

ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

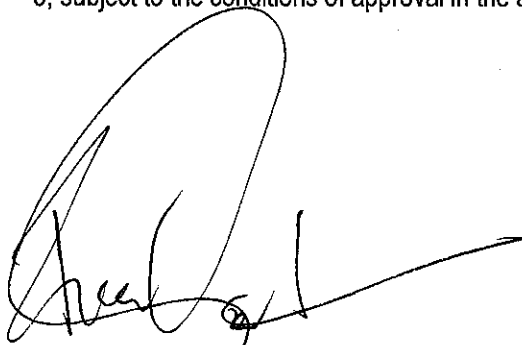
DETERMINATION OF MAJOR PROJECT NO. 07_0133

(FILE NO. S07/01488 PT 3)

A MIXED RESIDENTIAL, RETAIL AND HOTEL DEVELOPMENT ON PART OF THE FORMER
NEWCASTLE HOSPITAL SITE (STAGE 1A & 1B), NEWCASTLE

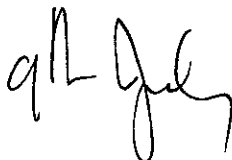
I, the Minister for Planning, having considered the following, pursuant to Part 3A of the *Environmental Planning & Assessment Act, 1979*, Section 75J Clause (2) determine the major project proposal referred to in the attached Director-General's Environmental Assessment Report, by **granting approval** to the major project referred to in the attached Schedule 1 subject to the conditions of consent in the attached Schedule 2.

This approval applies to the plans, drawings and documents cited by the Proponent in their Environmental Assessment identified in that attached Schedule 2 and the Proponent's Statement of Commitments in Schedule 3, subject to the conditions of approval in the attached Schedule 2.



Frank Sartor MP
Minister for Planning

Sydney,



2008

SCHEDULE 1

PART A—TABLE

Application made by:	Mirvac Pty Ltd
Application made to:	Minister for Planning
Major Project Application:	MP 07_0133
On land comprising:	Lot 12, DP1112367, Lot 12, DP635003 & Lot 4, DP1029006, Shortland Esplanade, Newcastle East
Local Government Area	Newcastle
For the carrying out of:	Construction of: • A part 5, part 6 and part 8 storey building overlooking Shortland Esplanade and Newcastle Beach and incorporating residential and retail uses (Building 1); • An 8 storey residential and retail building overlooking a new plaza and new extension to King Street (Building 2); • A 16 storey building incorporating studio apartments, a hotel and conference facility and retail uses (Building 3); • Public domain improvements incorporating a publicly accessible plaza and two through site links, one from Pacific Street and one from King Street and both connecting to Shortland Esplanade and Fletcher Park / Newcastle Beach; • 2 levels of basement car parking and; • Stratum and strata subdivision
Estimated Cost of Works	CIV: \$89,700,000
Type of development:	Major Project
S.119 Public inquiry held:	No
Determination made on:	
Date approval is liable to lapse:	Approval shall lapse in 5 years after the determination date of this approval unless works have physically commenced on the development.

PART B—NOTES RELATING TO THE DETERMINATION OF MP NO. 07_0133

Responsibility for other consents / agreements

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

Appeals

The Proponent has the right to appeal to the Land and Environment Court in the manner set out in the Environmental Planning and Assessment Act, 1979 and the Environmental Planning and Assessment Regulation, 2000 (as amended).

Legal notices

Any advice or notice to the Certifying Authority and the PCA shall be served on the Council.

PART C—DEFINITIONS

In this approval,

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

Advisory Notes means advisory information relating to the approved development but do not form a part of this approval.

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

Council means Newcastle City Council.

CPI means Consumer Price Index.

Department means the Department of Planning or its successors.

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

Environmental Assessment means the Environmental Assessment prepared by Planning Workshop, Australia dated 4 January 2008 and amendments prepared by Planning Workshop, Australia dated 8 May 2008 and 5 June 2008.

Minister means the Minister for Planning.

MP No. 07_0133 means the Major Project described in the Proponent's Environmental Assessment.

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

Proponent means Mirvac Pty Ltd or any party acting upon this approval.

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

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

SCHEDULE 2

RECOMMENDED CONDITIONS OF APPROVAL

MAJOR PROJECT NO. 07_0133

PART A—ADMINISTRATIVE CONDITIONS

A1 Development Description

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

- Construction of 3 separate buildings ranging in height from 5 to 16 storeys above 2 levels of basement parking, with a GFA of 25,222m² and FSR of 2.84:1, comprising
 - 146 residential dwellings with ground floor retail space,
 - A 89 suite hotel with associated conference and restaurant / retail floor space;
- Public domain improvements incorporating a publicly accessible plaza and two through site links
- Shared facilities for the residents and the hotel guests including pool, gym and outdoor landscaped communal spaces; and
- Stratum and strata subdivisions.

Development approval is not granted for the following which did not form part of this application:

- Use, fit-out, signage and/or hours of operation for ground level retail spaces;

A2 Development in Accordance with Documents

The development will be undertaken in accordance with the Environmental Assessment dated 4 January 2008 prepared by Planning Workshop Ltd and all Appendices, except where varied by

- the Preferred Project Report submitted on 8 May 2008 and all Appendices,
- the additional information to the Preferred Project Report submitted on 5 June 2008 and all Appendices,
- the Proponent's revised Statement of Commitments dated 8 May 2008;
- BASIX certificate No.173454M
- the following drawings:

Architectural (or Design) Drawings prepared by Mirvac Design as submitted in the Preferred Project Report dated 8 May 2008			
Drawing No.	Revision	Name of Plan	Date
500-PA1000	F	Drawing Register and Site Locality Plan	07.05.08
500-PA1001	H	Plan – Carpark Level P1	05.06.08
500-PA1002	H	Plan – Carpark Level P2	05.06.08
500-PA1003	G	Plan – Building 1 – Level Ground; Building 2 – Level Ground; Building 3 – Level Ground	05.06.08
500-PA1004	F	Plan – Building 1 – Level 1; Building 2 – Level 1; Building 3 – Level Mezzanine	07.05.08
500-PA1005	F	Plan – Building 1 – Level 2; Building 2 – Level 2; Building 3 – Level 1	07.05.08
500-PA1006	F	Plan – Building 1 – Level 3; Building 2 – Level 3; Building 3 – Level 2	07.05.08
500-PA1007	F	Plan – Building 1 – Level 4; Building 2 – Level 4; Building 3 – Level 3	07.05.08
500-PA1008	F	Plan – Building 1 – Level 5; Building 2 – Level 5; Building 3 – Level 4	07.05.08

500-PA1009	F	Plan – Building 1 – Level 6; Building 2 – Level 6; Building 3 – Level 5	07.05.08
500-PA1010	F	Plan – Building 1 – Level 7; Building 2 – Level 7; Building 3 – Level 6	07.05.08
500-PA1011	F	Plan – Building 1 – Level Roof; Building 2 – Level Roof; Building 3 – Level 7	07.05.08
500-PA1012	F	Plan – Building 1 – Level Roof; Building 2 – Level Roof; Building 3 – Level 8	07.05.08
500-PA1013	F	Plan – Building 1 – Level Roof; Building 2 – Level Roof; Building 3 – Level 9	07.05.08
500-PA1014	F	Plan – Building 1 – Level Roof; Building 2 – Level Roof; Building 3 – Level 10-14	07.05.08
500-PA1015	F	Plan – Building 1 – Level Roof; Building 2 – Level Roof; Building 3 – Level 15	07.05.08
500-PA1016	F	Plan – Building 1 – Level Roof; Building 2 – Level Roof; Building 3 – Level Roof	07.05.08
500-PA1019	F	Building 1 Elevations – Sheet 1 of 2	07.05.08
500-PA1020	F	Building 1 Elevations – Sheet 2 of 2	07.05.08
500-PA1021	F	Building 2 Elevations	07.05.08
500-PA1022	F	Building 3 Elevations	07.05.08
500-PA1023	F	Sections 1 and 2 – Buildings 1 and 2	07.05.08
500-PA1024	F	Section 3 – Buildings 1, 2 and 3	07.05.08
500-PA1025	F	Section 4 – Building 3	07.05.08
500-PA1027	A	Public Domain Plan	02.05.08
		Plan for S94A Offsets	undated
Draft Strataum and Strata Subdivision Plans prepared by Tassy Moraitis as submitted on 8 May 2008 as part of the PPR			
Drawing No.	Reference No	Name of Plan	Date
Sheets 1-7	070603 D-SUB	Plan of Proposed Subdivision of Lot 12 in DP 1112367, Lot 12 in DP 635003 and Lot 4 DP 1029006	8 May 2008
Sheets 1-11	070603 Lot 1 DSP	Strata Plan	2 May 2008
Sheets 1-17	070603 Lot 3 DSP	Strata Plan	2 May 2008

except for:

- (1) any modifications which are 'Exempt and Complying Development' as identified in the *Newcastle City Centre Local Environment Plan 2008* or as may be necessary for the purpose of compliance with the BCA and any Australian Standards incorporated in the BCA;
- (2) otherwise provided by the conditions of this approval.

A3 Inconsistency between documents

In the event of any inconsistency between conditions of this approval and the drawings/documents including Statement of Commitments referred to above, the conditions of this approval shall prevail.

A4 Prescribed Conditions

The Proponent shall comply with the prescribed conditions of development approval under clause 98 of the Regulation.

PART B – PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

Design Details and Changes

B1 *Design Integrity Panel (the Panel)*

Prior to issue of a Construction Certificate for above ground works detailed Construction Drawings for the proposed development shall be submitted to the Department for the Panel's approval to ensure the approved design is fully implemented throughout the construction.

B2 *Heritage Interpretation Plan*

The proponent is to prepare a Heritage Interpretation Plan to facilitate implementation of the Heritage Interpretation Strategy submitted with the EA. The plan is to be submitted to and approved by the Department prior to the issue of a Construction Certificate for above ground works.

B3 *BASIX Certificate requirements*

All amendments and treatments outlined in the *BASIX Certificate No.173454M* to achieve satisfactory levels of thermal comfort, and satisfactory water and energy ratings, shall be incorporated into the proposed development. The Proponent shall submit to the Certifying Authority all relevant documentation demonstrating compliance with the requirements of this condition prior to issue of a Construction Certificate for above ground works.

B4 *Treatment of Vehicular Entry*

In order to improve the appearance of the building when viewed from the street, any part of the walls and ceilings of vehicular entry points that are visible from the street shall be finished in high quality materials and no service ducts or pipes are to be visible. Details shall be provided to the Certifying Authority prior to issue of a Construction Certificate for above ground works.

B5 *Disabled Access*

Access and facilities for people with disabilities shall be provided in accordance with Part D3 of the *Building Code of Australia*. Prior to the issue of a Construction Certificate, a certificate certifying compliance with this condition from an appropriately qualified person shall be provided to the Certifying Authority.

B6 *Reflectivity*

The visible light reflectivity from building materials used on the facades of the buildings shall not exceed 20% and shall be designed so as not to result in glare that causes any nuisance or interference to any person or place. A report demonstrating compliance with these requirements is to be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for above ground works.

Height & Density

B7 *GFA Certification*

A Registered Surveyor is to certify that the Gross Floor Area (GFA) of the Stage 1A and Stage 1B development does not exceed 25,222m² in accordance with the definition of GFA in the *Newcastle City Centre LEP 2008*. Details shall be provided to the Certifying Authority demonstrating compliance with this condition prior to the issue of a Construction Certificate for above ground works.

B8 *Maximum GFA/FSR for the overall former RNH site*

Full implementation of the former Newcastle Hospital Site including the David Maddison building site, the United Services Club car park site and the remaining portion of the subject land shall have a maximum FSR of 3.07:1, being a maximum GFA of 53,971 sq m.

Traffic

B9 Number of Parking Spaces

The maximum number of parking spaces to be provided for the development is 366 spaces. Details confirming the parking numbers and allocation for each use/disabled users shall be submitted to the satisfaction of the Certifying Authority in accordance with the with Newcastle DCP 2005 prior to the issue of a Construction Certificate.

B10 Internal Roads / Car Park and Service Vehicle Layout

1. All internal private roads/accessways, driveways, parking bays and vehicular turning areas being constructed with a basecourse of adequate depth to suit design traffic, being sealed with either bitumen seal, asphaltic concrete, concrete or interlocking pavers and being properly maintained.
2. The layout of the car park shall comply with Australian Standard AS2890.1: 2004 Parking Facilities Part 1: Off Street Parking. All parking spaces are to be line marked. Facilities for secure parking for motorcycles and push bikes shall be provided.
3. The layout of the service vehicle area shall comply with Australian Standard AS2890.2: 2002 Off Street Parking Part 2 – Commercial Vehicles Facilities.
4. Details are to be provided of a security parking system in order to allow vehicles to be queued within the development.
5. Details demonstrating compliance with these requirements shall be submitted to the satisfaction of the Certifying Authority prior the issue of a Construction Certificate for below ground works.

B11 Basement Access

1. The access ramps into the site are to comply with safe sight distances and scraping provisions of AS/NZS2890.1
2. The first 6 metres of the basement ramps within the property boundary are not to exceed 5% maximum gradient.
3. The gradient within the footway reserve into the boundary must not exceed 1 in 20 (5%)

B12 Works on public land

No work within the public road being commenced until Council's separate written approval has been obtained. A separate approval from Council is required for the following works:

- Tree planting along King Street;
- Footpath widening along Shorland Esplanade and;
- Vehicular entrance/exit ramp Street to the basement parking on King Street.

Landscaping

B13 Landscape Plan

A detailed Landscape Plan is to be submitted incorporating the following:

1. Locally native species to be at least 20% of plants by number.
2. Design of planter beds and boxes demonstrating capacity to support mature size of species selected, including details of soil volume and sub-surface design; and
3. Details of hard landscaping including paving, boundary treatments, and furniture and fittings in public areas.

The Landscape Plan shall be submitted to the Certifying Authority demonstrating compliance with this condition prior to the issue of a Construction Certificate for above ground works.

B14 Green Wall (Shortland Esplanade)

The proponent shall ensure that the proposed green wall is appropriately established and maintained to ensure the survival of the green wall for the life of the development in accordance with the approval.

B15 Anti Graffiti

All ground level surfaces are to be treated with anti-graffiti coating to minimise the potential of defacement. In addition, any graffiti evident on the exterior facades and visible from a public place is to be removed within 24 hours.

B16 Outdoor Lighting

All outdoor lighting shall comply with, where relevant, AS/NZ1158.3.1: 2005 *Pedestrian Area (Category P) Lighting* and AS4282: 1997 *Control of the Obtrusive Effects of Outdoor Lighting*. Details demonstrating compliance with these requirements are to be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for above ground works.

Health**B17 Mechanical Ventilation**

All mechanical ventilation systems shall be installed in accordance with the Building Code of Australia and shall comply with the *Public Health (Microbial Control) Regulation 2000* under the Public Health Act 1991. Details shall be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for above ground works.

Energy Australia requirements**B18 Capacity of existing electrical supply**

The capacity of the existing electricity supply to service the proposed development shall be investigated and Energy Australia consulted to determine if the development requires an on-site substation. If a new on-site substation is required, design and details will be provided to the satisfaction of the Certifying Authority and Energy Australia prior to issue of any Construction Certificate.

Public Services & Infrastructure**B19 Monetary Contributions & Contributions in lieu**

In accordance with Section 94A of the Act, the Proponent shall pay the following monetary contributions in accordance with Part B of the Newcastle S94A Contributions Plan 2006.

1. Amount of Contribution

The contributions based on an estimated cost of development of \$89,700,000 (subject to verification by a Registered Quantity Surveyor's (QS) report at Construction Certificate) is as follows:

Contribution Category	Rate of Contribution	Amount
Section 94A Levy	3% (of the cost of development)	\$2,691,000 (subject to verification by a QS Report at CC stage)

2. Works-in-kind

The following is considered to be works-in-kind in part satisfaction of the above levy:

- New street tree planting along King Street;
- Publically accessible through site link from Pacific Street to Shortland Esplanade and from King Street to Shortland Esplanade;
- Footpath works to Shortland Esplanade; and
- Appropriately located pedestrian crossings from the site across Shortland Esplanade to the foreshore (if provided by the proponent).

The extent of works to be included in the calculation of monetary offsets shall be in accordance with Plan for S94A Offset as listed in Condition A2 and the cost of such works verified by a Registered Quantity Surveyor's Cost Report and should not include any land valuation cost. The total value of the works in kind shall not result in a total monetary contribution of less than 2% (of the cost of development).

For each of these areas, works suitable for monetary offset are to be restricted to:

- Pavement, steps, materials, embellishment (not including sub-structure);
- Street furniture and planting;
- Any other public domain improvement works (art work, interpretation signage, benches etc. – materials only); and
- Lighting.

The Registered Quantity Surveyor's Cost Report shall be submitted to the Department to determine the final amount of cash contribution to Council.

3. Timing and Method of Payment

The contribution shall be paid in the form of cash or bank cheque, made out to Newcastle City Council. For accounting purposes, the contribution may require separate payment for the different contribution categories and you are advised to check with Council.

Evidence of the payment to Council shall be submitted to the Certifying Authority prior to the issue of a Construction Certificate for the new development.

4. Indexing

At the time of payment, both levies will be indexed quarterly in accordance with movements in the Consumer Price Index (All Groups Index) for Sydney issued by the Australian Statistician.

PART C — PRIOR TO COMMENCEMENT OF WORKS

Structural Works

C1 *Structural Details*

Prior to the commencement of construction, the Proponent shall submit to the satisfaction of the Certifying Authority structural drawings for the area of work which is the subject of the construction certificate, prepared and signed by a suitably qualified practising Structural Engineer that comply with:

1. the relevant clauses of the BCA,
2. the relevant development approval,
3. drawings and specifications including the final geotechnical plans comprising the Construction Certificate, and
4. the relevant Australian Standards listed in the BCA (Specification A1.3).

C2 *Final Geotechnical Plans*

Prior to commencement of construction a copy of the final geotechnical plans prepared part of the Geotechnical Report by Douglas Partners, Project 39694A-1 dated December 2007 shall be provided to the Mine Subsidence Board.

PART D — DURING CONSTRUCTION

Noise and Vibration

D1 Hours of Work

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

1. between 7:00 am and 6:00 pm, Mondays to Fridays inclusive;
2. between 8:00 am and 1:00 pm, Saturdays;
3. no work on Sundays and public holidays.
Works may be undertaken outside these hours where:
 4. the delivery of materials is required outside these hours by the Police or other authorities;
 5. it is required in an emergency to avoid the loss of life, damage to property and/or to prevent environmental harm;
 6. the work is approved through the Works Noise and Vibration Management Plan; and
 7. residents likely to be affected by the works are notified of the timing and duration of these works at least 48 hours prior to the commencement of the works.

D2 Construction Management Plan

Construction shall be carried out in accordance with the Construction Management Plan Royal Newcastle Stage 1A & 1B dated 27 November 2007. The plan shall ensure the provision for safe, continuous movement of traffic and pedestrians within the road reserve. The plan shall be in accordance with AS 1742.3-2002 and conform to the RTAs General Specifications (Part G10 Control of Traffic). A copy of the plan to comply with this condition shall be submitted to the Certifier and Council.

D3 Vibration Criteria

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

1. for structural damage vibration, German Standard *DIN 4150-3 Structural Vibration: Effects of Vibration on Structures*; and
2. for human exposure to vibration, the evaluation criteria presented in British Standard *BS 6841: 1992 Guide to Evaluate Human Exposure to Vibration in Buildings (1Hz to 80 Hz)* for low probability of adverse comment.

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

Structural Works

D4 Setting Out of Structures

The building shall be set out by a registered surveyor to verify the correct position of each structure in relation to property boundaries and the approved alignment levels. The registered surveyor shall submit a plan to the Certifying Authority that structural works are in accordance with the approved project application MP07_0133.

Works Management

D5 Approved Plans to be On-site

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

D6 Protection of Trees – Street Trees

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

D7 Dust Control Measures

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

1. Continuous air monitoring, to the satisfaction of the Certifying Authority, should be carried out at the site boundary to measure dust and asbestos.
2. The Membrane Filter Method shall be used to monitor asbestos levels when asbestos removal is in progress. The determination of airborne asbestos fibre level for control air monitoring action level shall be in accordance with the Code of Practice for the Safe Removal of Asbestos. (NOHSC: 2002 (1988));
3. Physical barriers shall be erected at right angles to the prevailing wind direction or shall be placed around or over dust sources to prevent wind or activity from generating dust emissions,
4. Earthworks and scheduling activities shall be managed to coincide with the next stage of development to minimise the amount of time the site is left cut or exposed,
5. All materials shall be stored or stockpiled at the best locations,
6. The surface should be dampened slightly to prevent dust from becoming airborne but should not be wet to the extent that run-off occurs,
7. All vehicles carrying spoil or rubble to or from the site shall at all times be covered to prevent the escape of dust or other material,
8. All equipment wheels shall be washed before exiting the site using manual or automated sprayers and drive-through washing bays,
9. Gates shall be closed between vehicle movements and shall be fitted with shade cloth, and
10. Cleaning of footpaths and roadways shall be carried out regularly.

D8 Site Security

A 24-hour security presence is to be provided on site throughout the duration of works.

D9 Archaeological Discovery During Excavation

1. Should any historical relics be unexpectedly discovered on the site during excavation, all excavation or disturbance to the area is to stop immediately and the Heritage Council of NSW should be informed in accordance with section 146 of the Heritage Act 1977.
2. Should any Aboriginal relics be unexpectedly discovered then all excavation or disturbance of the area is to stop immediately and the National Parks and Wildlife Service is to be informed in accordance with Section 91 of the National Parks and Wildlife Act, 1974.

PART E—PRIOR TO STRATUM AND STRATA SUBDIVISION**E1 Plan of Subdivision**

Prior to the issue of a Subdivision Certificate, the applicant is to provide to the issuing authority, a survey plan of subdivision including a copy of the relevant instrument under Section 88B of the *Conveyancing Act 1919*.

E2 Access

Documentary easements for access shall be created over the appropriate lots in the subdivision to provide access for public access and access to lifts, lobbies, fire stairs, service areas, loading and car parking areas and must be created under Section 88B of the *Conveyancing Act 1991*.

E3 Utilities Adjustments

The proponent shall be responsible for all adjustments to and/or relocation of public utilities (where required). Any necessary alterations shall be at the developer's expense and the requirements of the appropriate Authorities.

E4 Services

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

E5 A Survey Plan and S88B Instrument

A Survey Plan and S88B instrument pursuant to *Conveyancing Act 1919* shall be submitted to Council as being the relevant Planning Authority from benefiting the relevant easements placed on private land and being the owner of the public lands. The S88B instrument is to set out the terms of easements, rights of carriage and rights of public access in respect of the following, where applicable:

- Interallotment drainage lines in favour of upstream properties utilising the lines
- Rights of the carriageway in favour of the property services and / or the appropriate utility provider and / or Council
- Easements for services in favour of the property serviced and / or the appropriate utility provider
- Rights of public access in favour of Council
- Stormwater mains and overland flow paths in favour of Council

E6 Part 4A Certification

Prior to the registration of the final subdivision plans in the Office of the Registrar-General, a Part 4A certification shall be obtained under Section 109D(1)(d) of the Act.

E7 Section 37 of Strata Titles Act

An application under Section 37 of the *Strata Schemes (Freehold Development) Act 1973* must be submitted to Council or a private certifying authority prior to the release of the certified strata plan of subdivision.

E8 Application for Numbering

Any application for strata subdivision shall be accompanied by a street numbering strategy for approval by Council prior to the release of any linen plan subdivision.

E9 Car parking allocation

Parking spaces shall be allocated in accordance with Condition C9 of this consent. A minimum of 1 space shall be allocated for each residential unit. Visitor units shall be held as common property for use by visitors to the residential units, and no leasing or timed parking fees shall be permitted for these spaces.

E10 Use of parking spaces

Parking spaces will remain for the exclusive use of the residents, their visitors or utility vehicles servicing the site. Leasing of spaces for non-resident use, other than to tenants of the retail, cafes and restaurants on the site, is not permitted. Evidence of compliance with this condition shall be submitted to the Certifying Authority prior to release of the certified strata plan of subdivision.

E11 Shared facilities: Gym, Pool and Outdoor facilities

Prior to release of the Final Strata Plans for certification a Strata Management Plan shall be submitted to the Certifying Authority to state the gym, pool and outdoor facilities shall be available for all the residents and the patrons of the hotel. Access to these facilities will be controlled via an approved Strata Management Plan or an equivalent document that is endorsed as part of stratum or / and strata subdivisions.

E12 *Preconditions to release of plan of subdivision*

The plan of subdivision will not be issued until:

1. All Section 94 contributions required to be paid have been paid.
2. The property has been developed in accordance with plans approved by MP 07_0133 and documentary evidence of compliance with all conditions of consent has been submitted to Council.

PART F—PRIOR TO OCCUPATION OR COMMENCEMENT OF USE**F1 *Further Approvals***

The following shall be subject of separate development applications to Council under Part 4 of the Act (except where exempt and complying development):

- Fit-out, signage and/or hours of operation for ground floor retail spaces;
- Directional signage for the public domain (if needed);
- Building identification signage for the hotel (if needed).

F2 *Design Verification Statement*

Prior to the issue of any final Occupation Certificate, the Proponent shall submit to the PCA a Design Verification Statement from a qualified designer, verifying that the plans and specifications achieve or improve the design quality of the development, having regard to the design quality principles set out in Part 2 of *State Environmental Planning Policy No. 65—Design Quality of Residential Flat Development*.

F3 *BASIX Certificate*

Certification is to be provided to the PCA that the commitments identified in the BASIX Certificate have been fulfilled prior to issue of an occupation certificate.

F4 *Heritage Interpretation Plan*

The proponent shall implement the recommendations of the approved Heritage Interpretation Plan prior to issue of Occupation Certificate.

Engineering**F5 *Fire Safety Certificate***

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

F6 *Mechanical Ventilation*

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

1. The Building Code of Australia;
2. Australian Standard AS1668 and other relevant codes;
3. The development approval and any relevant modifications; and,
4. Any dispensation granted by the New South Wales Fire Brigade.

F7 Structural Inspection Certificate

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

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

F8 Road Damage

The cost of repairing any damage caused to Council or other Public Authority's assets in the vicinity of the subject site as a result of construction works associated with the approved development, shall be met in full by the Proponent prior to the issue of any Occupation Certificate.

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

F9 Post-construction Dilapidation Report

1. The Proponent shall engage a suitably qualified person to prepare a post-construction dilapidation report at the completion of the construction works. This report is to ascertain whether the construction works created any structural damage to adjoining infrastructure and roads.
2. The report is to be submitted to the PCA. In ascertaining whether adverse structural damage has occurred to adjoining buildings, infrastructure and roads, the PCA must:
 - (a) compare the post-construction dilapidation report with the pre-demolition dilapidation report required by this consent, and
 - (b) have written confirmation from the relevant authority that there is no adverse structural damage to their infrastructure and roads.
3. A copy of this report is to be forwarded to Council.

ART G - POST OCCUPATION**Fire Safety****G1 Annual Fire Safety Certification**

The owner of the building shall certify and provide an Annual Fire Safety Statement to Council and the NSW Fire Brigade every year commencing within 12 months after the date on which the initial Fire Safety Certificate is received, that the essential services installed in the building for the purpose of fire safety have been inspected and at the time of inspection are capable of operating to the required minimum standard. The purpose of this condition is to ensure that there is adequate safety of persons in the building in the event of fire and for the prevention of fire, the suppression of fire and the prevention of spread of fire.

Traffic and Parking**G2 Loading and Unloading**

All loading and unloading of service vehicles in connection with the use of the premise shall be carried out wholly within the site at all times.

G3 Unobstructed Driveways and Parking Areas

All driveways and parking areas shall be unobstructed at all times. Driveways and car spaces shall not be used for the manufacture, storage or display of goods, materials or any other equipment and shall be used solely for vehicular access and for the parking of vehicles associated with the use of the premises.

G4 Noise Control – Plant and Machinery

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

Public Access**G5 Public Way to be Unobstructed**

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

Compliance**G6 Compliance Report**

The Proponent, or any party acting upon this approval, shall submit to the PCA a report addressing compliance with conditions of this consent.

ADVISORY NOTES**AN1 Requirements of Public Authorities for Connection to Services**

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

AN2 Application for Hoardings and Scaffolding

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

1. Architectural, construction and structural details of the design
2. Structural certification prepared and signed by a suitably qualified practising structural engineer.

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

AN3 Signage

All works/regulatory signposting associated with the proposed development shall be at no cost to the RTA or Council.

AN4 Use of Mobile Cranes

The Proponent 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:

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

AN5 *Movement of Trucks Transporting Waste Material*

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

AN6 *Stormwater drainage works or effluent systems*

A construction certificate for works that involve any of the following:

1. water supply, sewerage and stormwater drainage work
2. management of waste

as defined by Section 68 of the Local Government Act, 1993 will not be issued until prior separate approval to do so has been granted by Council under Section 68 of that Act. Applications for these works must be submitted on Council's standard Section 68 application form accompanied by the required attachments and the prescribed fees.

AN7 *Temporary Structures*

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

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

AN8 *Disability Discrimination Act*

This application has been assessed in accordance with the Environmental Planning and Assessment Act 1979. No guarantee is given that the proposal complies with the Disability Discrimination Act 1992. The Proponent/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 *Building Code of Australia* 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.

SCHEDULE 3

MP 07_0133

STAGE 1A & 1B FORMER NEWCASTLE SITE, NEWCASTLE

REVISED STATEMENT OF COMMITMENTS

dated 2008

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Final Statement of Commitments

Subject	Commitments	Timing
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1. Compliance with applicable planning and building requirements.

CONCEPT PLAN COMMITMENT
Detailed design of the development will demonstrate compliance with applicable planning requirements, including BCA, SEPP 65 and BASIX.

Addressed at the detailed development design stage as part of the relevant Project Application(s).

PROJECT APPROVAL COMMITMENTS

- 1.1 The development will be undertaken in accordance with Project Application No. 07_0133 submitted by the proponent on 7 January 2008 modified by the Preferred Project Report dated 8 May 2008, and in accordance with the following:

Environment Assessment Report entitled <i>The Royal, Newcastle</i> prepared by Planning Workshop Australia Dated 4 January 2008			
Drawing No.	Revision	Name of Plan	Date
500-PA1001	G	Plan: Carpark Level P2	07.05.08
500-PA1002	G	Plan: Carpark Level P1	07.05.08
500-PA1003	F	Plan: building 1 – level ground; building 2 – level ground; building 3 – level ground	07.05.08
500-PA1004	F	Plan: building 1 – level 1; building 2 – level 1; building 3 – level mezzanine	07.05.08
500-PA1005	F	Plan: building 1 – level 2; building 2 – level 2; building 3 – level 1	07.05.08
500-PA1006	F	Plan: building 1 – level 3; building 2 – level 3; building 3 – level 2	07.05.08
500-PA1007	F	Plan: building 1 – level 4; building 2 – level 4; building 3 – level 3	07.05.08
500-PA1008	F	Plan: building 1 – level 5; building 2 – level 5; building 3 – level 4	07.05.08
500-PA1009	F	Plan: building 1 – level 6; building 2 – level 6; building 3 – level 5	07.05.08
500-PA1010	F	Plan: building 1 – level 7; building 2 – level 7; building 3 – level 6	07.05.08
500-PA1011	F	Plan: building 1 – level roof; building 2 – level roof; building 3 – level 7	07.05.08
500-PA1012	F	Plan: building 1 – level roof; building 2 – level roof; building 3 – level 8	07.05.08
500-PA1013	F	Plan: building 1 – level roof; building 2 – level roof; building 3 – level 9	07.05.08
500-PA1014	F	Plan: building 1 – level roof; building 2 – level roof; building 3 – level 10-14	07.05.08
500-PA1015	F	Plan: building 1 – level roof; building 2 – level roof; building 3 – level 15	07.05.08

Addressed in final plans and drawings to be submitted with Construction Certificate

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Subject	Commitments	Timing
500-PA1016	F	Plan: building 1 – level roof; building 2 – level roof; building 3 – level roof
500-PA1019	F	Building 1 elevations – sheet 1 of 2
500-PA1020	F	Building 1 elevations – sheet 2 of 2
500-PA1021	F	Building 2 elevations
500-PA1022	F	Building 3 elevations
500-PA1023	F	Sections 1 & 2 – buildings 1 & 2
500-PA1024	F	Section 3 – buildings 1, 2 & 3
500-PA1025	F	Section 4 – building 3
500-PA1027	A	Public Domain Plan
Landscape Drawings prepared by EDAA/AECOM		
Drawing No.	Revision	Name of Plan
L8400	H	Landscape Concept Plan
L8401	F	Landscape Concept – Sections
		Date
		05.05.08
		06.05.08

1.2 The proposed development will be carried out generally in accordance with the recommendations set out in the Specialist/Technical Reports referenced in this Statement, except as otherwise modified by this Statement of Commitments.

1.3 Prior to the issue of a Construction Certificate for a particular stage, all general and specific commitments relating to the Construction Certificate for the particular stage will be complied with.

Except for:

- 1) any modifications which are 'Exempt Development' as identified in the Newcastle Local Environmental Plan 2003 or as may be necessary for the purpose of compliance with the BCA and any Australian Standards incorporated in the BCA;
- 2) otherwise provided by the conditions of this Statement of Commitments.

Addressed in final plans and drawings to be submitted with Construction Certificate

Addressed in final plans and drawings to be submitted with Construction Certificate

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Subject	Commitments	Timing
1.4	A copy of the Minister's approval of the project application under Part 3A of the EP & A Act 1979, a copy of the Statement of Commitments, and relevant Construction Certificates, including associated approved plans, will be kept onsite at all times during construction works.	During construction phase
1.5	The proposed development will be carried out in accordance with the recommendations set out in the Site Management Plan prepared by HLA-Envirosiences Ltd dated 16 November 2007, and the Construction Management Plan prepared by Mirvac dated 27 November 2007, except as otherwise provided by this Statement of Commitments (refer Appendix 5). The proponent will submit a copy of the final Site Management Plan to the Department and Council prior to commencement of excavation works.	During construction phase
1.6	A sign will be erected in a prominent position on the work site detailing: a) That unauthorised entry to the work site is prohibited; and b) Indicating the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours. Any such sign will be removed when the proposed construction works have been completed.	During construction phase
1.7	The operating noise level of machinery, plant and equipment during the course of any construction works will comply with Chapter 171 of the NSW EPA's Noise Control Manual. Construction operations will be confined to between the hours of 7:00 am to 6:00 pm Monday to Friday and 8:00 am to 3:00 pm Saturday. No construction work will take place on Sundays or Public Holidays. Mechanical rock breaking or blasting will be confined to between 9:00 am to 3:30 pm Monday to Friday and Saturday 9:00 am to 1:00 pm, excluding any Public Holiday.	During construction phase
1.8	Under no circumstances will any residential apartment within the development approved under this consent be advertised or occupied as a serviced apartment without prior approval.	Following completion of the current project
1.9	The internal use, fitout and hours of operation of the individual retail/restaurant tenancies approved under this consent will be the subject of a separate development application to the Council.	Following completion of the current project
1.10	Appropriate acoustic treatment will be implemented in accordance with the recommendations set out in the Noise Assessment report prepared by Renzo Tonin and Associates dated 15 November 2007 and submitted in support of the project application.	During the construction phase

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Subject	Commitments	Timing
	1.11 A Fire Safety Certificate will be furnished to the PCA for approval, for all the Essential Fire or Other Safety Measures forming part of this approval prior to issue of the Occupation Certificate for any building the subject of this consent. A copy of the Fire Safety certificate will be submitted to the consent authority, the NSW Fire Brigade and Council by the PCA.	Addressed prior to issue of Occupation Certificate
	1.12 An Annual Fire Safety Statement will be provided to Council and the NSW Fire Brigade within 12 months after the date on which the Initial Fire Safety Certificate is received by the Council and the NSW Fire Brigade.	Following completion of the current project
2. Design excellence	CONCEPT PLAN COMMITMENTS The proponent will put in place limited architectural design competitions for all the buildings on the site. An evaluation panel will be established to assess the design competition/s which will include representatives of Landcom and the Department of Planning. PROJECT APPROVAL COMMITMENTS 2.1 The proposed development will be carried out in accordance with the recommendations set out in the Architectural Design Statement prepared by Mirvac Design and Tzannes Associates dated 21 December 2007 and amended in the Preferred Project Report dated, 8 May 2008, except as otherwise provided by this Statement of Commitments. In order to achieve architectural diversity and the highest quality built form and urban design outcomes Mirvac and Tzannes Associates will continue to participate in a collaborative design process overseen by an independent 'Design Integrity Panel' up to and including the Construction Certificate stage. A design competition will be held for Stage 1C of the development (being the 18 storey building) in the future.	Prior to the lodgement of project applications for new buildings. December 2007
3. Built form and urban design	CONCEPT PLAN COMMITMENT The detailed design for the buildings will adhere to the Site Design Principles formulated for the project to ensure that the intended development outcomes will be achieved. The 'Site Design Principles' document shall provide guidance as to acceptable: FSR; building heights, building setbacks, building separation, street wall heights and upper storey setbacks, extent of active frontages, vehicular access points and through-site links.	Detailed design for each building will be undertaken as part of the relevant Project Application(s).

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Subject	Commitments	Timing
PROJECT APPROVAL COMMITMENTS		
3.1	The light reflectivity from building materials used on the facades of the buildings will be designed so as not to result in glare that causes any nuisance or interference to any person or place.	Addressed prior to issue of Construction Certificate
CONCEPT PLAN COMMITMENTS		
4. Access, traffic and parking	Further traffic analysis will be undertaken for the detailed design of the project to ensure that the development will be consistent with the recommendations included in the Traffic Assessment Report by Mark Waugh Transport and will not result in adverse traffic impacts. Construction Management plans will be prepared for subsequent Project Application(s) to address the management of impacts from construction activities, as well as management of truck/vehicle and pedestrian access during construction.	Details of the traffic analysis will be undertaken as part of the relevant Project Application(s). Construction Management plans will be prepared as part of the relevant Project Application(s). Addressed in final plans and drawings to be submitted with Construction Certificate
PROJECT APPROVAL COMMITMENTS		
4.1	The proposed development will be carried out in accordance with the recommendations set out in the Transport Report prepared by Colston Budd Hunt and Kafes dated November 2007, except as otherwise provided in Section 4 of this report.	Addressed in final plans and drawings to be submitted with Construction Certificate
4.2	Plans of any proposed traffic management devices, linemarking and signposting works on existing or proposed public roads will be submitted to Council and approved by the Newcastle City Traffic Committee. No work will be undertaken in any public road until a Road Opening Permit has been obtained from Council (the Road Authority).	Addressed in final plans and drawings to be submitted with Construction Certificate

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Subject	Commitments	Timing
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- 4.3 The routes for import of any fill material or export of any spoil will be submitted to and agreed by Council prior to the commencement of haulage. Any deterioration or failures within public roads that can reasonably be attributable to such operations will be restored to the requirements of, and at no cost to, Council.
- 4.4 The Contractor will make provision for safe, continuous movement of traffic and pedestrians in public roads and erecting traffic warning signs conforming to the Roads and Traffic Authority's General Specifications (RTA Spec. Part G10 'Control of Traffic' and RTA Spec. 3355). Traffic control will only be carried out by flagmen with certification that they have been trained in accordance with Australian Standard 1742.3-1996.
- 4.5 In order to ensure that vehicles exit the site in a safe manner, a pedestrian crossing zone, differentiated by texture and/or colour, will be installed and be clearly visible at the upper threshold of the temporary construction access points. Details of the type, location and operation of the device will be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate for Stage 1.
- 4.6 The minimum number of car spaces to be provided for the development will comply with the table below. Details confirming the parking numbers will be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for such work.

Car parking allocation	Number
Minimum required residential car parking spaces	224 (plus 30 visitors)
Minimum required retail/restaurant/hotel car parking spaces	93
MINIMUM ALLOCATION	347

- 4.7 Bicycle spaces will be provided for the development in accordance with Council's requirements. Details will be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for such work.
- 4.8 1) The layout of the car park will comply with Australian Standard AS2890.1: 2004 Parking Facilities Part 1: Off Street Parking, including but not limited to minimum clear sight lines from vehicles to pedestrians are to be provided at the entry/exit ramps to the basement car park. All parking spaces will be line-marked.
- 2) The proposed retail/restaurant, hotel, resident, disability and small car parking spaces within the basement car parking area will be clearly indicated by means of signs and/or pavement markings.

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Subject	Commitments	Timing
	3) A landing a minimum of 6 metres in length and with a maximum 1:20 grade will be provided within the site at the point of entry to the proposed vehicular ramps servicing the underground car park. 4) Roller doors located at the entry/exit ramps to the proposed car park will be setback a minimum 6 metres from the property boundary. 5) All external ramps and pathways within the Subject Site required to be accessible for persons with disabilities will be designed and constructed in accordance with Australian Standard AS 1428 Design for Access and Mobility. 6) The vehicular entrance and exit driveways and the direction of traffic movement within the site will be clearly indicated by means of reflectorised signs and pavement markings. Details demonstrating compliance with these requirements will be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate. 4.9 All proposed driveways, parking bays and vehicular turning areas will be constructed with a basecourse of adequate depth to suit design traffic, and be sealed with bitumen seal, asphaltic concrete, concrete or interlocking pavers and being properly maintained. Full details showing compliance with this condition will be submitted to the Certifying Authority for approval prior to the issue of the Construction Certificate for such work. 4.10 The on-site car parking spaces will be allocated in the strata plans in general accordance with the approved plans and conditions of this consent. The proponent is to demonstrate compliance with this requirement prior to the issuing of a Subdivision certificate for each stage of subdivision.	Addressed in final plans and drawings prior to Construction Certificate Addressed in final plans prior to application for Subdivision Certificate

5. Public domain	CONCEPT PLAN COMMITMENT	
	Detailed design of the development will incorporate public domain works in accordance with this Concept Plan and will be provided in accordance with Council's reasonable requirements.	Details of the design will be submitted in accordance with Council's reasonable requirements at Project Application stage.

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Subject	Commitments	Timing
PROJECT APPROVAL COMMITMENTS		
5.1	The proponent will provide a publicly accessible plaza as shown in the Public Domain Plan PA1027 RcvA prepared by Mirvac Design and Tzannes Associates. All planting will be provided in accordance with the Landscape Concept Plan Drawing 3 contained in this Preferred Project Report at Appendix A.	Addressed in final plans and drawings prior to Construction Certificate
5.2	An Interpretation Plan for the whole site will be prepared in accordance with the recommendations contained in the Interpretation Strategy prepared by Urban Cultures Ltd, dated December 2007 (refer Appendix 10).	Addressed in final plans and drawings prior to Construction Certificate
5.3	Prior to any site works commencing, Landscape Plans will be prepared for the relevant stage by a qualified Landscape Architect and submitted to the certifying authority for approval. These plans will be consistent with the landscape concept plan prepared by EDAW/AECOM. The Plans will also comply with the following: a) Will specify - Establishment methods for all new plantings; - Maintenance scheduling for all new plants. b) Street trees will be provided with a nominated minimum 100 litre pot size, or as otherwise approved by Council, to be installed prior to the issue of the Occupation Certificate; and c) All street trees will be selected and certified by the supplier to comply with the current Council requirements.	Addressed in final plans in drawings prior to Construction Certificate
5.4	The proponent will make good any damage caused to a public road or associated structures, including drains and kerb and gutter, as well as to private property, and revegetating any disturbed areas of proposed open space resulting from the development works, prior to the issue of the final Occupation Certificate.	During construction phase
5.5	All outdoor lighting will comply with, where relevant, AS/NZ1158.3:1999 Pedestrian Area (Category P) Lighting and AS 4282:1997 Control of the Obtrusive Effects of Outdoor Lighting. Any proposed floodlighting of the premises will be so positioned, directed and shielded as to not interfere with traffic safety or detract from the amenity of the adjacent premises. Details demonstrating compliance with these requirements will be submitted to the satisfaction of the Certifying Authority prior to the issue of a Construction Certificate for each stage.	Prior to application for Construction Certificate

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Subject	Commitments	Timing
5.6	The proponent will design and reconstruct the following works within road reserves generally as detailed in the submitted plans, at no cost to Council and to Council's requirements and design specifications: 1) Road pavement; 2) Road shoulder pavement; 3) Kerb and gutter; 4) Footway formation; 5) Footpaving; 6) Landscaping; and 7) Associated drainage works. Any proposed paving works within the public footway will be in accordance with the requirements of Council's specification (Form PLE/SO11).	Prior to application for Construction Certificate
5.7	Safety Management will be addressed through the application of OPTED principles and Safety by Design best practice models, as discussed and proposed in the Crime Risk Assessment: The Royal, Newcastle, prepared by CHD Partners, dated 19 November 2007 (refer Appendix 23).	Addressed in final plans and drawings prior to Construction Certificate
6. Visual impact	CONCEPT PLAN COMMITMENT An analysis of visual impacts will be submitted with the subsequent Project Application(s) to ensure that the location and detailed design of the buildings will preserve important visual corridors and are consistent with the Site Design Principles submitted with the Concept Plan. Note: an analysis of visual impacts of the proposed development has been addressed in the Architectural Design Statement and the photo montages submitted with the Project Application.	Analysis of visual impacts has been undertaken as part of the Project Application.
7. Solar analysis and overshadowing	CONCEPT PLAN COMMITMENT If a future building extends beyond the approved Concept Plan building envelope, an overshadowing analysis will be required at the subsequent Project Application stage to ensure that the proposal will minimise overshadowing of Newcastle Beach in accordance with the solar access analysis included in Section 6.8 of the Environmental Assessment Report. Note: an overshadowing analysis of the proposed development has been incorporated in the Architectural Design Statement submitted with the Project Application (refer Appendix 4).	Details of overshadowing analysis will be undertaken as part of the relevant Project Application.

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Subject	Commitments	Timing
8. Heritage matters	CONCEPT PLAN COMMITMENTS The following are to accompany subsequent Project Application(s) at the detailed development design stage: - A Statement of Heritage Impact (SoHI) prepared in accordance with the recommendations included in the review of heritage issues prepared by Tanner Architects. - A site wide Interpretation Strategy will be prepared, recognising and celebrating the site's social history and built form heritage. - If aboriginal objects are exposed during the work, works must cease until the Department of Environment and Climate Change and the local Aboriginal Land Council have been consulted. Note: a Statement of Heritage Impact and an Interpretative Strategy have been submitted with the Project Application.	A Statement of Heritage Impact will be undertaken as part of the relevant Project Application(s) at the detailed development design stage. The Interpretation Strategy will be submitted before, or in conjunction with the first project applications seeking approval for buildings and public realm works. During construction phase
8.1	PROJECT APPROVAL COMMITMENTS Should any Aboriginal relics or artefacts be discovered during the course of any works onsite, work will cease immediately and the Principal Certifying Authority informed, unless written consent has been obtained from the Department of Environment and Conservation. Copies of any such consents are to be provided to the Principal Certifying Authority prior to the resumption of work.	During construction phase
8.2	If any archaeological relics are discovered during construction, the proponent will cease work on that part of the site and the Heritage Council will be notified in accordance with Section 146 of the Heritage Act. If required by the Heritage Council, the remains will be recorded by a suitably qualified archaeologist prior to the commencement of works.	During construction phase

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Subject	Commitments	Timing
9. Ecologically sustainable design and water management	CONCEPT PLAN COMMITMENT The detailed design of the development is to demonstrate consistency with the ESD and water sensitive urban design (WSUD) measures generally consistent with Council's requirements and BASIX. PROJECT APPROVAL COMMITMENTS 9.1 All requirements of the BASIX Certificates submitted with the Project Application will be met prior to the issue of relevant Construction Certificates for each building. 9.2 All mechanical ventilation systems will be installed in accordance with Part F4.5 of the Building Code of Australia, to ensure adequate levels of health and amenity to the occupants of the building and to ensure environment protection. Details will be submitted to the satisfaction of the Certifying Authority prior to the issue of each Construction Certificate. 9.3 The proposed development will be carried out generally in accordance with the recommendations set out in the Stormwater Management Report prepared by Norman Disney and Young dated November 2007, except as otherwise provided by this Statement of Commitments. Prior to the issue of a Construction Certificate, a Stormwater Drainage Plan is to be submitted and approved. Final design plans of the stormwater drainage systems will be prepared in accordance with the requirements of Council's DCP. The drainage design will incorporate controls to manage the site generated runoff including maximising the opportunities for onsite rainwater collection and reuse. The design will incorporate controls to remove site generated pollutants including gross pollutants, nutrients, sediments, oils and grease. Full details will be submitted to the Certifying Authority prior to issue of each Construction Certificate for the development. The hydrology and hydraulic calculations will be based on models described in the current edition of Australian <i>Rainfall and Runoff</i>.	Addressed at the detailed development design stage as part of the relevant Project Application(s). Addressed in final plans and drawings prior to Construction Certificate Addressed in final plans and drawings prior to Construction Certificate Addressed in final plans and drawings prior to Construction Certificate

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Subject	Commitments	Timing
9.4	Prior to the commencement of works, the proponent will submit to the satisfaction of the PCA a Waste Management Plan prepared by a suitably qualified person in accordance with Council's Waste Minimisation Development Control Plan No. 56. The proponent shall submit a copy of the plan to the Department and Council.	Addressed in final plans and drawings prior to Construction Certificate
9.5	Residential development will meet the targets set under the BASIX energy consumption benchmark.	Addressed as part of BASIX Certificate
10. Wind conditions	CONCEPT PLAN COMMITMENT Further wind analysis will be undertaken at the Project Application stage to ensure that no unacceptable wind conditions will result. Such analysis will also assess the need for measures that are necessary to mitigate any wind impacts (e.g. local screening and awnings along pedestrian thoroughfares and around public open spaces).	Analysis of the impacts on wind will be undertaken as part of the relevant Project Application(s).
10.1	PROJECT APPROVAL COMMITMENT A Wind Assessment and comprehensive Wind Tunnel Test have been submitted with the Project Application).	Addressed in final plans and drawings prior to Construction Certificate
11. Social plan	CONCEPT PLAN COMMITMENT Subsequent Project Application(s) will take account of the Social Plan prepared by Heather Nesbitt Planning submitted with this Concept Plan.	As part of the relevant Project Application(s).
11.1	PROJECT APPROVAL COMMITMENT Prior to the commencement of any works, the proponent will provide written notification to the adjoining landowners of the intention to start works, providing details of the scheduling of works and nominating a contact person. A legible prominent sign stating the name of the builder and contractor and a 24 hour contact telephone number will be displayed onsite during the construction period	Prior to commencement of any works

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Subject	Commitments	Timing
11.2	The proponent will nominate a community contact person and advise adjoining owners and Council of the name of the nominated contact person, along with a contact telephone number. The contact person will be available during nominated working hours for the duration of the subdivision construction work.	Prior to commencement of any works
12. Site contamination and remediation	CONCEPT PLAN COMMITMENT A Remediation Action Plan (RAP) will accompany any Project Application(s) in accordance with the recommendations included in the Phase 2 Environmental Site Assessment prepared by HLA Environments. The RAP will detail how the site is to be cleaned up including the excavation and disposal of any contaminated material. PROJECT APPROVAL COMMITMENT 12.1 Prior to the issue of an Occupation Certificate, the proponent will submit a Site Audit Statement and Validation Report for the entire Subject Site to the Certifying Authority. The site audit will be prepared in accordance with the Contaminated Land Management Act 1997 and be completed by a site auditor accredited by the Environmental Protection Agency to issue site audit statements. The site audit will verify that the land is suitable for the proposed uses.	A Remediation Action Plan will accompany any relevant Project Application(s). Addressed prior to application for Construction Certificate
13. Geotechnical conditions	CONCEPT PLAN COMMITMENT Subsequent Project Application(s) will be required to incorporate the recommendations included in the Geotechnical Investigation prepared by Coffey Geosciences Pty Ltd. PROJECT APPROVAL COMMITMENTS 13.1 The proponent will engage a qualified structural engineer to prepare a Pre-Construction Dilapidation Report detailing the current structural condition of oil adjoining buildings, visible infrastructure and roads. The report will be submitted to the satisfaction of the Certifying Authority prior to the issue of the Construction Certificate. A copy of the report is to be forwarded to the Council. 13.2 A copy of the final plan drawings and specifications will be submitted to the Mine Subsidence Board prior to the commencement of construction. A qualified structural engineer will certify that the development has been designed and constructed in accordance with the Geotechnical Investigation report (396 94A) by Douglas Partners, dated December 2007.	As part of the relevant Project Application(s). Addressed prior to application for Construction Certificate Addressed prior to application for Construction Certificate

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Subject	Commitments	Timing
14. Site infrastructure and services	CONCEPT PLAN COMMITMENT Detailed site infrastructure and services reports will be required to accompany any subsequent Project Application(s) to demonstrate how the development can be adequately and properly serviced. The report will include an outline of any necessary augmentation of existing services. 14.1 Written evidence of arrangements being made with EnergyAustralia, or other approved supplier, for the provision of underground electricity supply to all units within each stage, will be submitted to the Principal Certifying Authority prior to certification of the Subdivision Plan in respect of that stage. 14.2 Written evidence of arrangements being made with Telstra, or other approved supplier, for the provision of underground telephone services to all units within each stage, will be submitted to the Principal Certifying Authority prior to certification of the Subdivision Plan in respect of that stage. 14.3 The proponent will be responsible for all adjustments to and/or relocation of public utilities. Any necessary alterations will be at the proponent's expense and to the requirements of the appropriate Authorities. 14.4 The proponent will comply with all requirements of the Hunter Water Corporation regarding the connection of water supply and sewerage services, including the payment of any required cash contribution towards necessary amplification of service mains in the locality as a result of the increased intensity of land use proposed as follows. The proponent will lodge a Section 50 Application and obtain a Certificate of Compliance in accordance with the Hunter Water Corporation Act prior to the issue of a Construction Certificate for any works. At that time Hunter Water will determine the specific servicing requirements for the connection of the development to its water supply and sewerage systems. New works, including amplification mains etc, will be identified as part of this process. The level of developer charges will also be determined. Satisfaction of these requirements will lead to the issue of a Section 50 Certificate of Compliance. A copy of the Corporation's Certificate of Compliance will be included in the documentation for any Construction Certificate.	As part of the relevant Project Application(s). Addressed prior to application for Construction Certificate Addressed prior to application for Construction Certificate Prior to completion of current project Addressed in final plans and drawings prior to Construction Certificate
15. Section 94 Contributions	CONCEPT PLAN COMMITMENT To meet the demand for additional public facilities and services generated by development on the site, contributions will be made in the form of works in kind, material public benefits and/or the payment of a monetary contribution to a monetary value equal to that otherwise payable in accordance with the relevant	As part of the issuing of the Construction Certificate for each Project

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Subject	Commitments	Timing
Newcastle City Council Section 94 Contribution Plan. The following public facilities and services proposed in this application are to be offset against any otherwise payable monetary Section 94 contributions that arise in relation to this or any subsequent Project Application(s):	- New street tree planting along King and Watt Streets, and Shortland Esplanade; - Publicly accessible through site link from Pacific Street to Shortland Esplanade; - A widened footpath along the northern side of Shortland Esplanade; and - Appropriately located pedestrian crossings from the site across Shortland Esplanade to the foreshore.	Application(s).
	PROJECT APPROVAL COMMITMENTS	
15.1	Prior to the issue of a construction certificate relating to the Project, Mirvac undertakes to: - pay a levy under s94A of the Act of \$897,000.00 being 1% (one percent) of the proposed cost of carrying out the Project; or - lodge a bank guarantee with the Minister as security for the payment of the levy. The levy is to be applied toward the improvements to the public foreshore area located predominantly on lot DP 1118737, and in the vicinity bounded by the southern end of the Newcastle Beach Surf Life Saving Club and the existing skateboard ramp. Any part of the levy that exceeds the cost of such improvements is to be applied towards public amenities and services described in the works schedule contained in Schedule 1 of the Newcastle City Council Section 94A Development Contributions Plan 2006. If, at any time within 12 months of the applicant lodging the bank guarantee, the applicant and the Council execute a works-in-kind agreement under which the applicant is required to carry out improvements, including improvements to the foreshore area referred to above, the bank guarantee is to be immediately released to the applicant. If the applicant and the Council have not executed the works-in-kind agreement within 12 months of the applicant lodging the bank guarantee, the applicant is to pay the levy and the bank guarantee is to be immediately released to the applicant.	Addressed prior to issue of Construction Certificate.
15.2	Where this Statement of Commitments makes provision for dollar amounts, these amounts are to be indexed from the date of approval of the Project Application being the increase in the Building Price Index Published by the NSW Department of Commerce, or such other index as replaces it, applied as a multiplier where the numerator is the number last published and the denominator is the number published at the date of approval of the Project Application.	Noted.

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Subject	Commitments	Timing
16. Other Issues Raised by Newcastle City Council	Mitrac generally supports the submission made by Newcastle Council and would welcome the recommendations being included as Conditions of Consent, with the following minor amendments: - Proposed Condition 1 should NOT state that a survey plan & 888 Instrument be submitted to Council for certification, as this prevents a private certifier from carrying out such work. - Proposed Condition 4 should NOT reference Watt Street as this stage of the development does not have frontage to that street. In addition, there are no street trees proposed to be planted along Shortland Esplanade – a 'green wall' is proposed. Therefore the condition should only relate to paving requirements on Shortland Esplanade. - Proposed Condition 9 should be structured to allow the staged occupation of the development. In this respect the last line of the condition should read 'prior to the occupation of the final stage of the premises'.	Addressed prior to issue of Construction Certificate.