

## Part A – Deferred Commencement Conditions

### Reclassification of Land

1. This consent shall not operate until Amendment 23 (Land classification in Pioneer Place Katoomba) to *Blue Mountains Local Environmental Plan 2005* has been gazetted and the relevant land formally classified as Operational Land under Section 30 of the *Local Government Act 1993*.

### Endorsed Planning Agreement

2. This consent shall not operate until the Planning Agreement, as adopted by Blue Mountains City Council on 21 February 2012, has been executed by all parties in accordance with Section 93F of the *Environmental Planning and Assessment Act 1979* and Clause 25C(1) of the *Environmental Planning and Assessment Regulation 2000*, and submitted to the Council.

## Part B – Operational Consent Conditions

### A. PRELIMINARY

#### General

### Confirmation of relevant plans

1. To confirm and clarify the terms of consent, the development shall be carried out in accordance with the following plans and accompanying supportive documentation, except as otherwise provided or modified by the conditions of this consent.

Drawing Title	Prepared by:	Plan No.	Issue	Dated
Site Analysis Plan	D + R Architects	DA3.01	D	14 October 2011
Demolition Plan	D + R Architects	DA3.02	A	15 July 2010
Site and Roof Plan	D + R Architects	DA3.03	J	2 February 2012
Lower Floor Plan	D + R Architects	DA3.04	T	4 November 2011
Pioneer Place Masterplan Overlay	D + R Architects	DA3.05	P	2 February 2012
Mezzanine Floor Plan	D + R Architects	DA3.06	J	15 September 2011
Elevations	D + R Architects	DA3.07	N	15 September 2011
Overlay elevations	D + R Architects	DA3.08	B	15 September 2011
Sections	D + R Architects	DA3.09	K	15 September 2011
Schedule of Building Signage	D + R Architects	DA3.16	N	2 September 2011
Signage Site Plan	D + R Architects	DA3.17	E	2 September 2011
Footpath Hierarchy (as amended in red)	D + R Architects	DA3.18	D	7 October 2011
Signage Table Appendix D	The Planning Group	-	-	2 September 2011
Basement Level Siteworks and Stormwater Plan	Hughes Trueman	10S186C-DAC01	C	18 January 2011
Ground Level Siteworks and Stormwater Plan	Hughes Trueman	10S186C-DAC02	C	18 January 2011

#### Notes:

1. The extent of work approved by this consent only extends to the property boundary of the development site as identified in Schedule 2 table 1 (Description of Land) and table 2 (Description of Council Land) in the adopted Planning Agreement.
2. This consent is for the following works:
  - a) Approved works at 30-34 Waratah Street, Katoomba being the responsibility of the Developer.

b)	Approved works within the Pioneer Place car park, as identified in the adopted Planning Agreement or provided by conditions of consent, being the responsibility of the Developer.
c)	Approved works within the Waratah Street and Parke Street road reserve, and as identified in the adopted Planning Agreement or provided by conditions of consent, being the responsibility of the Developer.
	Approved work within Pioneer Place car park, and as identified in the adopted Master Plan by Integrated Design Associates, being the responsibility of Blue Mountains City Council.
	In this consent, any reference to “developer work” only refers to the works covered by points 2a-c above, and any reference to “council work” only refers to the work covered by point 2d above. The approved Footpath Hierarchy plan DA3.18 Issue D and dated 7 October 2011 has been amended in red and annotated with “council work” to identify the extent of the area covered by point 2d above.
3.	Advertising signage is approved as indicated on plans DA3.16 Issue N and DA3.17 Issue E and the Signage Table Appendix D, despite any notes to the contrary on other approved plans.

<b>Period of development consent</b>	2. Physical commencement of demolition or construction is required within a five year period from the date of this consent. Should this not occur, the development consent will lapse.
<b>Planning Agreement</b>	3. The development shall include the works identified in the adopted and executed Planning Agreement established in accordance with Section 93F of the Environmental Planning and Assessment Act 1979 and with the agreement of relevant parties, as required under Clause 25C(1) of the Environmental Planning and Assessment Regulation 2000.  The development shall include the payment of the monetary contribution identified in Item G, Schedule 3 of the adopted Planning Agreement dated February 2012. The monetary contribution identified under items G of Schedule 3 shall be paid immediately on the issuing of a construction certificate for the development.  The development shall include all relevant works identified in Items A to F, Schedule 3 of the adopted Planning Agreement dated February 2012. All such works shall be completed prior to the issue of a final occupation certificate for the development.
<b>Construction certificate (Building)</b>	4. A construction certificate is required prior to the commencement of any demolition, building or site works (excluding any “council work”). This certificate can be issued either by the Council as the consent authority or by an accredited certifier.
<b>Building Code of Australia</b>	5. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
<b>Occupation Certificate</b>	6. The buildings shall not be used or occupied prior to the issue of an Occupation Certificate in accordance with Section 109H and 109M of the <i>Environmental Planning and Assessment Act 1979</i> .
<b>Sydney Catchment Authority</b>	7. The following Sydney Catchment Authority conditions apply:

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## **General**

1. The site layout shall be as shown on Retail Redevelopment Plans (Drawings 06063 DA3.03 J, dated 2 February 2012, 06063 DA3.05 P, dated 2 February 2012; Drawing 06063 DA3.04 T dated 4 November 2011; and Drawing 06063 DA3.06 J dated 15 September 2011) all prepared by D+R Architects. Any changes to the nature of this development shall be agreed to by the Sydney Catchment Authority.

## **Stormwater Management**

2. All stormwater treatment and management measures shall be implemented as specified in the Stormwater / Water Cycle Management Plan prepared by Hughes Trueman Pty Ltd (Job 10s186; Rev. 3; dated 11 November 2010; and associated stormwater plans (Drawings 10S186C-DAC01 and 10S186C-DAC02, both revision C and both dated 18.01.11) in particular as elaborated or varied in the conditions below:
  - each stormwater pit in the open carpark, loading dock and basement carpark areas shall be fitted with an Ecosol RSF100 solid pollutant filter (or approved equivalent), and
  - an Operational Environmental Management Plan detailing the responsibilities for the inspection and maintenance of all stormwater management components, including all pits and stormwater filtration devices shall be developed in consultation with the Sydney Catchment Authority and to the satisfaction of Council.
3. Any variation to stormwater treatment and management shall be agreed to by the Sydney Catchment Authority.

*Reason for Conditions 2 & 3 - To maximise stormwater management and treatment from the site so as to ensure a sustainable neutral or beneficial effect on water quality over the longer term.*

## **Construction Activities**

4. A detailed Soil and Water Management Plan (SWMP) is required for all works proposed or required as part of the development including demolition, excavation and construction. It is to be prepared by a person with knowledge and experience in the preparation of such plans and shall incorporate elements of the conceptual Soil and Water Management Plan (Drawing 10S186C-DAC03; revision C; dated 18.01.11) and the Cut and Fill Layout Plan (Drawing 10S186C-DAC04; revision B; dated 12.08.10) both prepared by Hughes Trueman Pty Ltd, and the Demolition Plan (Drawing 06063 DA3.02A; dated 15 July 2010) prepared by D+R Architects. The SWMP shall also meet the relevant requirements outlined in Chapter 2 of NSW Landcom's Soils and Construction: Managing Urban

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Stormwater (2004) manual - the "Blue Book" and be to the satisfaction of Council.

5. Effective erosion and sediment controls shall be installed prior to any demolition and construction activity and must prevent sediment and contaminated runoff from entering council's stormwater system. The controls shall be regularly maintained and retained until works have been completed and the site stabilised.

*Reason for Conditions 4 & 5 - To manage adverse environmental and water quality impacts during the demolition and construction stage of the development and to minimise the risk of erosion, sedimentation and pollution within or from the site during this construction stage.`*

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## Engineering

### Council's Specifications for Engineering Works

8. All engineering works required by this development (including sediment and erosion controls, road, access, footpath and drainage works) are to be in accordance with Council's Specification for Engineering Work for Subdivisions and Development, Part 1—Design and Part 2—Construction (Development Control Plan No. 31), Australian Rainfall and Runoff 2001 AS2890.1:2004, AS2890.2:2002 AS2890.6:2009 and other relevant Australian Standards.  
The works to be at no cost to Council.  
The design and construction is to include any additional works to make the construction effective.

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### Works required in Waratah and Parke Streets

9. Prior to the issue of any Occupation Certificate, the following engineering works shall be constructed within the Waratah and Parke Streets, generally in accordance with the approved plan DA3.18 Issue D (as amended in red) and to Council's satisfaction:
  - a) Reconfiguration/Reconstruction of the Waratah Street vehicular access to the Pioneer Place Car Park.
  - b) The construction of the Waratah Street seagull median intersection and treatment.
  - c) The construction of the Waratah Street pedestrian footpath area.
  - d) Reconstruction of the Waratah and Parke Street kerb return, footpath and pram ramp
  - e) The construction of new heavy duty reinforced concrete laybacks and apron crossings for the loading dock and basement car park driveways in Parke Street. The works shall be designed to cater for the largest vehicle using each driveway and include the refurbishment of the existing road pavement in Parke Street adjacent to the driveways, including the swept path of the articulated vehicle, as required by the Council. The driveways are to have featured surfaces.
  - f) The reconstruction of the obsolete portion of the loading dock driveway in Parke Street to provide kerb and gutter.
  - g) The reconstruction of the alignment of the footpath on the

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southern side of the basement car park is to be adjusted so as to provide appropriate sight distances between exiting vehicles and north bound pedestrians, in accordance with AS 2890.1:2004.

- h) The obsolete driveway and gutter crossing within the Parke Street footway adjacent to the northern end of the site is to be removed and reinstated with vertical kerb and gutter and footpath paving treatment.
- i) Stormwater drainage from the Parke Street awnings is to be discharged to the kerb and gutter via galvanised rectangular hollow sections across the footpath area.

These works are to include any necessary works to make the construction effective, including pavement correction, drainage, signage, line marking and alteration to existing infrastructure and public utilities.

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**Works required in Pioneer Place**

10. Prior to the issue of any Occupation Certificate, the approved "developer works" in Pioneer Place shall be completed to Council's satisfaction. This work shall include the reconstruction and reconfiguration of the upper levels of the Pioneer Place car park and the construction of two pedestrian links between the upper and lower levels of the Pioneer Place car park. Construction of the pedestrian links shall include all ramps and stairs generally in accordance with the approved plans

These works are to include:

- i. The provision of sight distance requirements to the pedestrians on the crossings as required by the relevant AS including blister treatments where required.
  - ii. The provision of tactile surface indicators at the pedestrian crossings.
  - iii. New footpath treatment along the full frontage of the development site to Pioneer Place.
  - iv. The design and construction of the new suspended upper level car parking area is to be to the requirements of the Road and Maritime Services (RMS) highway heavy wheel loading specifications.
  - v. Reconstruction of the central vehicular access ramp between the upper and lower Pioneer Place at the northern end of the development site.
  - vi. Landscaping planting and garden beds are to be shaped to promote ease of access to parking spaces.
  - vii. The wall to the eastern side of the basement car park excavation works is to be reconfigured such that there is no overhang. The face of the retaining wall is to include a featured surface.
  - viii. Wheel stops and thermoplastic linemarking. (The parking bays and aisles are to comply with AS 2890.1/2004, with the parking bays to be a minimum of 2.8m wide to facilitate manoeuvrability and subject to Engineering design).
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	<ul style="list-style-type: none"> <li>ix. The existing portal frame for height and weight restriction enforcement at the entrance off Waratah Street is to be relocated to suit the new driveway entry location and a duplicate frame is to be located to cover the circulation traffic from the lower level.</li> <li>x. Kerbs and safety railings.</li> <li>xi. Lighting, signage and thermoplastic linemarking.</li> <li>xii. Traffic calming devices as determined by engineering design.</li> <li>xiii. Stormwater drainage and rectification works in accordance with ARR2001. Drainage is generally to discharge into the existing onsite systems, with drainage from the awnings over the car park to be discharged into internal existing drainage systems.</li> <li>xiv. Repairs to the existing infrastructure where required including safety railings, existing kerbs and drainage pits.</li> <li>xv. Any necessary relocation of driveways, additional drainage, retaining walls, transition works to existing infrastructure, and other works to make the construction effective.</li> <li>xvi. The design and construction of all work is to ensure that the approved operation of the Franklins Loading Dock, to the extent that it relies on the subject area of Pioneer Place, is maintained.</li> </ul>
<hr/> <b>Pedestrian Crossing – Pioneer Place</b>	<p>10a The approved work in Pioneer Place shall include the provision of relevant traffic calming devices, including a speed hump, and shall be integrated with the sight distance requirements to the pedestrian crossing required under Condition 10(i)</p>
<hr/> <b>Internal Basement Car Park and Delivery Dock</b>	<p>11. All internal driveways, ramps, car parking areas, delivery docks, accesses, (including sight distances, layout, dimensions, grades, turning paths, regulatory controls, clearance heights etc) shall be designed and constructed in accordance with the relevant Australian and RTA/RMS Standards, including AS2890.1/2004 and AS2890.2/2002 and the BCA.</p> <p>Variation of this requirement is possible for existing areas of the basement car park, excluding the excavated areas, subject to Engineering design. The work is to include the installation of stop signs and line marking to appropriately control vehicles exiting the basement car park into Parke Street and Pioneer Place, and directional signs and line marking to facilitate orderly vehicle circulation.</p>
<hr/> <b>Site stormwater drainage system</b>	<p>12. All stormwater runoff from impervious areas of the site are to be collected and drained by a gravity underground stormwater system which is to discharge into existing on site drainage systems that do not make the existing systems worse. The stormwater system is to be designed by a qualified person, and where Council approval is required, endorsed by a chartered civil engineer with NPER registration for a 1 in 20 years ARI, 5 minutes duration storm and in</p>

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accordance with ARR 2001.

The stormwater drainage system associated with the “developer works” shall include the following:

- a) The loading dock is to be drained to the internal drainage systems, with the discharge into the internal Council drainage system being treated to remove Gross Pollutant and contaminants from the loading dock. The quality of the discharge water is to meet the SCA Standards. Provision is also to be made for the collection of oils and greases
- b) The drainage of the top level Pioneer Place car park over the new excavated car park is to drain internally and to connect to the existing trunk drainage system. If required, this will include the creation of legal drainage easements in favour of Council
- c) The onsite new and existing basement drainage pits are to be fitted with filters.
- d) An onsite detention systems to ensure that post development flows are restricted to predevelopment flows before discharging into the council drainage systems for all storms up to and including the 1:100 year storm event
- e) Engineering plans prepared by a suitably qualified person together with certification verifying the above requirements have been met shall be submitted to the Principal Certifying Authority for approval prior to the issue of the Construction Certificate

## **B PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE.**

### **General**

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#### **Public utility provisions**

- 13. To ensure that appropriate provision is made for the requirements of utility providers, including waste water disposal, certification is to be obtained from each of the following providers, prior to release of the Construction Certificate:
  - f) Certification from Sydney Water in relation to the availability of adequate water and reticulated sewage systems, including any trade waste agreements. Contact should be made with Sydney Water Trade Waste officer on 02962244 and ensure you meet the relevant requirements.
  - g) Certification from Integral Energy in relation to the availability of adequate electricity supplies and specific substation requirements, including that permanent access is maintained to substation 14172.

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#### **Fire safety upgrading**

- 14. In accordance with the requirements of Clause 94 of the Environmental Planning and Assessment Regulation 2000, the following works must be completed to upgrade the fire safety of the existing building. The plans accompanying the application for construction certificate to the certifying authority must demonstrate compliance.
    - a) A sprinkler system must be installed throughout the building
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to restrict the spread of fire from the building and facilitate the egress of persons from the building. The sprinkler system must be designed and installed in accordance with Specification E1.5 of the Building Code of Australia. Details prepared by a suitably qualified person must be submitted to the certifying authority. The system must address, but not be limited to, the location of the sprinkler booster connection, block plans and signage.

- b) The entire building must be served by a fire hydrant system that complies with AS 2419.1- 2005. Details prepared by a suitably qualified person must be submitted to the certifying authority. The system must address, but not be limited to, the fire hydrant booster assembly, separation between the hydrant pumpset and any sprinkler alarm valve/ fire indicator panel, block plans and signage.
- c) A fire hose reel system must be provided to serve the entire building in accordance with the relevant Performance Requirements of the Building Code of Australia and AS2441.
- d) The existing switch room and electrical substation are to be separated from the rest of the building in accordance with the requirements of C2.12 and C2.13 of the Building Code of Australia.
- e) A system of emergency lighting and exit signs (including directional exit signs) is to be installed throughout the building in accordance with Part E4 of the Building Code of Australia.
- f) All existing stairs are to have non-skid strips near the nosing edge and the landing edge in accordance with D2.13 and D2.14 of the Building Code of Australia.
- g) All existing stairs are to have handrails and balustrades in accordance with D2.16 and D2.17 of the Building Code of Australia.
- h) The mechanical ventilation system serving the entire lower floor/ carpark level is to meet the requirements of Parts E2.2 and E4.11 of the Building Code of Australia.

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**Advertising Signage –  
Waratah Street and Pioneer  
Place.**

- 15 To avoid adverse visual impact when viewed from the surrounding streetscape and Pioneer Place, the corner tower to Waratah Street and the Pioneer Place Car Park containing the two advertising sign blocks (being sign 1 and sign 13 of DA3.16N respectively) shall be reduced by a minimum of 2m in height, with proportional reductions in width. The proposed advertising signs shall then be proportionally reduced to match the amended corner tower.

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**Access and mobility design  
statement**

16. The development shall include access and facilities provided for people with a disability or limited mobility in accordance with the principles of the Disability Discrimination Act 1992 and the Council's planning instruments.  
A design statement is required from a suitably qualified Access and



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Mobility Specialist and shall verify that the “developers work” is accessible to people with a disability in accordance with:-

- a) The relevant part of the Council's Better Living DCP and Australian Standard AS 1428.1 Design for access and mobility – General requirements for access – New building work, as per clause 107 (Access to public buildings and public land) of Local Environmental Plan 2005., and
- b) The provisions of the Disability (Access to Premises – Buildings) Standards 2010, as relevant.

The position of sign 3 as indicated on the plans DA3.16 Issue N and DA3.17 Issue E can be varied in response to the relocation of the DDA awning as indicated on plan DA3.03 Issue J and DA3.05 Issue P. Details of any variation is subject to Council's written agreement prior to the construction and installation of the signage. This design statement is to form part of the Construction Certificate documentation.

Nothing in this condition alters any obligations imposed under the Disability Discrimination Act 1992.

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**Food Safety**

- 17. To ensure the premises are constructed so as to be suitable for the safe and hygienic preparation of food, the fit-out of the premises is to comply with the National Food Standard 3.2.3 “Food Premises and Equipment” and Australian Standard AS4674-2004, “Design, Construction & Fit-out of Food Premises”. Mechanical Exhaust systems must comply with Australian Standard AS1668.1 and AS1668.2. documentation. Detail of compliance with the above standards is to be submitted with the Construction Certificate application.

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**Contaminated Building Materials**

- 18. Prior to the issue of a construction certificate and the commencement of any demolition associated with “developer work” a Hazmat survey shall be undertaken of all areas identified as being inaccessible in Section 1.0 of the Hazmat Services Pty Ltd report titled “*Hazardous Materials Survey and Register, Existing Retail Shopping Centre, Corner of Waratah and Parke Streets Katoomba NSW*, ref: HAZ199 HAZMAT SURVEY REP FIN Rev1 220710, and dated 22 July 2010. The recommendations shall be revised to reflect the findings of this survey and all demolition, remediation and construction work shall be undertaken in accordance with the revised Hazmat Services Pty Ltd Report. A copy of the revised Hazmat Service Pty Ltd Report shall be forwarded to Council's Manager – Development and Planning Services prior to commencement of any demolition, remediation or construction associated with “developer work”.

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**Materials and finishes**

- 19. The overall colour and finish of the elevations shall be as indicated on the approved plans Elevations DA3.07 Issue N. To have regard for the amenity of the area, to achieve appropriate urban design and to minimise adverse impact on identified view lines, the development

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shall include the following measures:

- The finished material of the roof, plant room and all elements located above the eaves line of the building shall be of a colour and type to minimise visual obtrusiveness and avoid reflective glare.
- All new glazed areas shall be located and designed to avoid reflective glare to properties in the vicinity.
- The gates provided to the Parke Street vehicular and pedestrian entries, the Pioneer Place vehicular and pedestrian entries and each end of the northern pedestrian walk shall either be black metal frame with black steel grate or black steel concertina gates.

The plans submitted with the application for a construction certificate shall include details in compliance with the condition.

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**Crime prevention**

20. The development shall comply with the recommendations of the Crime Prevention Through Environmental Design Report prepared by The Planning Group and dated August 2010, except as modified in the following points:
- a) Security roller shutters are not to be provided to driveway access points (pg 1 of CPTED Report). Refer to the "Materials and Finishes" condition for further detail.
  - b) Gates to the northern service path are to be locked at all times, except for maintenance or similar purpose, and the path shall be appropriately illuminated for safety. Any rubbish or graffiti is to be removed within 24 hours. No materials are to be stored within the service path area.

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**Noise mitigation - general**

21. Prior to the issue of a Construction Certificate, details of final acoustic measures shall be certified by an acoustic consultant as complying with the recommendations in the Reverb Acoustics letter dated 11 August 2010 with reference number 10-1513-L1 as well as complying with the following points:
- a) All air conditioning/compressor units are to have low volume operational modes and be located so as to not exceed 5dBA above the background noise level during any period and when measured at the property boundary.
  - b) Any acoustic barriers necessary to achieve the required noise measurements of the plant equipment shall be designed such that they are integrated into the plant room design and do not constitute a separate structure.

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**Light spillage - general**

22. To protect the amenity of the local area and to avoid obtrusive light spill to the surrounding area, all external lighting, with the exception of required car park lighting, but including under awning lights, security lights and signage lights shall meet the following requirements
- The lights are to be "warm white" in colour.
  - The lights are to have a light output distribution sufficient to achieve the required illumination purpose whilst avoiding

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- excessive light spill to the surrounding residential properties.
  - The illuminated signage shall be turned off no more than 30 minutes after closing time.

As a minimum level of performance, the light output distribution shall conform with the standards in Table 2.1 *“Recommended maximum values of light technical parameters for the control of obtrusive light”* and Table 2.2 *“Maximum luminous intensity per luminaire for pre-curfew operating times”*, as outlined within Australian Standard 4282 – “Control of the obtrusive effects of outdoor lighting”.

## Engineering

### Approval under the Roads Act

23. Prior to the issue of the Construction Certificate, fully detailed engineering plans and specifications of all works within Waratah Street, Parke Street and the “developer work” in Pioneer Place are to be submitted to and approved by the Council pursuant to the Roads Act 1993.
- The plans are to include Traffic and Pedestrian Management Plans and Erosion and Sediment Control Plans for each component of the works. The plans and specifications are to be prepared and certified by qualified persons to the Council satisfaction.
- Assessment and approval fees will be charged in accordance with Council’s Fees and Charges.

### Performance and Maintenance Bond

24. Prior to the issue of the Roads Act approval, a \$100,000.00 performance, maintenance, damage and defects bond is to be lodged with the Council. The bond may be in the form of an unconditional bank guarantee with no expiry date, a bank cheque or cash. The bond is to cover the safety of the public, environmental protection, and performance and maintenance of the works and damage during and after construction in Waratah Street, Parke Streets and “developer work” in Pioneer Place.
- This bond shall be retained for twelve (12) months after construction is completed to the satisfaction of Council’s Supervising Engineer.
- The bond period commences at the issue of a successful final inspection of the works by the Council. The bond will be released upon an application being made by the applicant subject to the satisfactory performance of the works. The applicant is to pay a bond inspection fee upon lodgement of the application for the release of the bond.

### Pipeline relocation in the basement car park

25. Prior to the issue of the Construction Certificate, fully detailed engineering plans and specifications of all works in association with the relocation of the Council trunk drainage line within the basement car park are to be submitted to and approved by Council.
- To ensure that access to the drainage line is maintained the existing 600 diameter pipe is to be relocated generally as shown on plans submitted with the development application.
- The pipe size is to be not less than the existing pipe diameter and is to make provision for the 1:100 year ARI upstream catchment flows

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The pipeline is to be designed to cater for appropriate wheel loads. No structural loads are to bear on the pipeline or to encroach on the easement. Loading beside the easement are to be piered to rock. The final treatment, pipe size, location of the easement and extent of works is subject to engineering design.

The plans and specifications are to be prepared and certified by qualified persons to the Council satisfaction

Assessment and approval fees will be charged in accordance with Council's Fees and Charges.

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**Structural design  
certification**

26. The design of structural works in Waratah Street, Parke Street, "developer work" in Pioneer Place, and the basement car park drainage realignment, shall be certified by a chartered structural engineer (NPER-3 Structural registered) as conforming to the relevant standards and load capacities. The design and construction of the new suspended upper level car parking area is to cater for highway heavy wheel loading in accordance with the RMS requirements.
- The certification is to be submitted to and approved by Council prior to issue of any of the Council's approval. The structural design certification and the Council's approval are then to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

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**Internal Basement Car Park  
and Loading Dock**

27. Prior to the issue of the Construction Certificate, fully detailed engineering plans of the basement car parking area, loading dock and associated drainage works are to be submitted to and approved by the Principal Certifying Authority.
- The plans are to be prepared by a suitably qualified professional and are to comply with the relevant conditions in this consent.
- In order to promote orderly circulation and to minimise vehicle conflicts, the basement car parking design is to be amended as follows:
- a) The proposed western aisle of the southern car park is to be one-way north.
  - b) The central and eastern aisles of the southern car park are to be one-way south.
  - c) The proposed northern aisle of the southern car park is to be one-way east.
  - d) The parking space marked "dds ppu" (being the "discount department store parcel pickup"), which is adjacent to the parcel pick up area, is to be reallocated as a staff parking space and the "dds ppu" space relocated immediately to the south of the adjacent pedestrian path.

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**Awning design and  
construction over Pioneer**

28. Prior to the issue of the Construction Certificate, detailed plans of the all approved awnings are to be submitted to and approved by the

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**Place, Waratah Street and  
Parke Street**

Principal Certifying Authority.

To minimise the risk of vehicles conflicting with the approved awnings, the outer edge of the awnings in Waratah Street and Parke Street shall be at least 600mm setback from the kerb and gutter/edge of the footpath area, with allowances made for vehicle over-hang and lean. The underside of these awnings shall provide a minimum clearance of 3.65m to the footpath surface level.

The awning along Parke St shall be continuous from the northern boundary walkway up to the main pedestrian entry, including across the sign block for sign 10. The position of sign 10 as indicated on the plans DA3.16 Issue N and DA3.17 Issue E can be varied in response to this requirement. Details of any variation is subject to Council's written agreement prior to the construction and installation of the signage.

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**Adjoining buildings**

29. A Vibration Management Plan is to be prepared, provided to and approved by the Private Certifying Authority prior to the commencement of any demolition or excavation associated with "developer work". These plans are to include recommendations for:
- performance standards to be met during works to be undertaken (in terms of acceptable ground vibration);
  - strategies proposed for the management of ground vibration; and monitoring requirements for vibration through the construction phase.

These plans are to be prepared and their implementation is to be supervised by an appropriately experienced professional. In consideration of the proximity of the development to adjoining buildings the following requirements shall be met:

- A structural engineer shall be on site to directly supervise the excavation work to ensure adequate shoring and structural support measures are implemented.
- The effect of vibration and concussion on buildings in the vicinity is to be minimised by selection of appropriate demolition methods and equipment.
- A Dilapidation Survey shall be undertaken of any "at risk" buildings in the vicinity of the excavation area and shall include the immediate building to the north (40–50 Parke Street Katoomba) and the buildings directly to the east. This Survey shall be taken prior to and at the conclusion of any excavation work. The survey shall have the aim of identifying the existing state of the buildings and identifying changes in them resulting from excavation work. A copy of each of the surveys shall be submitted to the Council prior to and at the conclusion of excavation work.
- The Dilapidation Survey shall also include Council's car park and drainage systems in the vicinity of the excavation area.
- Safe access and egress from adjoining buildings is to be maintained at all times for the duration of the excavation work.

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**Demolition and Construction  
Management Plan**

30. In order to minimise impacts of the demolition and construction works on access to and from the surrounding properties, car parking areas and roads, a Demolition and Construction Management Plan (DCMP) shall be submitted to and approved by the Council prior to the commencement of any “developer work”.

The plan is to address, but not be limited to, the following matters:

- a) No works are to be carried out or deliveries made between Christmas and New Year’s Day, or during the Katoomba Winter Magic Festival.
- b) Appropriate staging of the works to minimise impacts on surrounding properties (including delivery vehicle access to the Katoomba Fair shopping complex and other loading areas in Pioneer Place), public car parking areas and roads.
- c) The loss of car parking space availability at any time is to be minimised as far as practicable, with the aim of providing maximum access to and from the existing Council owned basement car parking area.
- d) In order to minimise impacts on surrounding properties, the developer is to undertake consultation and liaison with owners and tenants of surrounding properties, and the Katoomba Chamber of Commerce, in the development of the Management Plan. The developer is to also provide regular notification to the public, the surrounding property owners and tenants and the Katoomba Chamber of Commerce of the progress and staging of the works during the demolition and construction phases. This notification is to include direct written notification, display via a publicly accessible notice board and notification through the local media.
- e) Proposed temporary traffic management at each stage of the works, particularly in relation to safe traffic circulation in Pioneer Place.
- f) Maintenance of pedestrian and vehicle access on Pioneer Place north of the development site, and within and adjacent to the lower level of Pioneer Place.
- g) Proposed delivery/loading/storage and contractor parking locations. These locations are to be contained wholly within the development site.
- h) Construction vehicle access is to be primarily from Parke Street.
- i) Location of site sheds, toilets and other construction amenities.
- j) Structure to be demolished and all its components shall be maintained in a stable and safe condition at all stages of the demolition work. Temporary bracing, guys, shoring or any combination of these, shall be added for stability where necessary.
- k) Precautions are taken to ensure that the stability of all parts

	<p>of the structure and the safety of persons on and outside the site are maintained particularly in the event of sudden and severe weather changes. Severe weather changes refer primarily to the localised high winds. In these circumstances loose debris can become airborne, particularly if it is in sheet form.</p> <p>l) The site shall be secured at all times against the unauthorised entry of persons or vehicles.</p> <p>m) Utility services within the structure not required to be maintained during the demolition work shall be properly disconnected and sealed off before any stripping or demolition commences.</p>
<b>Notification to the Council of commencement of Works</b>	31. At least 2 days prior to commencement of demolition or construction associated with “developer work”, written notice of the intention to commence is to be provided to Blue Mountains City Council in accordance with the Environmental Planning and Assessment Regulation.
<b>Preconstruction meeting</b>	32. Prior to commencement of work, a preconstruction meeting is to be held with Council’s Supervising Engineer in relation to works within Council’s roads, namely Waratah Street and Parke Street or works within the area depicted as “developer work” in Pioneer Place.
<b>Insurance</b>	33. All contractors working in Waratah Street, Parke street or Pioneer Place must be covered for workers compensation and public liability insurance to the amount of \$10 million. The policy shall specifically indemnify Council from all claims arising from the execution of the works. Written evidence of this insurance shall be supplied to Council’s supervising engineer at the pre-construction meeting.
<b>Installation of sediment and erosion controls</b>	34. Sediment and erosion controls are to be installed in accordance with the approved Erosion and Sediment Control Plan prior to the commencement of works.
<b>Installation of pedestrian and traffic controls</b>	35. All pedestrian and traffic controls are to be installed in accordance with the approved Pedestrian and Traffic Management Plan prior to the commencement of works.
<b>Hoardings and fencing and associated TPMP etc</b>	<p>36. Prior to the commencement of construction, to minimise the impacts of onsite works on the adjacent uses and ensure the protection of the public, fences and/or hoardings are to be provided on all sides of the site to the requirements of NSW Workcover Authority. These fences and/or hoardings are to be in accordance with the Council’s Policy for Temporary Fencing (Hoardings)/ Barrier Systems dated 24 March 2009, Work Cover requirements and other relevant Australian Standards and Statutes.</p> <p>Where Waratah Street, Parke Street or Pioneer Place are affected and before work commences on site the applicant is to obtain a</p>

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Council Approval in accordance with Council's Policy (Temporary Fencing (Hoardings)/ barrier systems) and the conditions of this consent. Application fees and On Going Use fees are applicable.

## **C DURING REMEDIATION, DEMOLITION AND CONSTRUCTION WORKS**

### **General**

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#### **Extinguishment of Right of Carriageway**

37. The right of carriageway in favor of the Council burdening the subject site (easement 'B' in DP 787996) is to be extinguished and evidence of that extinguishment provided to the Council prior to the commencement of any demolition or construction work within the easement .

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#### **Noise mitigation - construction**

38. 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.

A copy of the guideline is available from *the Office of Environment and Heritage* at [www.environment.nsw.gov.au](http://www.environment.nsw.gov.au)

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#### **Demolition of Buildings generally**

39. The demolition work to be supervised by a competent person with due regard to safe working practices and in accordance with the requirements of the NSW WorkCover Authority; Such work is to be carried out in accordance with the Occupational Health & Safety Regulations, 2001, and Australian Standard 2601 – 1991.

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#### **Demolition of Buildings containing asbestos cement**

40. The applicant is to notify Council and adjoining residents, in writing, at least ten (10) working days prior to demolition commencing, of their intention to commence demolition works. In the case of adjoining residents, such notification is to be a clearly written note, on at least note pad size paper, giving the date demolition will commence and be placed in the letterbox of every premises (including every residential flat or unit, if any) either side and immediately to the rear of the demolition site.

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#### **Disposal of Asbestos**

41. All asbestos material, including asbestos cement, is to be disposed of to an approved waste management facility licensed to receive asbestos.

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#### **Display of signage**

42. The developer will display appropriate asbestos/demolition signage prior to and during demolition works.

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#### **Dust control**

43. The techniques adopted for stripping out and for demolition are to minimise the release of dust into the atmosphere.
- + Before commencing work, any existing accumulations of dust are to be collected, placed in suitable containers and removed. Selection of appropriate collection techniques, such as



	<p>vacuuming or hosing down, shall take account of the nature of the dust and the type of hazard it presents (eg., explosive, respiratory etc).</p> <p>+ Dust generated during stripping or during the breaking down of the building fabric to removable sized pieces shall be kept damp until it is removed from the site or can be otherwise contained.</p> <p>The use of excess water for this purpose is to be avoided.</p> <p>Note: in certain environments and under certain stimuli, deposits of combustible dust on beams, machinery and other surfaces may be subject to flash fires, and suspensions of combustible dusts in the air can cause them to explode violently (see NFPA Handbook).</p>
<b>Removal of material</b>	44. All demolished material and excess spoil from the site shall be disposed of at a location and in a manner approved of by Council.
<b>Plans on site</b>	45. Copies of the stamped and approved plans, development consent, Roads Act approvals and the construction certificate are to be on the site at all times.
<b>Site management</b>	<p>46. To safeguard the local amenity, reduce noise nuisance and to prevent environmental pollution during the construction period, all “developer work” is to be managed in accordance with the approved Demolition and Construction Management Plan, and the following:</p> <p>a) Days &amp; hours of construction:</p> <ul style="list-style-type: none"> <li>Monday to Friday: site and building works (including the delivery or removal of materials) shall only be carried out between the hours of 7am to 6pm.</li> <li>Saturday: only those site and building works that result in no adverse noise impact are permitted and shall only be carried out between the hours of 8am to 3pm. No delivery or removal of materials is permitted on that day and workers’ vehicles are not to be parked within the public car park area.</li> <li>No site or building works or delivery or removal of materials is to be carried out on Sundays, Public Holidays, between Christmas and New Year’s Day and during the Katoomba winter Magic Festival.</li> </ul> <p>b) Stockpiles of topsoil, sand, aggregate, spoil or other material shall be wholly contained within site, and stored clear of any drainage path or easement, footpath, kerb or road surface and shall have measures in place to prevent the movement of such material off site.</p> <p>c) Building operations such as brickcutting, washing tools, concreting and bricklaying shall be undertaken wholly within the development site. The pollutants from these building operations shall be contained on site.</p> <p>d) Builders waste must not be burnt or buried on site. All waste must be contained and removed to a Waste Disposal Depot.</p>

## **Engineering**

### **Inspections of engineering works in Waratah and Parke streets and Pioneer Place**

47. To ensure all “developer work” in Waratah Street, Parke Street or Pioneer Place is completed in accordance with the appropriate specifications and approved plans, compliance certificates for works undertaken off site are to be issued at significant stages throughout the construction period.

The inspections are to be carried out by the Council's Engineer, and inspection fees will be payable in accordance with Council's current schedule of fees & charges. The Council's Engineer will require a minimum of 48 hours notice to conduct an inspection.

These stages are:

- a) Pre construction meeting.
- b) Roads, driveways, and car parks
  - After set out (prior to any excavation)
  - Laying and compaction of subgrade
  - Compaction of roadbase or placing reinforcement for concrete works
  - During sealing of pavements
  - Final – all disturbed areas revegetated.
- c) Kerb construction
  - After set out (prior to any excavation)
  - Laying and compaction of subgrade
  - Placement of stringline
  - During placement of kerb
  - Compaction of roadbase to existing road
  - During sealing of pavements
  - Final – all disturbed areas revegetated.
- d) Pedestrian pathways
  - After set out (prior to any excavation)
  - After boxing out of pathway
  - Final – all disturbed areas revegetated.
- e) Stormwater Drainage
  - After set out (prior to any excavation)
  - After installation of pits and pipes, prior to backfilling
  - Final – all disturbed areas revegetated.
- f) Final inspection of completed development.

## **D PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE**

*(Occupation Certificate refers to “Interim Occupation Certificate” or “Occupation Certificate”)*

### **General**

#### **Landscaping**

48. Landscape works shall be carried out in accordance with landscape details shown on the “Pioneer Place Mastepan Overlay” and shall include Numbered DA3.05 Issue P and dated 2 February 2012 and the adopted Planning Agreement. All identified landscaping work shall be provided prior to release of an Occupation Certificate, and at the applicants expense.
- Details of landscape work within Waratah Street, Parke Street and the upper level and along the spine of the Pioneer Place car park area, including species selection, shall be submitted to Council for

	<p>approval prior to the commencement of landscape work. The details provided should have regard for the following:</p> <ul style="list-style-type: none"> <li>• Street Tree species selection should be consistent with the principles in Council's Street Tree Masterplan August 2010, including the relevant Species Maps in section 3 of the plan.</li> <li>• Planter beds within the Pioneer Place car park or for new street trees within Waratah or Parke Street will use Gap Graded or "structural" soils in the subsoil layer to assist in the provision of a sustainable growing medium for selected species.</li> <li>• The foot path along Waratah Street shall incorporate Gap Graded or "structural" soils in the subsoil layer in vicinity of the root systems for existing trees.</li> <li>• Shall include the recommendations of a qualified arborist regarding the protection and pruning of trees within Waratah and Parke Streets reserve during any excavation and construction work generally and specifically any footpath work, new awning work or new signage work.</li> </ul>
<b>Fire safety upgrading - occupation</b>	<p>49. The fire safety upgrading works identified in this consent at condition 14 (Fire safety upgrading) are to be completed to the satisfaction of the Principal Certifying Authority (PCA) prior to the issue of an Occupation Certificate.</p> <p><b>Advisory note:</b> Fire safety upgrades of the existing building are imposed in accordance with Clause 94 of the <i>Environmental Planning and Assessment Regulation 2000</i>.</p>
<b>Noise mitigation - occupation</b>	<p>50. Prior to occupation of the development, the in-situ equipment shall be tested by a qualified acoustic consultant certifying that the objectives in the "Noise mitigation – general" condition have been met.</p>
<b>Light spillage - occupation</b>	<p>51. Prior to occupation of the development, all external lighting, including signage, shall be tested by a qualified lighting consultant and a report produced certifying that the requirements in the "Light spillage – general" condition have been met.</p>
<b>Engineering</b>	
<b>Repair of damage</b>	<p>52. The applicant shall repair or reconstruct all damage in the road reserve and in Pioneer Place caused by construction activity associated with "developer work" as required by the Council's Supervising Engineer prior to release of the Occupation Certificate.</p>
<b>Restore disturbed area</b>	<p>53. All disturbed areas associated with "developer work" is to be restored and stabilised to the Council's satisfaction prior to release of the Occupation Certificate.</p>
<b>Works as Executed plans</b>	<p>54. Prior the issue of the Preliminary Final Inspection Report and Prior to the issue of the Occupation Certificate, a Works as Executed Plan of</p>

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all engineering “developer work” in Waratah Street, Parke Street or Pioneer Place, together with an engineer’s certification confirming that all works have been constructed in accordance with the approved plans and specifications, shall be submitted to and approved by the Council.

The Works as Executed Plan is to be prepared by a Registered Surveyor.

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**Completion and certification of all works in Waratah and Parke Street and Pioneer Place**

55. All “developer work” required by the adopted Planning Agreement or by this consent are to be completed to the Principal Certifying Authority’s satisfaction prior to the issue of the Occupation Certificate. To ensure all structural works have been completed in accordance with the approved structural details, a certificate from a NPER registered Structural Engineer is to be submitted to the Principal Certifying Authority and to the Council (for “developer work” in Waratah Street, Parke Streets and Pioneer Place and in relation to the trunk drainage works in the basement car park). This shall certify that all structural components of the work have been constructed in accordance with the approved structural details and is structurally adequate for the imposed loads.
- The applicant is to submit to the Principal Certifying Authority, certification from the Council’s Engineer confirming that all works within Waratah Street, Parke Street and Pioneer Place, and the relocation of the trunk drainage line in the basement car park area, is completed in accordance with the approved plans and to the Council’s satisfaction, prior to release of the Occupation Certificate.

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**Management of Shopping Trolleys**

56. Prior to the issue of an occupation certificate, a Shopping Trolley Management Plan (STMP) is to be submitted to and approved by the Council prior to release of the Occupation Certificate.
- The STMP is to be prepared in consultation with the Council in its capacity as owner and asset manager of the Pioneer Place car park.
- The plan is to address the following:
- a) Measures to limit the storage of trolleys within the Council car park and to encourage the return of trolleys from the Council car park to the “trolley park” within the development site.
  - b) These measures shall comprise a coin operated trolley return system or other management measure/s to the satisfaction of the Council.
  - c) Measures for the collection of trolleys that are abandoned or removed from the development site.
  - d) Measures for the operational review, updating and approval of the STMP as it applies to the Council car park within a two (2) year period after the commencement of operation of the development.

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**Dedication of drainage easements**

57. To ensure legal drainage rights are provided to the Council, drainage easements are to be registered over the property, for following:

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- relocated trunk drainage system within the basement car park area. The easement is to be in favour of the Council, a minimum 3m wide, and centrally located over the drainage system.
  - drainage of the top level car park through the new basement car park and connection to the trunk drainage system. The easement width will be a minimum of 1.5m and subject to Engineering design.

The applicant shall bear all costs associated with the preparation of the drainage easement. They are to be submitted to Council for approval prior to lodgement at NSW Land and Property Management Authority, and registered on the property title prior to the issue of an Occupation Certificate

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**Awning System Positive  
Covenant**

58. To ensure the awning system is satisfactorily maintained in a safe and sound condition at all times in accordance with the approved designs, design loadings and construction required in this consent, a covenant under Section 88E of the Conveyancing Act, 1919 shall be prepared and registered over the property title.
- The terms of the 88E Instrument with positive covenant shall include, but not be limited to, the following:
- a) The Proprietor of the property shall agree to be responsible for the regular maintenance and regular inspections and written reports of the awnings and other structures associated with the awnings. The latter awning and associated structures are to be known as the awning system.
  - b) The Proprietor of the property shall agree to be responsible to ensure that the above inspections and reports are performed with the intention of ensuring that the awning system is maintained in a safe and sound condition, at all times, in accordance with the approved designs, design loadings and construction required in this consent.
  - c) The Proprietor shall agree to have the awning system inspected regularly, with the time between inspections not exceeding 5 years, by a competent person. The proprietor shall agree to keep a record of the written inspection reports by the competent person. The reports are to detail the works required to maintain the awning system in a safe and sound condition. The report is to detail what actions have been taken to rectify the awning system. The proprietor shall agree to have the works required in the reports to keep the awning system in a safe and sound condition at all times, implemented
  - d) The Council shall have the right to request that the record of the above inspections and work carried out be submitted to Council.
  - e) The registered Proprietor shall indemnify the Council and any adjoining landowners against damage arising from the failure of any component of the awning system or failure to maintain

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and repair the awning system.

The applicant shall bear all costs associated in the preparation of the subject 88E Instrument. The wording of the Instrument shall be submitted to and approved by Council prior to lodgement at NSW Land and Property Management Authority. The positive covenant is to be registered prior to the issue of the Occupation Certificate.

## **E OCCUPATION AND ONGOING USE**

### **General**

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#### **Annual fire safety statement**

*Each essential fire safety measure in the building*

59. Each year, within 12 months of the previous statement or after a certificate of installation has been issued for the building (whichever is applicable), the owner of the building must submit to Council an Annual Fire Safety Statement that must deal with each essential fire safety measure in the building.

A copy of the statement (together with a copy of the current fire safety schedule) is to be given to the Commissioner of New South Wales Fire Brigades. A further copy is to be prominently displayed in the building.

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#### **Hours of operation of the supermarket and the discount department store.**

60. The hours of operation of the supermarket is limited to the following:
- Daily 6:00am–12:00 Midnight
- The hours of operation of the discount department store is limited to the following:
- Weekdays 8:00am - 12:00 Midnight, except for Thursday 7:00am - 12:00 Midnight
  - Weekends 8:00am – 10:00pm

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#### **Hour of Operation of the loading dock area**

61. To ensure the effective mitigation of potential noise and light impact to adjoining properties, all deliveries to the site shall be made to the loading dock area and limited to:
- Monday to Saturday 6:00 am to 10:00 pm
  - Sundays and public holidays 8:00am to 9:00pm

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#### **Glazed areas to Pioneer Place and Waratah Street.**

62. To maintain pedestrian activation, retain pedestrian observation into the store and to avoid visual clutter, glazed areas to the Pioneer Place and Waratah Street frontages are to be clear glass they shall remain unobscured by promotional material, goods racking/shelves or any other material. The concrete block wall beneath the glazed area to Waratah Street is to be a maximum of 1m in height.

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### **Engineering**

#### **Loading dock operation**

63. To ensure safe operation of the basement car park and delivery dock, vehicle operation is to be carried out as follows:
- a) All vehicles are required to enter and leave the site in a forward direction.
  - b) The size of delivery and service vehicles visiting the site is to be restricted to a 19m semi trailer/articulated vehicle. These vehicles are restricted to the Loading Dock operation only.

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- c) Arrival and departure of vehicles from the loading are to be managed so that only 2 vehicles are visiting the loading dock at any one time. Vehicles are not to queue/park in the adjoining streets.
  - d) The loading dock area is to be used only for the arrival and departure of delivery vehicles. In this regard the delivery dock area is not to be used for any other purpose and is to be kept free of goods stacking, garbage bins or any other obstacles.
  - e) The size of vehicles using the basement car park is to be restricted to B99 design car as per AS 2890.1/2004. Clearance heights are to be restricted to the minimum available height of the basement.
  - f) The size of vehicles using the top level of the Pioneer Place car park adjacent to the development is to be restricted to B99 design car as per AS 2890.1/2004, be no greater than 5 tonnes in weight and 2.4m in height.
  - g) Garbage and recycling bins are to be stored in the designated waste and recycling area and only brought out to the dock for emptying/collection purposes. The bins are to be returned to the designated area after collection has occurred.
  - h) Waste and recycling will be managed in accordance with the "Part 4 – Operational Waste Management" section of the Waste and Management Plan, dated August 2010.

#### **Food Advice**

- To comply with Clause 4 of the Food Safety Standard 3.2.2, the NSW Food Authority should be notified of details of the food business. You are referred to the website where this may be done cost free [www.foodnotify.nsw.gov.au](http://www.foodnotify.nsw.gov.au)
- To comply with Clause 3 of the Food Safety Standard 3.2.2, a food business must ensure that persons undertaking or supervising food handling operations must have appropriate skills and knowledge of food hygiene and safety matters.
- In 2009 Parliament passed legislation that requires certain food businesses in the hospitality and retail food service sector to have at least one trained food safety supervisor by 1<sup>st</sup> July 2011. Further details may be obtained from the NSW Food Authority website [www.foodauthority.nsw.gov.au](http://www.foodauthority.nsw.gov.au)

Information relating to food businesses may be obtained on Council's website [www.bmcc.nsw.gov.au](http://www.bmcc.nsw.gov.au) and the NSW Food Authority website [www.foodauthority.nsw.gov.au](http://www.foodauthority.nsw.gov.au)