-2001* The demolition of structures (Standards Australia, 2001). The work plans required by AS 2601-2001 must be accompanied by a written statement from a suitably qualified person that the proposals contained in the work plan comply with the safety requirements of the Standard. The work plans and the statement of compliance must be submitted to the PCA before the commencement of works.

OPERATION OF PLANT AND EQUIPMENT

- D2. All plant and equipment used on site, or to monitor the performance of the development must be:
- maintained in a proper and efficient condition
 - operated in a proper and efficient manner.

INCIDENT NOTIFICATION, REPORTING AND RESPONSE

- D3. D2 The Department must be notified in writing to compliance@planning.nsw.gov.au immediately after the Applicant becomes aware of an incident. The notification must identify the development (including the development application number and the name of the development if it has one), and set out the location and nature of the incident.

Subsequent notification must be given and reports submitted in accordance with the requirements set out in Appendix A.

NON-COMPLIANCE NOTIFICATION

- D4. D3 The Department must be notified in writing to compliance@planning.nsw.gov.au within seven days after the Applicant becomes aware of any non-compliance. The Certifying Authority must also notify the Department in writing to compliance@planning.nsw.gov.au within seven days after they identify any non-compliance.

The notification must identify the development and the application number for it, set out the condition of consent that the development is non-compliant with, the way in which it does not comply and the reasons for the non-compliance (if known) and what actions have been, or will be, undertaken to address the non-compliance.

DISPOSAL OF SEEPAGE AND STORMWATER

- D5. Any seepage or rainwater collected on-site during construction, must be either re-used or disposed of, so as not to cause pollution. Seepage or rainwater shall not be pumped to the street stormwater system unless separate prior approval is given in writing by Council.

PROTECTION OF TREES

- D6. No street trees are to be trimmed or removed unless it forms a part of this development consent or prior written approval from Council is obtained or is required in an emergency to avoid the loss of life or damage to property.
- D7. All street trees shall be protected at all times during construction. Any tree on the footpath, which is damaged or removed during construction due to an emergency, shall be replaced, to the satisfaction of Council.

CONSTRUCTION NOISE MANAGEMENT

- D8. The development shall be constructed with the aim of achieving the construction noise management levels detailed in the *Interim Construction Noise Guideline* (Department of Environment and Climate Change, 2009). All feasible and reasonable noise mitigation measures shall be implemented and any activities that could exceed the construction noise management levels shall be identified and managed in accordance with the CEMP.
- D9. If the noise from a construction activity is substantially tonal or impulsive in nature (as described in Chapter 4 of the *NSW Industrial Noise Policy*), 5dB(A) must be added to the measured construction noise level when comparing the measured noise with the construction noise management levels.
- D10. Wherever practical, and where sensitive receivers may be affected, piling activities are completed using bored piles. If driven piles are required they must only be installed where outlined in the CEMP.

HOARDING REQUIREMENTS

- D11. The following hoarding requirements shall be complied with:
- no third-party advertising is permitted to be displayed on the subject hoarding / fencing

- b) the construction site manager shall be responsible for the removal of all graffiti from any construction hoardings or the like within the construction area within 48 hours of its application.

APPROVED PLANS TO BE ON-SITE

- D12. 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 Certifying Authority.

SITE NOTICE

- D13. A site notice(s) shall be prominently displayed at the boundaries of the Site for the purposes of informing the public of project details including, but not limited to the details of the Builder, Certifying Authority and Structural Engineer.
- D14. The notice(s) is to satisfy all but not be limited to, the following requirements:
- a) the notice is to be able to be read by the general public
 - b) the notice is to be durable and weatherproof and is to be displayed throughout the works period
 - c) 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
 - d) 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.

COVERING OF LOADS

- D15. All vehicles involved in the excavation and / or demolition process and departing from the property with materials, spoil or loose matter must have their loads fully covered before entering the public roadway.

VEHICLE CLEANSING

- D16. Prior to the commencement of work, suitable measures are to be implemented to ensure that sediment and other materials are not tracked onto the roadway by vehicles leaving the Site. It is an offence to allow, permit or cause materials to pollute or be placed in a position from which they may pollute waters.

STOCKPILE MANAGEMENT

- D17. The Applicant must ensure that:
- a) stockpiles of excavated material do not exceed 4 metres in height
 - b) stockpiles of excavated material are constructed and maintained to prevent cross contamination
 - c) suitable erosion and sediment controls are in place for stockpiles.

DUST CONTROL MEASURES

- D18. All necessary measures are to be undertaken to control dust pollution from the site. These measures must include, but not are limited to:
- a) restricting topsoil removal
 - b) regularly and lightly watering dust prone areas (note: prevent excess watering as it can cause damage and erosion)
 - c) alter or cease construction work during periods of high wind and erect green or black shade cloth mesh or similar products 1.8 m high around the perimeter of the site and around every level of the building under construction.

ALL BUILDING MATERIALS, PLANT AND EQUIPMENT

- D19. All building materials, plant and equipment are to be placed on the site of the development so as to ensure that pedestrian and vehicular access in public places is not restricted and to prevent damage to the road reserve. The storage of building materials on Council reserves including the road reserve is not permitted.

NO OBSTRUCTION OF PUBLIC WAY

- D20. The public way must not be obstructed by any materials, vehicles, refuse skips or the like, under any circumstances. Non-compliance with this requirement will result in the issue of a notice by the Secretary to stop all work on site.

EXCAVATION

- D21. If the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
- protect and support the adjoining premises from possible damage from the excavation
 - where necessary, underpin the adjoining premises to prevent any such damage.

Note: The above requirements do not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to the requirements not applying.

- D22. Any excavated material to be removed from the site is to be assessed, classified, transported and disposed of in accordance with the Department of Environment and Climate Change's (DECC) 'Waste Classification Guidelines Part 1: Classifying Waste'.
- D23. All excavations and backfilling are to be executed safely in accordance with appropriate professional standards and excavations are to be properly guarded and protected to prevent them from being dangerous to life and property.
- D24. Any alteration to natural surface levels on the site is to be undertaken in such a manner as to ensure that there is no increase in surface water runoff to adjoining properties or that runoff is impounded on adjoining properties, as a result of the development.

FILL

- D25. Any fill material imported into the site is to be Virgin Excavated Natural Material or material subject to a Resource Recovery Exemption that is permitted to be used as a fill material, in accordance with the provisions of the *Protection of the Environment Operations Act 1997* (NSW) and the *Protection of the Environment (Waste) Regulation 2005* (NSW).
- D26. Any fill material subject to a Resource Recovery Exemption received at the site must be accompanied by documentation demonstrating that material's compliance with the conditions of the exemption, and this documentation must be provided to Department officers or the Principal Certifying Authority on request.

SITE REMEDIATION

- D27. All remedial work is to be carried out in accordance with the Remediation Action Plan prepared by Douglas Partners Pty Ltd (April 2018) and Acid Sulfate Soil Management Plan prepared by Douglas Partners Pty Ltd (November 2017).

PUBLIC UTILITIES

- D28. Any necessary alterations to public utility installations are to be at the developer/demolisher's expense and to the requirements of both Council and any other relevant authorities. Council and other service authorities should be contacted for specific requirements prior to the commencement of any works.

HOURS OF CONSTRUCTION

- D29. Construction work that generates noise that is audible at residential premises is, including the delivery of materials to and from the site, may only be carried out between the following hours:
- between 7am am and 6pm pm, Mondays to Fridays inclusive; and
 - between 8am am and 1pm pm, Saturdays.
- D30. No work may be carried out on Sundays or public holidays.
- D31. Activities may be undertaken outside of these hours if required:
- by the Police or a public authority for the delivery of vehicles, plant or materials; or
 - in an emergency to avoid the loss of life, damage to property or to prevent environmental harm.
- D32. Notification of such activities must be given to affected residents before undertaking the activities or as soon as is practical afterwards.
- D33. Rock breaking, rock hammering, sheet piling, pile driving and similar activities may only be carried out between the following hours:
- 9.00 am to 12.00 pm, Monday to Friday;
 - 2.00 pm to 5.00 pm Monday to Friday; and
 - 9.00 am to 12.00 pm, Saturday.

TfNSW REQUIREMENTS

- D34. All piling and excavation works are to be supervised by a geotechnical engineer experienced with such excavation projects;
- D35. No rock anchors/bolts (temporary or permanent) are to be installed into TfNSW's property or easements and the light rail corridor;
- D36. No metal ladders, tapes and plant/machinery, or conductive material are to be used within 6 metres measured horizontally of any live electrical equipment unless a physical barrier such as a hoarding or structure provides separation;
- D37. During all stages of the development extreme care shall be taken to prevent any form of pollution entering the light rail corridor. Any form of pollution that arises as a consequence of the development activities shall remain the full responsibility of the applicant;
- D38. The applicant must mitigate all noise and vibration to the extent possible and provide vibration monitoring equipment and provide the results to the Newcastle Light Rail Operator at intervals required by TfNSW and the Newcastle Light Rail Operator, and immediately implement corrective actions in the event that the noise or vibration exceeds acceptable limits;
- D39. Rainwater from the roof must not be projected and/or falling into the rail corridor/assets and must be piped down the face of the building which faces the rail corridor. Given the site's location next to the rail property, drainage from the development must be adequately disposed of/managed and not allowed to be discharged into the corridor unless prior approval has been obtained from TfNSW and the Newcastle Light Rail Operator (or the delegated authority); and
- D40. No scaffolding is to be used within 6 horizontal metres of the rail corridor unless prior written approval has been obtained from the Newcastle Light Rail Operator and TfNSW and a physical barrier such as a hoarding or structure provides separation. To obtain approval the applicant will be required to submit details of the scaffolding, the means of erecting and securing this scaffolding, the material to be used, and the type of screening to be installed to prevent objects falling onto the rail corridor.
- D41. The applicant must comply with all Keolis Downer or any subsequent operator of Newcastle Light Rail (Newcastle Light Rail Operator) policies, rules and procedures when working in and about the Newcastle Light Rail corridor;
- D42. The applicant must comply with the requirements of T HR CI 12080 ST External Developments version 1.0 and Development Near Rail Corridors and Busy Roads- Interim Guidelines;
- D43. Activities of the applicant must not affect and/or restrict Newcastle Light Rail operations without prior written agreement between the applicant, Transport for NSW (TfNSW), and the Newcastle Light Rail Operator, and it is a condition precedent that such written agreement must be obtained no later than two (2) months prior to the activity. Any requests for agreement are to include as a minimum the proposed duration, location, scope of works, and other information as required by the Newcastle Light Rail Operator;
- D44. The applicant must apply to the Newcastle Light Rail Operator for any required network shutdowns four (4) months prior to each individual required network shutdown event. Each request for network shutdown must include as a minimum the proposed shutdown dates, duration, location, scope of works, and other information as required by the Newcastle Light Rail Operator. The Newcastle Light Rail Operator may grant or refuse a request for network shutdown at its discretion;
- D45. All associated costs incurred by the Newcastle Light Rail Operator borne from any required network shutdown events including (but not limiting) management, bus replacement services, isolations and maintenance support must be reimbursed within thirty (30) days by the Applicant.
- D46. The relocation of any TfNSW services or infrastructure is to be at the applicant's cost and to TfNSW Requirements and Standards;
- D47. All works/regulatory signage associated with the proposed development are to be at no cost to TfNSW/Roads and Maritime Services;
- D48. TfNSW, and persons authorised by it for this purpose, are entitled to inspect the site of the approved development and all structures to enable it to consider whether those structures on that site have been or are being constructed and maintained in accordance with these conditions of consent, on giving reasonable notice to the principal contractor for the approved development or the owner or occupier of the part of the site to which access is sought; and
- D49. All TfNSW and Newcastle Light Rail operator's costs associated with review of plans, designs and legal must be borne by the applicant.

PART E PRIOR TO OCCUPATION OR COMMENCEMENT OF USE

OCCUPATION CERTIFICATE

- E1. An Occupation Certificate must be obtained from the Certifying Authority prior to commencement of occupation or use of the whole or any part of the approved building.

PROTECTION OF PUBLIC INFRASTRUCTURE

- E2. Unless the Applicant and the applicable authority agree otherwise, the Applicant must:
- (a) repair, or pay the full costs associated with repairing, any public infrastructure that is damaged by carrying out the development; and
 - (b) relocate, or pay the full costs associated with relocating any infrastructure that needs to be relocated as a result of the development.

ROAD RESERVE WORKS

- E3. All public footways, foot paving, kerbs, gutters and road pavement damaged during the works are to be immediately repaired following the damage, to a satisfactory state that provides for safe use by pedestrians and vehicles. Full restoration of the damage is to be carried out to the satisfaction of City of Newcastle prior to the completion of the demolition works or prior to the issue of any Occupation Certificate in respect of the development involving building work.
- E4. The construction works in the road reserve are to be implemented and completed to satisfaction of Newcastle City Council prior to the issue of any Occupation Certificate.
- E5. Any redundant existing vehicular crossing (or section of) is to be removed at no cost to City of Newcastle and the public footway and kerb being restored to match the existing infrastructure and be completed prior to the issuing of an Occupation Certificate for the proposed development.

CLOSED CIRCUIT TELEVISION

- E6. A camera must be located at the main entrance to the venue and positioned to record any person entering through this entrance. The CCTV recordings of this camera must be sufficient to enable an individual to be identified, beyond reasonable doubt, when: a. the person represents not less than 100% of the screen height, and b. there is an unobstructed view of the person's face.
- E7. In addition, CCTV cameras must be maintained throughout the premises with camera coverage to specifically record images of the following areas: a. all other public entrances and exits, whether or not in use at the time, b. staircases, c. all portions of the floor area accessible to the public where entertainment is provided, d. toilet external entrances, e. all public accessible areas within the premise excluding toilets, f. the footpath area directly adjacent to the premises, and g. any courtyard and smoking areas.
- E8. The CCTV recordings of the cameras referred to in sub condition (2) must be sufficient to enable the recognition of a person. A viewer must be able to say with a high degree of certainty whether or not an individual shown is the same as someone they have seen before, when:
- a. the person represents not less than 50% of screen height, and
 - b. there is an unobstructed view of the person's face.
- E9. Camera views are not to be obstructed by temporary or permanent structures, signage or other impediments.
- E10. Camera recordings must meet the standards set in sub condition (1) and (3) at all times, either by way of camera positioning, camera shades or other environmental factors.
- E11. Recordings must: a. be in digital format, b. record at a minimum of ten (10) frames per second, and c. commence one hour prior to opening, and operate continuously until at least one hour after closing.
- E12. The correct time, date and camera identification must be automatically embedded on all recordings and be able to be read when the image is played back on a different system without interfering with the view of the target area.
- E13. Recordings should be retained for a period of 30 days before being reused or destroyed. The licensee shall ensure that no person is able to delete or alter any recordings within the 30- day period.
- E14. A security intruder system is utilised throughout the physical buildings which has 24-hour offsite monitoring which covers the whole premises with no less than three internal movement/motion detectors and separate multiple programmable zones, each single zone having a separate alarm trigger with separate external and internal sirens of not less than 100 dB and an external strobe security light.

POST-CONSTRUCTION DILAPIDATION REPORT

- E15. A post construction dilapidation report prepared by a suitability qualified person shall be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate, to ascertain if any structural damage has occurred to the adjoining buildings, infrastructure and roads. The reports shall be forwarded to Newcastle City Council and will be made available in any private dispute between neighbours regarding damage arising from construction works.

GREEN TRAVEL PLAN

- E16. A Green Travel Plan with Public Transport Routes and Bicycle Network is to be prepared and made available to the residents and commercial and hotel premises tenants. The Public Transport and Bicycle Network Plans are to be installed in common areas prior to the issue of the Final Occupation Certificate. Use of alternative modes of transport is to be encouraged.
- E17. The Green Travel Plan is to be implemented prior to the issue of an Occupation Certificate.

STRUCTURAL INSPECTION CERTIFICATE

- E18. A Structural Inspection Certificate or a Compliance Certificate must be submitted to the satisfaction of the Certifying Authority prior to the issue of any Occupation Certificate and/or use of the premises. A copy of the Certificate with an electronic set of final drawings (contact approval authority for specific electronic format) shall be submitted to the approval authority and the Council after:
- a) the site has been periodically inspected and the Certifier is satisfied that the Structural Works is deemed to comply with the final design drawings
 - b) the drawings listed on the Inspection Certificate have been checked with those listed on the final Design Certificate/s.

FIRE SAFETY CERTIFICATION

- E19. Prior to the issue of the relevant Occupation Certificate, a Fire Safety Certificate shall be obtained for all the relevant Essential Fire or Other Safety Measures forming part of this consent. A copy of the Fire Safety Certificate must be submitted to the relevant authority and Council and be prominently displayed in the building.

LANDSCAPE PRACTICAL COMPLETION REPORT

- E20. A Landscape Practical Completion Report is to be submitted to the Certifying Authority by the consultant responsible for the landscape design plan prior to the issue of the Final Occupation Certificate. The report is to verify that all landscape works have been carried out in accordance with the landscape design plan and specifications that were required to be included in documentation for a Construction Certificate application and is to verify that an effective maintenance program has been commenced.

STORMWATER DRAINAGE DESIGN PLAN(S)

- E21. A copy of the stormwater drainage design plans approved with the Construction Certificate with 'work as executed' levels indicated, shall be submitted to the Principal Certifying Authority and the City of Newcastle prior to the issue of any Occupation Certificate. The plans shall be prepared by a Practising Professional Engineer or Registered Surveyor experienced in the design of stormwater drainage systems.
- E22. Prior to the issue of an Occupation Certificate, the following documentation is to be submitted to the Principal Certifying Authority and City of Newcastle:
- A validation report (prepared in accordance with the requirements of the Remedial Action Plan as approved by the site auditor) by a suitably qualified consultant in accordance with the relevant NSW Environment Protection Authority Guidelines.
 - A 'Section A' Site Audit Statement and Site Audit Report with the purpose of reviewing any completed remedial works, validation documentation and Long Term Environmental Management Plan to determine the suitability of the land for the proposed landuse.

ACOUSTIC COMPLIANCE

- E23. Appropriate acoustic treatment is to be implemented in accordance with the recommendations set out in the report prepared by Acoustic Logic Consultancy Pty Ltd (22 October 2020) Document Reference: 20200068.1/1302A/R1/AR. Written final certification confirming the recommended acoustic treatment has been

implemented in accordance with the requirements of the above report is to be submitted to the Principal Certifying Authority and City of Newcastle prior to the issue of an Occupation Certificate.

- E24. The use and occupation of the premises, including all plant and equipment installed thereon, is not to give rise to any offensive noise, as defined under the *Protection of the Environment Operations Act 1997* (NSW).

Should City of Newcastle consider offensive noise has emanated from the premises, the owner/occupier of the premises will be required to submit an acoustic assessment prepared by a suitably qualified acoustical consultant recommending appropriate acoustic measures necessary to ensure future compliance with this condition and will be required to implement such measures within a nominated period. Furthermore, written certification from the said consultant confirming the recommended acoustic measures have been satisfactorily implemented will be required to be submitted to City of Newcastle prior to the expiration of the nominated period

MAINTENANCE MANUAL

- E25. A Maintenance Manual for all water quality devices is to be prepared in accordance with City of Newcastle's *Technical Manual: Stormwater and Water Efficiency for Development (Updated April 2019)*. The manual is to address maintenance issues concerning the water quality devices including routine monitoring and regular maintenance and is always be kept on site. Establishment and maintenance of the water quality devices in accordance with the manual prepared by the applicant is to be completed prior to occupation of this site for the intended use.

PARKING AND SIGNAGE

- E26. All parking and loading bays are to be permanently marked out on the pavement surface, with loading bays and visitor parking facilities being clearly indicated by signs prior to occupation of the building.
- E27. The vehicular entrance and exit driveways and the direction of traffic movement within the site are to be clearly indicated by means of reflectorised signs and pavement markings. The traffic and parking signs, line markings and required traffic and safety devices as indicated in the approved architectural plans and traffic report is to be completed prior to occupation of the site.

SCREENING

- E19 All external items of air conditioning plant are to be screened or positioned in such a manner as to not detract from the visual presentation of the building.

COMPLIANCE REPORT

- E20 Prior to the issue of any Occupation Certificate, the Applicant, or any party acting upon this approval, shall submit to the Certifying Authority a report addressing compliance with all relevant conditions of this Part.

PLAN OF MANAGEMENT

- E28. The premise is to operate in accordance with the Plan of Management, Revision B, dated December 2020. A copy of this plan must be submitted to local police prior to the premise being open to the public.
- E29. Any proposed changes to the agreed plan must be submitted to local police for review at least 28 days prior to those changes being implemented. If changes must be implemented within the 28-day period local police must be consulted at the earliest opportunity. Noise 1) The LA10* noise level emitted from the licensed premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz – 8kHz inclusive) by more than 5dB between 07:00am and 12:00 midnight at the boundary of any affected residence.

*Notwithstanding compliance with the above, the noise from the licensed premises shall not be audible within any habitable room in any residential premises between the hours of 07:00am and 12:00midnight.

- E30. A Plan of Management being prepared for the use of management and staff that outlines the specific operational requirements to be implemented to minimise acoustic and social impacts as a result of the operation of the hotel including, but not limited to, the recommendations of the report prepared by Acoustic Logic Consultancy Pty Ltd (13/02/2020) Document Reference: 20200068.1/1302A/R1/AR. Such a Plan must be implemented, maintained on-site and made available for inspection by appropriate Authorised Officers upon request.

DILAPIDATION SURVEY

- E31. The final dilapidation survey shall be undertaken via a joint inspection with representatives from TfNSW, the Newcastle Light Rail Operator and the applicant. The dilapidation survey will be undertaken on the rail infrastructure and property in the vicinity of the project. These dilapidation surveys will establish the extent of any existing damage and enable any deterioration during construction to be observed. The submission of a detailed dilapidation report to TfNSW and the Newcastle Light Rail Operator will be required unless otherwise notified by TfNSW. The final occupation certificate shall not be issued until written confirmation has been received from TfNSW confirming their satisfaction with the dilapidation survey and/or rectification of any damage.

TfNSW REQUIREMENTS

- E32. Prior to the issue of the Occupation Certificate, the applicant shall demonstrate that lights, signs and reflective materials, whether permanent or temporary, which are (or from which reflected light might be) visible from the rail corridor were installed limiting glare and reflectivity to the satisfaction of TfNSW and the Newcastle Light Rail Operator.

WORKS IN ROAD RESERVE

- E33. The construction works in the road reserve are to be implemented and completed to satisfaction of City of Newcastle prior to the issue of any Occupation Certificate.

DRAINAGE EASEMENT

- E34. An appropriate notation is to be placed on the plan of subdivision and an instrument under Section 88B of the *Conveyancing Act 1919* (NSW) being submitted to City of Newcastle setting out the terms of drainage easements as required by this consent.

PART F POST OCCUPATION- DURING OPERATION

CLOSED-CIRCUIT TELEVISION

- F1. When the venue is open and trading, at least one person shall be at the venue that is capable of accessing the CCTV system and is able to immediately review recordings and produce copies.
- F2. Immediate access to the CCTV system and the ability to review recordings is to be granted to NSW Police, L&G Inspectors or other regulatory officers upon request.
- F3. The CCTV system shall be able to reproduce a copy of the recordings on Compact Disc, DVD or USB memory stick and must, upon request, be provided within one working day to NSW Police, L&G Inspectors or other regulatory officers.
- F4. Prior to the commencement of trade each day, the CCTV system shall be checked to ensure the equipment is in full operating order. If, during the daily check or at any other time, it is discovered that the equipment is not in full operating order, the licensee is to notify the Local Area Commander or delegate within two hours. All reasonable steps must be undertaken to repair the system as soon as practicable.

HOURS OF OPERATION

- F5. The hours of operation shall be within the hours as specified in the table below.

Land Use / Activities	Hours of Operation
Bar	6:00am to 12:00 midnight Monday to Saturday 6:00am to 10:00pm Sundays
Outdoor Terrace	7:00am to 10:30pm Monday to Saturday 7:00am to 10:00pm Sundays
Loading Dock	7:00am to 10:00pm
Café	7am to 10pm Monday to Sunday
Gym	7am to 10pm Monday to Sunday

MAXIMUM PATRON CAPACITY

F6. The maximum patron capacity of the premise, as divided by area, is to be as follows;

Land Use / Activities	Patrons
Bar	200 indoors maximum at any one time (or as otherwise permitted under the Liquor Licence, whichever is less)
Outdoor Terrace	50 outdoors maximum at any one time 7am – 6pm: 50 patrons 6pm – 10pm: 30 patrons 10pm – 12am: 15 patrons 6am – 7am: No patrons.

F7. Signage (in lettering not less than 15mm in height on a contrasting background) is to be erected in a prominent position near the main principle entry to the bar. The signage shall state: Approved patron capacity is limited to 200 (or as otherwise approved by the liquor licence).

OBSTRUCTION OF PARKING AND ACCESS

F8. Proposed parking areas, vehicle bays, driveways and turning areas are to be maintained clear of obstruction and be used exclusively for purposes of car parking, loading and unloading, and vehicle access, respectively. Under no circumstances are such areas to be used for the storage of goods or waste materials.

HOUSE NUMBERING

F9. House numbering for the proposed development are to be allocated in accordance with the following schedule of allocated street addresses of the City of Newcastle's *House Numbering Policy* and the *Surveying and Spatial Regulation*.

APPENDIX 1 INCIDENT NOTIFICATION AND REPORTING REQUIREMENTS

WRITTEN INCIDENT NOTIFICATION REQUIREMENTS

1. A written incident notification addressing the requirements set out below must be emailed to the Department at the following address: compliance@planning.nsw.gov.au within seven days after the Applicant becomes aware of an incident. Notification is required to be given under this condition even if the Applicant fails to give the notification required under condition A19 or, having given such notification, subsequently forms the view that an incident has not occurred.
2. Written notification of an incident must:
 - a. identify the development and application number;
 - b. provide details of the incident (date, time, location, a brief description of what occurred and why it is classified as an incident);
 - c. identify how the incident was detected;
 - d. identify when the applicant became aware of the incident;
 - e. identify any actual or potential non-compliance with conditions of consent;
 - f. describe what immediate steps were taken in relation to the incident;
 - g. identify further action(s) that will be taken in relation to the incident; and
 - h. identify a project contact for further communication regarding the incident.
3. Within 30 days of the date on which the incident occurred or as otherwise agreed to by the Planning Secretary, the Applicant must provide the Planning Secretary and any relevant public authorities (as determined by the Planning Secretary) with a detailed report on the incident addressing all requirements below, and such further reports as may be requested.
4. The Incident Report must include:
 - a. a summary of the incident;
 - b. outcomes of an incident investigation, including identification of the cause of the incident;
 - c. details of the corrective and preventative actions that have been, or will be, implemented to address the incident and prevent recurrence; and
 - d. details of any communication with other stakeholders regarding the incident.

ADVISORY NOTES

APPEALS

- AN1. The Applicant has the right to appeal to the Land and Environment Court in the manner set out in the EP&A Act and the EP&A Regulation.

OTHER APPROVALS AND PERMITS

- AN2. The Applicant shall apply to Council or the relevant authority for all necessary permits including temporary structures, crane permits, road opening permits, hoarding or scaffolding permits, footpath occupation permits and/or any other approvals under Section 68 (Approvals) of the *Local Government Act 1993* or Section 138 of the *Roads Act, 1993*.

RESPONSIBILITY FOR OTHER CONSENTS / AGREEMENTS

- AN3. The Applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

REQUIREMENTS OF PUBLIC AUTHORITIES

- AN4. Public authorities (e.g. Ausgrid, Sydney Water, Telstra Australia, AGL, etc.) may have requirements in regard to the connection to, relocation or adjustment of services affected by the construction of the development.

TEMPORARY STRUCTURES

- AN5. An approval under State Environmental Planning Policy (Miscellaneous Consent Provisions) 2007 must be obtained from the Authority for the erection of the temporary structures. The application must be supported by a report detailing compliance with the provisions of the BCA.
- AN6. Structural certification from an appropriately qualified practicing structural engineer must be submitted to the Authority with the application under State Environmental Planning Policy (Miscellaneous Consent Provisions) 2007 to certify the structural adequacy of the design of the temporary structures.

DISABILITY DISCRIMINATION ACT

- AN7. This application has been assessed in accordance with the EP&A Act. No guarantee is given that the proposal complies with the *Disability Discrimination Act 1992*. The Applicant/owner is responsible to ensure compliance with this and other anti-discrimination legislation. The *Disability Discrimination Act 1992* covers disabilities not catered for in the minimum standards called up in the BCA which references *AS 1428.1 - Design for Access and Mobility*. AS1428 Parts 2, 3 & 4 provides the most comprehensive technical guidance under the *Disability Discrimination Act 1992* currently available in Australia.

FURTHER APPROVALS

- AN8. The following shall be subject of separate development applications to Council under Part 4 of the Act (except where exempt and complying development applies):
- (a) External signage - the Applicant shall seek development consent prior to occupation and use of the works approved in this consent. All signage shall be in accordance with *State Environmental Planning Policy No 64 – Advertising and Signage* and illumination must not exceed relevant Australian Standards.
 - (b) Fit-out and use of the café and bar - the Applicant shall seek development consent prior to occupation and use of the works approved in this consent. Development applications shall comply with the requirements of *AS 4674 Design, Construction and Fit-out of Food Premises*, *The Food Act 2003* and *Food Safety Standards*.
 - (c) The Applicant shall obtain a certificate from a suitably qualified tradesperson, certifying that the kitchen, food storage and food preparation areas have been fitted in accordance with the *National Code for the Construction and Fit-out of Food Premises*. The Applicant shall provide evidence of receipt of the certificate to the satisfaction of the Certifying Authority prior to the occupation of the building(s) or commencement of the use.

USE OF MOBILE CRANES

- AN9. 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 Certifying Authority:
- (d) (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:
 - (i) at least 48 hours prior to the works for partial road closures which, in the opinion of Council will create minimal traffic disruptions; and
 - (ii) 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.
 - (e) The use of mobile cranes must comply with the approved hours of construction and shall not be delivered to the site prior to 7 am without the prior approval of the relevant authority.

ROADS ACT 1993

- AN10. A separate approval under Section 138 of the *Roads Act 1993* is required to undertake any of the following:
- (f) erect a structure or carry out a work in, on or over a public road;
 - (g) dig up or disturb the surface of a public road;
 - (h) remove or interfere with a structure, work or tree on a public road;
 - (i) pump water into a public road from any land adjoining the road; or
 - (j) connect a road (whether public or private) to a classified road.

COMMONWEALTH ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION ACT 1999

- AN11. The Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) provides that a person must not take an action which has, will have, or is likely to have a significant impact on a matter of national environmental significance (NES) matter; or Commonwealth land, without an approval from the Commonwealth Environment Minister.

AN12. This application has been assessed in accordance with the EP&A Act. The determination of this assessment has not involved any assessment of the application of the Commonwealth legislation. It is the Applicant's responsibility to consult the Department of the Environment and Energy to determine the need or otherwise for Commonwealth approval and you should not construe this grant of approval as notification to you that the EPBC Act does not have application. The EPBC Act may have application and you should obtain advice about this matter. There are severe penalties for non-compliance with the Commonwealth legislation.

WORKS AND SIGNPOSTING

AN13. All costs associated with signposting for any kerbside parking restrictions and traffic management measures associated with the development shall be borne by the developer.

WATER MANAGEMENT ACT

AN14. A condition of the enclosed development consent prevents the implementation of the approval until a Certificate of Compliance under Division 5 of Part 2 of Chapter 6 of the Water Management Act 2000 is obtained from Council.

The Notice under Division 5 of Part 2 of Chapter 6 of the Water Management Act 2000 may involve the payment of an amount towards the cost of water supply and wastewater infrastructure and, if necessary, the construction of certain infrastructure to serve the development.

In this regard it will necessary for you:

- (k) To complete the application for a Certificate of Compliance and return it to Council's Administration Building together with a copy of the consent and the notice.
- (l) To comply with Council's satisfaction with the requirements as specific in the Notice.

Subdivision Certificates or Construction Certificates which may follow a development consent will not be released until the above matters have been finalised.

For further enquiries, please contact the Sustainable Places Group.