

# DA 96/2017 – Commercial Development No 172-182 Macqueen Street Aberdeen: Recommended Conditions of Consent

## Schedule A

### Deferred commencement:

***In accordance with section 4.16(3) of the Act the consent will not operate until the applicant has provided information to the satisfaction of the Council that the following condition can be complied with. Upon receipt of written information from the applicant in relation to the condition in this schedule the Council will advise in writing whether the information is satisfactory and, if so, will nominate the effective date for the commencement of the consent.***

1. This consent does not operate until the applicant submits to Council evidence that an Easement to Drain Water has been registered on the title of Lots 3 and 4 DP 832100 (Jean O'Bryan Close) and Lot 222 DP 1180892. The Easement must be in favour of Lots 113 and 114 DP 631908 (or as consolidated) and be in such terms as the Upper Hunter Shire Council may reasonably require.
2. This Consent does not operate until the applicant submits to Council evidence that a Restriction on the Use of Land over that part of Lots 3 and 4 DP 832100 (Jean O'Bryan Close) and Lot 222 DP 1180892 affected by the Easement to Drain Water has been registered on the title to benefit Lots 113 and 114 DP 631908 (or as consolidated). The Restriction on the Use of Land must provide that no works or activities are to be undertaken and no buildings or structures are to be erected or vegetation planted, or any other interference with the construction or ongoing operation of the stormwater drainage system servicing Lots 113 and 114 DP 631908 (or as consolidated). Upper Hunter Shire Council shall be nominated as the authority empowered to release, vary or modify the restriction.

***In accordance with Clause 95(3) of the regulation, a twenty four (24) month period is given from the date of the "deferred commencement" notice to lodge plans and evidence that satisfactorily address the required details. If not, then the "deferred commencement" will lapse and a new development application will be required.***

## Schedule B

### Identification of approved plans:

1. The development being carried out in accordance with the development application and the drawings referenced below and Statement of Environmental Effects dated July 2017 (by Insite), except where amended by the following conditions.

JOB REFERENCE NO	SHEET No	REVISION No	DRAWN BY	DATE
Site Analysis Plan	A002	C	Dwp	07.06.2019
Site Plan	A003	G	Dwp	07.06.2019
Site Plan – General Arrangement	A004	U	Dwp	07.06.2019
3D Views	A005	B	Dwp	14.06.2017
GA Plan Retail 1 Ground + Commercial Level 1	A006	E	Dwp	07.06.2019

GA Plan – Retail 2 + Service Centre	A007	D	Dwp	07.06.2019
GA Plan – Retail 3 + Truck Parking Amenities	A008	C	Dwp	07.06.2019
3D Site	A009	A	Dwp	13.06.2017
Elevations - Retail 1 Ground + Commercial Level 1	A010	H	Dwp	07.06.2019
Elevations – Retail 2 + Service Centre	A011	H	Dwp	07.06.2019
Elevations – Retail 3 + Truck Parking Amenities	A012	G	Dwp	07.06.2019
Sections	A013	C	Dwp	07.06.2019
Materials / Acoustic Fence Section / Signage Pylon Elevation	A014	D	Dwp	07.06.2019
Shadow Diagrams	A015	C	Dwp	07.06.2019
Site Plan – Staging	A161	E	Dwp	07.06.2019
Landscape Sketch Plan	L.SK.01	E	Scape and Design Landscape Architecture	14.06.2019
Landscape Planting Plan	L.SK.02	C	Scape and Design Landscape Architecture	14.06.2019
Landscape Sections	L.SK.03	A	Scape and Design Landscape Architecture	14.06.2019
External Intersection Works	C01.01 to C0.04	B	Northrop	10.12.2018
Soil and Water Management Plan	DA01-DA05	B	Lindsay Dynan	11.12.2018
Stormwater Water Drainage Plan	DA06-DA09	B	Lindsay Dynan	11.12.2018

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council)

2. A copy of all stamped approved plans, specifications and documents (including the Construction Certificate if required for the work incorporating certification of conditions of approval) must be kept on site at all times so as to be readily available for perusal by any officer of Council or the Principal Certifying Authority.

(Reason: To ensure that the form of the development undertaken is in accordance with the determination of Council)

#### General Operational Conditions:

#### Hours of Operation

3. The operation of the service station and retail premises shall be limited to the following hours:-

Operating hours:	6.00am to 10.00pm daily
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Upon expiry of the permitted hours, all service shall immediately cease, no person shall be permitted entry and all customers on the premises shall be required to leave within the following half hour and illuminated signs are turned off.

(Reason: Information to ensure that amenity of the surrounding locality is maintained and hours of operation are consistent with those in surrounding locality.)

### Site Management Plan

4. The development shall be carried out in accordance with the approved Site Management Plan (refer to further condition). The following shall apply:
- a) If from time to time, and in accordance with these conditions, the Applicant (whether of its own volition or in accordance with recommendations made pursuant to these conditions) proposes any amendments to the management plan referred to in this condition then those proposed amendments shall be submitted by the Applicant to the Council for approval.
  - b) An amendment to a plan under condition does not take effect until:
    - i. the Council has approved the amendments; and
    - ii. the Applicant has made any further amendments required by the Council (acting reasonably) as a condition of approving the amendments.
  - c) If there is any inconsistency between these conditions of consent and any of the following:
    - i. the Statement of Environmental Effects;
    - ii. the supporting documents; or
    - iii. the management plansthen the conditions of consent shall prevail.

### Noise Assessment Criteria

5. The noise generated at the premises must not exceed the noise limitations presented in Table 1 at the boundary of any residential premises:

Table 1: Noise Criteria

L <sub>Aeq</sub> (15min)	Period
44 dBA	Day
43 dBA	Evening
38 dBA	Night

Note:

Day is: 7am to 6pm Monday to Saturday; 8am to 6pm Sundays and Public Holidays

Evening is: 6pm to 10pm daily

Night is: 10pm to 7am Monday to Saturday; 10pm to 8am Sundays and Public Holidays

## Noise Compliance Monitoring

6. Within 3 months of the operation of Retail 1, a noise assessment prepared by a suitably qualified acoustic engineer accordance with the noise monitoring procedures in the *NSW Noise Policy for Industry* (NSW Environment Protection Authority, 2017) shall be submitted to Council for approval. The noise assessment shall establish whether or not the operation of Dock 1 (adjacent to bottleshop) causes exceedances of the Table 1 noise criteria at No. 44 and No. 46 Perth Street.

The noise assessment shall make recommendations for additional noise mitigation measures and/or noise attenuation measures where the noise levels exceed the Table 1 criteria.

(Reason: To ensure the residents of Lot 21 DP 616665 are not adversely impacted by noise from the haulage road.)

## Independent Review

7. If an owner of privately-owned land considers the development to be exceeding the relevant noise assessment criteria then he/she may ask the Consent Authority in writing for an independent review of the impacts of the development on his/her land.

If the Consent Authority is satisfied that an independent review is warranted, then within 2 months of the Consent Authority decision, the Applicant must:

- (a) commission a suitably qualified, experienced and independent person, whose appointment has been approved by the Consent Authority, to:
  - a. consult with the landowner to determine his/her concerns;
  - b. conduct monitoring to determine whether the development is complying with the relevant criteria in Table 1 and;
  - c. if the development is not complying with these criteria, then identify measures that could be implemented to ensure compliance with the relevant criteria; and
- (b) give the Consent Authority and landowner a copy of the independent review; and
- (c) comply with any written requests made by the Consent Authority to implement any findings of the review.

(Reason: To ensure the development is complying with relevant standards, performance measures and statutory requirements.)

## Operational conditions imposed under the environmental planning and assessment act and regulations and other relevant legislation:

8. All building work must be carried out in accordance with the provisions of the National Construction Code Series.

(Reason: Prescribed by legislation)

## Conditions to be complied with prior to the issue of the construction certificate:

## Contaminated Land

9. Following the demolition of the existing building shown on the Site Plan – Existing/Analysis/Demolition (A002) on Lot 113 DP 631908 and prior to the issue of any Construction Certificate an updated Detailed Site Investigation report that gives consideration to the contamination status of the soil beneath the building and slab/foundations, around Bores 106 and 107 and the effluent disposal site as identified in the *Report on Detailed Site Investigation for Contamination* (Douglas Partners, January 2018 Project: 91087.01) must be prepared and submitted to the Consent Authority and the appointed Site Auditor.

The detailed site investigation must be carried out by a duly qualified contaminated land consultant in accordance with:

- i. Upper Hunter Contaminated Land Policy 2017,
  - ii. Managing Land Contamination Planning Guidelines (1998),
  - iii. Relevant EPA Guidelines, in particular NSW OEH (2011) Guidelines for Consultants Reporting on Contaminated Sites, and
  - iv. National Environment Protection (Assessment of Site Contamination) Measure (ASC NEPM, 1999 as amended 2013).
- a) The updated Detailed Site Investigation report must be prepared, or reviewed and approved by an appropriately qualified and certified environmental consultant, certified by one of the schemes identified in Section 8.3 of the Upper Hunter Contaminated Land Policy 2017. The front cover of the report must include the details of the consultant's certification.
  - b) The updated Detailed Site Investigation report provided to Council must be accompanied by a report summary, presenting (as a minimum) project background, scope, objectives, key issues, investigation findings, conclusions and recommendations.
  - c) All contaminated site reports provided to Council must exempt Council from any claim for copyright that may restrict Council's ability to provide information to the public in accordance with the Government Information (Public Access) Act 2009.
  - d) If the Duty to Report contamination to the NSW Environment Protection Authority under Section 60 of the Contaminated Land Management Act 1997 is triggered, Council must be notified within 7 days of the notification to the NSW Environment Protection Authority.

Note:

Several investigations and associated reporting such as contamination delineation, site specific risk assessments and monitoring may be needed in this stage of the process, in accordance with National Environment Protection (Assessment of Site Contamination) Measure 1999, amended in 2013 (ASC NEPM, 2013).

(Reason: To ensure the contamination status of the site is fully investigated and remediated prior to the commencement of construction works.)

10. Where contamination is identified and prior to the issue of any Construction Certificate an updated Site Investigation report and Remediation Action Plan (RAP), must be prepared.

- a) The process must be carried out in accordance with:
  - i. Upper Hunter Contaminated Land Policy 2017,
  - ii. Managing Land Contamination Planning Guidelines (1998),
  - iii. Relevant EPA Guidelines, in particular NSW OEH (2011) Guidelines for Consultants Reporting on Contaminated Sites, and
  - iv. National Environment Protection (Assessment of Site Contamination) Measure (ASC NEPM, 1999 as amended 2013).
- b) The RAP must identify that the site can be made suitable for the proposed land use as the development as proposed with the implementation of the RAP.
- c) The RAP must be prepared, or reviewed and approved by an appropriately qualified and certified environmental consultant, certified by one of the schemes identified in Section 8.3 of the Upper Hunter Contaminated Land Policy 2017. The front cover of the report must include the details of the consultant's certification.
- d) The RAP provided to Council must be accompanied by a report summary, presenting (as a minimum) project background, scope, objectives, key issues, investigation findings,

conclusions and recommendations.

- e) All contaminated site reports provided to Council must exempt Council from any claim for copyright that may restrict Council's ability to provide information to the public in accordance with the Government Information (Public Access) Act 2009.
- f) If the Duty to Report contamination to the NSW Environment Protection Authority under Section 60 of the Contaminated Land Management Act 1997 is triggered, Council must be notified within 7 days of the notification to the NSW Environment Protection Authority.
- g) The RAP must identify if the remediation works are considered Category 1 Remediation or Category 2 Remediation in accordance with the State Environmental Planning Policy No 55—Remediation of Land, and Upper Hunter Contaminated Land Policy 2017.

(Reason: to ensure the site is appropriately remediated and suitable for the intended use.)

### **Construction Environmental Management Plan**

11. Prior to the issue of any Construction Certificate, a Construction Environmental Management Plan (CEMP) for the development must be provided to the Certifying Authority for approval for each stage (or combined). The CEMP must include:

- a) The CEMP must include management strategies for the potential risks to on-site workers and visitors, off-site receptors, and the environment from the contamination identified in the updated Site Investigation (if applicable).
- b) The environmental site management measures must remain in place and be maintained throughout the period of the development.
- c) The CEMP must address all environmental aspects of the development's construction phases, and include where relevant, but not be limited to, the following:
  - i. Asbestos Management Plan
  - ii. Project Contact Information
  - iii. Site Security Details
  - iv. Timing and Sequencing Information
  - v. Site Soil and Water Management Plan
  - vi. Noise and Vibration Control Plan
  - vii. Air monitoring and management
  - viii. Health and Safety Plan
  - ix. Incident Management Contingency
  - x. Unexpected Finds Protocol
- d) The CEMP must be kept on site from the commencement and for the duration of the proposed works, and must be available to Council officers upon request.
- e) The CEMP provided to Council must exempt Council from any claim for copyright that may restrict Council's ability to provide information to the public in accordance with the Government Information (Public Access) Act 2009.

(Reason: To ensure appropriate measures have been considered for site access, storage and the operation of the site during all phases of the construction process in a manner that respects adjoining owner's property rights and residential amenity in the locality, without unreasonable inconvenience to the community)

### **Waste Management Plan**

12. Prior to the issue of any Construction Certificate the person acting on this consent shall submit a Waste Management Plan to the Certifying Authority for approval.

The Waste Management Plan shall include details of the handling of waste materials generated from the demolition, construction and on-going operation regarding:

- the location of waste management facilities proposed both during demolition and construction.
- volume and type of waste and recyclables to be generated
- storage and treatment of waste and recyclables on site
- disposal of residual waste and recyclables

(Reason: To waste generated from the development is stored and disposed of in a way that does not impact on the environment.)

#### **Accessible Parking Spaces – Retail 1**

13. The accessible parking spaces that service Retail 1 shown on Plan A004 (Issue T) shall be relocated to the first 6 spaces on the northern side of the parking area and shall comply with AS 2890.6 :2009 Off- Street Parking for People with Disabilities. An amended parking plan demonstrating compliance with this requirement must be submitted to the Certifying Authority for approval, prior to the issue of any Construction Certificate for Stage 1.

(Reason: To ensure that the accessible parking spaces are not in conflict with loading/unloading activities of the “shared loading facility”)

#### **Vehicle Turning Area – Retail 1**

14. One of the parking spaces at the western end (adjacent to Macqueen Street) of the Retail 1 parking area shall be designated and appropriately marked as a vehicle turning area. The turning area must be designed so that there is sufficient maneuverability to allow for the largest light vehicle (eg large four wheel drive) to turn and leave in a forward direction. An amended parking plan demonstrating compliance with this requirement must be submitted to the Certifying Authority for approval, prior to the issue of any Construction Certificate for Stage 1.

(Reason: To ensure safe movement of vehicles within the parking area.)

#### **Pedestrian Movement Area – Truck Parking Amenities**

15. A pedestrian movement area/ crossing shall be provided from the heavy vehicle parking bays to the Truck Parking Amenities area. An amended parking plan demonstrating compliance with this requirement must be submitted to the Certifying Authority for approval, prior to the issue of any Construction Certificate.

(Reason: To ensure there is a means of safe pedestrian movement to the Truck Parking Amenities.)

#### **Sewer Main Extension**

16. The Council sewer main located within No. 204 Macqueen Street (Lot 221 DP 1180892) shall be extended to service the development in accordance with the requirements of the Council's Infrastructure Services Department. The applicant shall liaise with Council's Manager of Water Sewer regarding the submission of design and construction details for all works associated with the sewer main extension. The work shall comply with AS/NZS 3500, *Plumbing and Drainage Standards*, and Council's *Engineering Guidelines for Subdivision and Development*. All required works shall be undertaken at full cost to the applicant.

Plans and design details demonstrating compliance with the requirements of the Infrastructure Services Department shall be submitted to, and approved by the Certifying Authority prior to the issue of any Construction Certificate.

**Note: Approval under Section 68 of the Local Government Act 1993 is required for any works to carry out sewerage work.**

(Reason: To ensure satisfactory arrangements are in place for the disposal of sewage.)

### **On-street Parking – Perth Street**

17. The provision of 19 on-street parking spaces in Perth Street removes public space and restricts pedestrian movement along Perth Street. Prior to the issue of any Construction Certificate for Stage 1 the applicant shall submit amended plans to the Consent Authority for approval with the on-street parking in Perth Street deleted.

(Reason: To maintain public open space for pedestrian use.)

### **Footpath/Cycleway**

18. A 2.0m wide concrete footpath/cycleway shall be constructed within the road reserve for the full Macqueen Street (New England Highway) and Perth Street frontage of Lot 113 and Lot 114 DP 631908 as part of Stage 1. The footpath/cycleway must provide an appropriate connection to the footpath/cycleway on the northern side of Perth Street.

Plans and design specifications must be prepared in accordance with Council's Engineering Guidelines for Subdivision and Development must be submitted to the Certifying Authority for approval prior to the issue of any Construction Certificate for Stage 1.

**Note: a separate approval under Section 138 of the Roads Act 1993 is required prior to the commencement of any work within the road reserve.**

(Reason: To facilitate safe and efficient pedestrian/cyclist access to the site.)

### **Lighting Plan**

19. Prior to the issue of any Construction Certificate a lighting plan must be submitted to the Certifying Authority for approval. The plans must show and include specifications that:
- a) lighting is provided to pedestrian paths, side and rear laneways and building entries, that ensures a clear line of sight along pedestrian routes and that does not adversely affect the residential amenity of neighbours.
  - b) Lighting fixtures are of low energy design, integrated in the building walls, and readily maintained by the owner. Sensor spotlights are not to be used for the lighting of pedestrian areas.
  - c) Comply with *Australian Standard 4282-1997 - Control of the obtrusive effects of outdoor lighting* and *AS/NZS1158 Lighting for roads and public spaces*

(Reason: To ensure there is adequate lighting for the safety of users which does not adversely impact on the amenity of adjoining residents.)

### **Stormwater**

20. The stormwater system shall be constructed to an appropriate standard in compliance with the Council's *Engineering Guidelines for Subdivisions and Developments*.

Detailed engineering drawings of the proposed stormwater drainage system for each stage of



the development including the detention basin/tanks shall be submitted to and approved by the Certifying Authority prior to the release of any Construction Certificate.

(Reason: To ensure adequate provision is made for stormwater drainage from the site in a proper manner that protects adjoining properties and public infrastructure)

#### **Noise Attenuation Measures to Perth Street Residences**

21. Prior to the issue of any Construction Certificate for Stage 1:

- a) Appropriate noise attenuation measures shall be applied to No. 170 Macqueen Street (Lot 1 DP229159), No. 44 Perth Street (Lot 1 DP 1091176), No. 46 Perth Street (Lot 2 DP 1091176), No. 1 Alexander Close (Lot 3 DP 1091176) and No. 14 Alexander Close (Lot 16 DP 1091176) (subject to owner's consent) such that the established noise criteria in the *Addendum Acoustic Report* (Spectrum Acoustics, 25 July 2018) are achieved, and
- b) Provide certification by an acoustic engineer or consultant that the noise attenuation measures will mitigate the 3dBA exceedance of sleep disturbance criterion.

Note: Development consent may be required for any measures that are not Exempt Development.

(Reason: To ensure appropriate measures are in place to provide privacy and protect occupants from noise generated by the development.)

#### **Noise Attenuation Measures to Jean O'Bryan Close Residences**

22. Prior to the issue of any Construction Certificate for Stage 1:

- a) Appropriate noise attenuation measures shall be applied to No. 1, No. 2 and No. 3 Jean O'Bryan Close (Lots 1-3 DP 832100).
- b) Provide certification by an acoustic engineer or consultant that the noise attenuation measures will mitigate the 3dBA exceedance of sleep disturbance criterion.

Note: Development consent may be required for any measures that are not Exempt Development.

(Reason: To ensure appropriate measures are in place to provide privacy and protect occupants from noise generated by the development.)

#### **Headlight Sweep**

23. Prior to the issue of any Construction Certificate for Stage 1, appropriate and reasonable treatments shall be made to No. 1 Alexander Close, No. 184 Macqueen Street, and Nos. 185, 189 and 191 Macqueen Street (subject to the consent of the land owners) to include a landscaping and/or modifications to the doors/windows such as to mitigate the impacts of headlight sweep.

(Reason: To mitigate the adverse impacts of light sweep from vehicles exiting the site onto public roads.)

#### **Consolidation of Lots**

24. Lots 113 and 114 DP631908 shall be consolidated to create a single title. Prior to the issue of any Construction Certificate the registered plan of consolidation must be submitted to the Certifying Authority.

(Reason: To facilitate the management of the land.)

### Section 94A Contributions

25. Prior to the issue of any Construction Certificate for Stage 1 and 2, pursuant to Upper Hunter Shire Council Section 94A Development Contribution Plan 2008, a contribution of **\$262,500 (Stage 1 = \$189,600, Stage 2 = \$72,900)** is required to be paid to Council. The amount to be paid is to be adjusted at the time of the actual payment, in accordance with the provisions of the Section 94A Development Contributions Plan.

(Reason: To ensure that the proposed development makes an appropriate contribution to facilities in the Upper Hunter Local Government Area)

### Water and Sewer Contributions

26. A contribution pursuant to the provisions Section 64 of the Local Government Act, 1993 as specified hereunder for the services detailed shall be made to Council.

#### Stage 1 – Retail 1

Contribution type	Total
Sewerage	\$0.00
Water	\$0.00
Total contribution	\$ 0.00

#### Stage 1 – Retail 2

Contribution type	Total
Water	\$ 7,576.31
Sewerage	\$ 11,691.44
Total contribution	\$ 19,267.75

#### Stage 1 – Highway Service Centre

Contribution type	Total
<i>Service Station</i>	
Water	\$ 25,926.54
Sewerage	\$ 60,013.14
<i>Fast Food Restaurant</i>	
Water	\$56,318.23
Sewerage	\$86,907.88
Total contribution	\$ 229,165.79

#### Stage 2 – Retail 2

Contribution type	Total
Water	\$37,190.19
Sewerage	\$57,390.32
Total contribution	\$94,580.51

Note: Contributions have been calculated in accordance with the Upper Hunter Shire Council Development Servicing Plan for Water Supply and Sewerage 2016 and the Section 64 Determinations of Equivalent Tenements Guidelines (NSW Water Directorate 2017).

Documentary evidence shall be submitted to the Certifying Authority confirming that the contribution has been paid prior to determination of the application for Construction Certificate for each stage of the development, where applicable.

The level of contributions shall be in accordance with Council's Fees and Charges at the time of payment.

(Reason: To retain a level of service for the existing population and to provide the same level of service to the population resulting from new development)

### **Acoustic fence**

27. The colour of the acoustic fence shall be of a green tone or soft grey to blend with the adjoining landscaping. Details demonstrating compliance with this requirement shall be submitted to the Certifying Authority for approval, prior to the issue of any Construction Certificate.

(Reason: To soften the visual impact of the fence)

### **Conditions that must be addressed prior to commencement:**

### **Erosion and Sediment Control**

28. All erosion and sedimentation techniques are to be properly installed prior to the commencement of any site works and maintained in a functional and effective condition throughout the construction activities in accordance with *Soils and Construction: Managing Urban Stormwater* ('the Blue Book') until the site is stabilised and landscaped.

The installation is to be approved by the Principal Certifying Authority prior to further commencement of site works.

(Reason: To protect the environment from the effects of sedimentation and erosion from development sites)

### **Site Facilities**

29. Site facilities
- (a) If the development involves building work or demolition work it is recommended that the work site be fully enclosed by a temporary security fence (or hoarding) before work commences. Any such hoarding or fence is to be removed when the work has been completed.
  - (b) A minimum width of 1.2m must be provided between the work site and the edge of the roadway so as to facilitate the safe movement of pedestrians. If trees are present in the footpath the minimum width must be provided to one side of the trees.
  - (c) A garbage receptacle fitted with a tight fitting lid for the reception of all food scraps and papers from the work site must be provided prior to building work commencing and must be maintained and serviced for the duration of the work.
  - (d) Adequate toilet facilities must be provided on the work site. Each toilet provided must be a standard flushing toilet, connected to a public sewer, or if connection to a public sewer is not available, to an on-site effluent disposal system approved by the council, or an approved temporary chemical closet.

The provision of toilet facilities must be completed before any other work is commenced.

The installation of the site facilities shall be approved by the Principal Certifying Authority prior to further commencement of site works and prior to the first inspection.

(Reason: To ensure the health and safety of the community and workers on the site)

### **Site Works/Construction Signage**

30. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:

- (a) stating that unauthorised entry to the work site is prohibited;
- (b) showing the name of the principal contractor (or person in charge of the work site), and a telephone number at which that person may be contacted at any time for business purposes and outside working hours; and
- (c) showing the name, address and telephone number of the Principal Certifying Authority for the work.

Any such sign must be maintained while the building work or demolition work is being carried out, but must be removed when the work has been completed.

The installation is to be approved by the Principal Certifying Authority prior to further commencement of site works.

(Reason: Statutory requirement)

### **Conditions that must be complied with during demolition and building work:**

### **Construction Hours**

31. Any person acting on this consent shall ensure that:-

- (a) building construction activities are only carried out during the following hours:
  - i. between Monday to Friday (inclusive)—7.00am to 5.00pm,
  - ii. on a Saturday—8.00am to 5.00pm.
- (b) building construction activities must not be carried out on a Sunday or a public holiday unless prior approval has been obtained
- (c) demolition and excavation works must only be carried out between Monday to Friday (inclusive) between 8.00am and 5.00pm.

(Reason: To ensure that works do not interfere with reasonable amenity expectations of residents and the community)

### **Demolition**

32. Any person acting on this consent must ensure that:-

- (a) Demolition must be carried out in accordance with AS 2601–1991, *Demolition of structures*.
- (b) Demolition materials must not be burnt or buried on the work site.
- (c) A person having the benefit of this certificate must ensure that all vehicles leaving the

work site carrying demolition materials have their loads covered and do not track soil or waste material onto the road.

- (d) If demolition work obstruct or inconvenience pedestrians or vehicular traffic on an adjoining public road or reserve, a separate application must be made to council to enclose the public place with a hoarding or fence.
- (e) Erosion and sediment controls must be provided in accordance with the details shown on the approved plans, prior to the disturbance of any soil on the work site and must be maintained in a functional condition throughout the construction activities until the site is stabilised.
- (f) The work site must be left free of waste and debris when work has been completed.

(Reason: To ensure that work is undertaken in a professional and responsible manner and to protect adjoining property and persons from potential damage)

### **Dust Management**

33. The demolition and construction shall be carried out in a manner that minimises dust generation from the site, including wind-blown and traffic-generated dust as far as practicable. All project related activities on the site shall be undertaken with the objective of minimising visible emissions of dust from the site. All vehicles leaving the site must have the loads covered such as to prevent dust emissions.

Should visible dust emissions attributable to the demolition and construction occur, the development person acting on the consent shall identify and implement all practical dust mitigation measures, including the cessation of demolition and construction activities, as appropriate, such that emissions of dust are minimised.

(Reason: To ensure the development operations does not cause excessive dust.)

### **Aboriginal Artefacts**

34. In the event that any artefacts of cultural heritage significance are unearthed outside or within the immediate areas during construction, site works must cease and the NSW Office of Environment and Heritage (OEH) EnviroLine (phone 131 555), must be informed immediately. The site is to be recorded and management strategies put in place for protection before any further work can commence in the area.

(Reason: To ensure that measures are in the event that items of Aboriginal cultural significance are unearthed.)

### **Removal of Contaminated Material**

35. Any contaminated soils and material(s), liquid and solid, to be removed from the site must be analysed and classified by an appropriately qualified and experienced environmental consultant, in accordance with the Protection of the Environment (Waste) Regulation 2014 and related guidelines, in particular NSW EPA Waste Classification Guidelines (2014), prior to off-site disposal. In addition:

- a) The waste classification report, including the results of testing, must be compiled, or reviewed and approved by an appropriately qualified and certified environmental consultant, and must be submitted to Council. The environmental consultant must be certified by one of the schemes identified in Section 8.3 of the Upper Hunter Contaminated Land Policy 2017. The front cover of the report must include the details of the consultant's certification.
- b) All waste material(s) must be disposed of at an appropriately licensed waste facility for

the specific waste. Receipts for the disposal of the waste must be submitted to council within 14 days of the waste being disposed.

- c) All waste must be transported by a contractor licenced to transport the specific waste, and in vehicles capable of carting the waste without spillage, and meeting relevant requirements and standards. All loads must be covered prior to vehicles leaving the site.
- d) All waste transport routes must avoid where possible all sensitive land uses such as residential areas, schools, preschools], and avoid bus routes, particularly school bus pick up and drop off periods.
- e) All reports provided to Council must exempt Council from any claim for copyright that may restrict Council's ability to provide information to the public in accordance with the Government Information (Public Access) Act 2009.

(Reason: To ensure the safe and appropriate handling and disposal of contaminated waste materials.)

#### Conditions which must be complied with prior to the issue of any occupation certificate:

##### Footpath/Cycleway

36. Prior to the issue of any Occupation Certificate for Stage 1 the concrete footpath/cycleway shall be constructed in accordance with the approved plans and Council's *Engineering Guidelines for Subdivision and Development*.

(Reason: To facilitate safe and efficient pedestrian access to the site.)

##### Car Parking

37. Prior to the issue of any Occupation Certificate for each stage of the development all off-street car-parking spaces and pedestrian movement areas/crossings shall be constructed, line marked and signposted in accordance with the approved development plans, appropriate Australian Standards and industry best practice. The pavement of the access ways and parking areas is to be designed to tolerate loads of the heaviest vehicle to access and use the site.

(Reason: To ensure ongoing compliance with this development consent and Australian Standards relating to manoeuvring and access of vehicles)

##### Bicycle Parking Facilities

38. Prior to the issue of any Occupation Certificate for Stages 1 and 2 bicycle parking facilities must be provided to the parking space fronting elevation of each retail building in accordance with AS 2890.3: 1993 *Bicycle Parking Facilities*.

(Reason: To ensure provision is made for on-site bicycle parking.)

##### Operation of Mechanical Plant

39. All sound producing plant, equipment, machinery, fittings, ducting, refrigeration systems associated with the development, shall be sound insulated and/or isolated so that the noise emitted does not exceed 5dB(A) above the background level in any octave band from 63.0 HZ centre frequencies inclusive, and not more than 5 dB(A) above the background level (LA90) during the day when measured at the nearest affected residence.

For assessment purposes, the above LAeq sound levels are to be adjusted in accordance with EPA guidelines for tonality, frequency weighting, and impulsive characteristics where necessary, at any time the plant is in operation, at the boundary of the site.

Note: The method of measurement of sound shall be carried out in accordance with Australian Standard 1055.1 - 1989.

A report and certification prepared by an appropriately qualified or accredited person shall be submitted to the Certifying Authority demonstrating compliance with this condition prior to the issuing of any Occupation Certificate for Stage 1 and Stage 2.

(Reason: To ensure that noise generated from the development does not result in offensive noise to any other party)

### **Stormwater**

40. Prior to the issue of any Occupation Certificate the stormwater system must be constructed and operational in accordance with the approved plans. An appropriately qualified and practising Civil Engineer shall provide signed Works-as-Executed drawings and certification to the Certifying Authority that the stormwater drainage system has been constructed in accordance with this consent and the provisions of AS3500.

(Reason: To ensure there is adequate stormwater drainage in place for the development.)

### **Sewer Main Extension**

41. Certified Works-as-Executed drawings accompanied by written confirmation from Upper Hunter Shire Council Infrastructure Services Department that the sewer main extension has been completed shall be submitted to, and approved by the Certifying Authority prior to the issue of any Occupation Certificate.

(Reason: To ensure appropriate sewer infrastructure is available to the allotments.)

### **Civil Engineering Drawings**

42. Prior to the issue of any Occupation Certificate for each stage of the development, the applicant shall submit to Council one set of electronic files in both Portable Document Format (.pdf) and in CAD Drawing (.dwg) format (MGA co-ordinates), with each of the services on a separate and one set of paper copies of the works as executed plans for the infrastructure that will be dedicated to Council which include roads alterations, footpath/cycleway and sewer.

Each sheet is to include a bar scale or scales adjacent to the title block showing the scale (the works as executed plan is to be scaled at 1:500) and each sheet is to be properly signed and dated by the person responsible for the carrying out of those works. Further, the works are to comply with Upper Hunter Shire Council's *Engineering Guidelines for Subdivision and Development*.

NOTE: The provision of a table on the works as executed plan which details: the distance from the centre of the downstream manhole to each sideline, house connection, and dead end; the depths to invert; and the length of such sidelines.

(Reason: So that Council may ensure that the construction is in accordance with Council's requirements, and so that a permanent record of the design as constructed may be held by Council, to assist in future maintenance, or for the information of the emergency services.)

### **Contaminated Land – Site Audit Process**

43. The site investigation, remediation, and validation process and associated reports (where relevant) must be audited by a NSW Environment Protection Authority Accredited Site Auditor. In particular:

- a) Prior to the issue of any Occupation Certificate, a Site Audit Report and Site Audit Statement stating that the investigation process was appropriate and, where relevant the land has been remediated in accordance with the approved Remediation Action Plan, and is suitable for the proposed land use must be provided to Council. The Site Audit Statement and Site Audit Report must include any restrictions or management requirements for the site.
- b) The Site Auditor must review any new contamination information potentially revealed during implementation of the Remedial Action Plan (RAP).
- c) Implementation of an Auditor approved Ongoing Environmental Management Plan and any other conditions on the Site Audit Statement must be adhered to and interpreted to form part of the consent.
- d) The Site Audit Report(s) provided to Council must exempt Council from any claim for copyright that may restrict Council's ability to provide information to the public in accordance with the Government Information (Public Access) Act 2009.

(Reason: To ensure that the implementation of the Remediation Action Plan.)

### **Conditions that must be complied with at all times:**

#### **Vehicle Speeds**

44. At all times vehicle speed within the site shall be limited to 10km/hr. Standard "10km/hr" signage shall be installed and maintained at all entrances and within each of the internal movement areas.

(Reason: To minimise the noise generated by vehicle movement and ensure pedestrian safety.)

#### **Heavy Vehicle Access onto Perth Street**

45. At all times heavy vehicle egress onto Perth Street shall be prohibited from 10pm to 7am. A gate shall be installed at the Perth Street heavy vehicle exit prior to the issue of any Occupation Certificate and must be locked between these hours.

(Reason: To minimise the noise generated by vehicle movement and ensure pedestrian safety.)

#### **Lighting**



46. At all times the illumination of the external signs shall comply with AS4282-1997 *Control of the obtrusive effects of outdoor lighting* and must be fitted with a device that can control the level of illumination.

(Reason: To ensure the illumination does not cause unacceptable glare that impacts on the amenity of nearby residents.)

### **Delivery Vehicles**

- 46A. At all times, delivery vehicles servicing the supermarket and bottleshop shall be no larger than an 8.8m medium rigid truck.

(Reason: To ensure that delivery vehicles do not obstruct the main entry driveway from Perth Street.)

### **Special conditions relating to crime prevention:**

### **Surveillance**

47. Surveillance equipment (CCTV) shall be provided to the highway service centre, fastfood outlet, bottleshop and supermarket to enhance the physical security of the business's and assist with the identification of people involved in anti-social or criminal behaviour. The following must be applied:

- a) Cameras installed in and around the business to maximise surveillance opportunities.
- b) Cameras monitoring the cashier's area, high cost merchandise areas with poor natural supervision and entry/exit doors.
- c) Video monitors enabling staff to monitor activities on the camera.
- d) Recording equipment is installed away from the counter area such as to avoid tampering.
- e) CCTV footage kept for a minimum of 21 days.
- f) Appropriate warning signs displayed advising patrons of CCTV in use.
- g) Store windows not obstructed with merchandise that may hinder passive surveillance into or out of the buildings.

Documentary evidence demonstrating compliance with the above requirements shall be submitted to the Certifying Authority prior to the issue of any Occupation Certificate for the highway service centre, fast food outlet, bottleshop and supermarket.

(Reason: To ensure appropriate surveillance measures are in place to deter crime and anti-social behaviour.)

### **Lighting**

48. At all times all lighting to the internal roads, car park and pedestrian movement areas shall comply with AS/NZS1158 *Lighting for roads and public spaces*.

(Reason: To ensure an effective level of lighting to facilitate passive surveillance of the outdoor publicly accessible spaces.)

49. At all times security sensor lighting must be installed and operational to areas within the site that are not in use between evening and day times hours.

(Reason: To ensure there is adequate and effective surveillance of all areas.)

### **Landscaping**

50. At all times mature vegetation should allow clear sightlines to allow people to see and be seen.  
(Reason: To ensure landscaping allows effective passive surveillance within the site.)

### **Access Control**

51. The following must be applied:
- a) The main entry/exit points for this development be fitted with single cylinder locksets (AS/NZS – lock sets), which comply with the Building Code of Australia.
  - b) The windows be fitted with key operated locksets to restrict unauthorised access to the buildings.
  - c) Counters of retail premises be designed to reduce the opportunity for assault of staff and unauthorised access to behind counter areas.
  - d) A monitored intruder alarm system be installed and a duress facility be incorporated into the system to enable staff to active the alarm system manually in the event of an emergency or robbery.
  - e) For highway service centre staff: be able to control the main customer entry/exit point from behind the service counter so that they can control customer entry within the later hours of trading.
  - f) For businesses handling cash, a safe designed and installed to the Australian Standards could be used to provide additional security to money and other valuables. A drop safe for use in the 24 hour highway service centre to ensure a minimum amount of money is kept in the cash register.

Documentary evidence demonstrating compliance with the above requirements shall be submitted to the Certifying Authority prior to the issue of any Occupation Certificate.

### **Territorial Reinforcement**

52. Prior to the issue of any Occupation Certificate for the highway service centre the counter area shall be a secured lockable area, fitted with anti-jump barriers to restrict persons from jumping the counter or having unauthorised access to behind the counter.

Documentary evidence demonstrating compliance with the above requirements shall be submitted to the Certifying Authority prior to the issue of any Occupation Certificate.

(Reason: To ensure the safety and security of highway service centre staff.)

### **Site Management Plan**

53. Prior to the issue of any Occupation Certificate the person acting on this consent must submit a Site Management Plan to the Certifying Authority. The Site Management Plan must include a copy of the Notice of Determination and consent conditions and address the following provisions for:
- a) cleaning and picking up litter from the fast food outlet outside the perimeter of the development site, on nearby footpaths and roads.
  - b) removal of graffiti within 24-48 hours
  - c) repair and maintenance of signage

- d) repair and maintenance of buildings and other structures
- e) maintenance of landscaping to ensure passive surveillance
- f) maintenance/cleaning of the area between the acoustic screen and the rear of Nos. 1, 2 and 3 Jean O'Bryan Close
- g) cleaning and maintaining gross pollutant devices

(Reason: To ensure provision is made to ensure space management.)

#### NSW Roads and Maritime Services:

#### Macqueen Street-Perth Street Intersection

54. Prior to the issue of any Construction Certificate the person acting on this consent must obtain a Works-Authorisation-Deed (WAD) from NSW Roads and Maritime Services for the installation of Traffic Control Signals (TCS) at the Macqueen Street-Perth Street intersection. The design plans must address the following:

- a) the Perth Street eastern leg, eastbound lane must have sufficient width to enable heavy vehicle manoeuvrability left /right in from the New England Highway.
- b) Perth Street eastern leg, westbound approach kerbside lane must be narrowed so that two vehicles cannot sit side by side within that lane.
- c) the MacQueen Street south leg, northbound kerbside lane must accommodate the through and left movements, with downstream merge.
- d) the MacQueen Street north leg, southbound kerbside lane must accommodate the through and left movements, with downstream merge (This is important as MacQueen Street has a 5% upgrade on approach to the TCS, and the efficiency of the signals will be compromised by the proportion of slow moving heavy vehicles).
- e) The Design Review spreadsheet is to be completed and returned to Roads and Maritime together with any future design related to the WAD.

The traffic control signals must be installed and operational prior to the issue of any Occupation Certificate.

55. Prior to the commencement any work on the Macqueen Street-Perth Street intersection, the person acting on this consent must notify the residents of the most affected properties (in particular the residents of Nos. 171, 173 and 175 Macqueen Street on the (western side) and Nos. 166, 168 and 170 (on the eastern side), and the residents of Nos. 44 and 46 Perth Street and No. 93 St Andrews Street).
56. Prior to the commencement any work on the Macqueen Street-Perth Street intersection, the person acting on this consent must undertake risk assessment of the utility services (water, sewer, stormwater, electricity and telecommunications) that will be impacted and what measures will be implemented to address these impacts.

**Note: relevant approvals must be obtained from the relevant utility authorities for any alteration, relocation or modification of the utility services.**

#### Site Access

57. Prior to the issue of any Construction Certificate the person acting on this consent must submit design plans that demonstrate compliance with the Austroads guidelines and address the following:
- a) The southernmost access adjacent to the service station / fast food outlet be restricted as left out only. This must be reinforced by the installation of a concrete median.

- b) Demonstrate the manoeuvrability for the largest sized vehicle expected to the site as it egresses from the site to MacQueen Street.
- c) The installation of on-site signage to indicate that all northbound egress from the site is to be via Perth Street.
- d) The access ("Entry") from MacQueen Street (as shown on Site Plan A004 Issue T and C01.03 Revision B) located mid-block must be restricted to entry only, allowing both left and right turn access in.
- e) Confirm compliance with sight distances for the accesses into and out of the site in accordance with relevant Austroads guides.

All road works and access driveways must be completed prior to the issue of any Occupation Certificate.

### Highway Service Centre

- 58. Prior to the issue of any Construction Certificate turning plans must be submitted demonstrating that 30 metre long PBS 2B vehicles can be accommodated with regards to manoeuvrability, parking, access into and out of the site and manoeuvrability at the proposed TCS.

### Pavement

- 59. Prior to the issue of any Construction Certificate the person acting on this consent must obtain a Works-Authorisation-Deed (WAD) from NSW Roads and Maritime Services for the upgrade of the pavement on MacQueen Street (New England Highway) for the full frontage of the site. Design plans must be submitted that demonstrate:
  - a) The highway pavement and shoulders in the vicinity of the site constructed as full depth highway pavement with a 20 year design life. All new pavement construction joints would need to be either on lane lines or diff-lines to avoid wheel paths. Subsoil drainage would need to be provided at new pavement interfaces.
  - b) The existing highway travel lanes constructed with an Asphalt surface. This requires an increase in surface levels as it would need to be overlaid over the existing sealed surface. This requirement is to cater for increased turning movements and traffic surface screwing at the site accesses and the proposed Perth Street TCS, as opposed to mill and replacement. Roads and Maritime can design a minimum overlay thickness based on available deflection data.

These plans must be accompanied by a geotechnical investigation report based on an investigation that includes test pits in the affected southbound shoulders and intersection throats, plus CBR testing (10 day soaked) and gravel layers and subgrade.

All road works must be completed prior to the issue of any Occupation Certificate.

### Signage

- 60. All signs shall meet the criteria contained in the Department of Planning's Transport Corridor Outdoor Advertising and Signage Guidelines (November 2017) including, but not limited to, Section 3.3.3 Illumination and reflectance.
- 61. No sign approved on the structure, including the LED screen, shall incorporate:
  - a) Flashing lights or messages;
  - b) Animated display, moving parts or simulated movement. Note, video and animated electronic signs are prohibited.
  - c) Complex displays that hold a driver's attention beyond "glance appreciation".
  - d) Displays resembling traffic signs or signals, or giving instruction to traffic by using words including, but not limited to, words such as 'halt' or 'stop'.
  - e) A method of illumination that distracts or dazzles.

62. *Electronically changeable messages displayed on the sign must meet the 'Digital Sign Criteria' outlined within the Section 2.5.8 of the Department Planning's Transport Corridor Outdoor Advertising and Signage Guidelines (November 2017). The following key criteria should be conditioned:*

- a) Each advertisement must be displayed in a completely static manner, without any motion, for a dwell time of not less than 10 seconds.*
- b) Message sequencing designed to make a driver anticipate the next message is prohibited across images presented on a single sign and across a series of signs.*
- c) The transition time between messages must be no longer than 0.1 seconds, and in the event of image failure, the default image must be a black screen.*
- d) An electronic log of a sign's operational activity must be maintained by the operator for the duration of the development consent and be available to the consent authority and/or Roads and Maritime Services to allow a review of the sign's activity in case of a complaint.*

Note: Roads and Maritime may direct the screening, modification or removal of a structure if, in the opinion of Roads and Maritime, the structure is considered a traffic hazard under Section 104 of the Roads Act 1993.

#### Australian Rail Track Corporation (ARTC):

63. The flow of stormwater toward the rail corridor must not be increased by the proposed development. All approved details for the disposal of stormwater and drainage are to be implemented in the development.

(Reason: To ensure the development does not result in an increase in the flow of water being directed at the rail corridor.)

64. Prior to the issue of any Construction Certificate the applicant must submit an amended Landscape Planting Plan that shows plants along the boundary with the rail corridor that are not likely to cause embankment destabilisation. Note: it is recommended that consultation is undertaken with the ARTC Property Officer (P: 02 4941 9631; M: 0417 405 603; Email: mcox2@artc.com.au ) to ensure any selected plant species are suitable.

(Reason: To prevent unauthorised access across the rail corridor from the development site.)

65. As the development involves works being carried out within 25 metres of the rail corridor the proponent must obtain Australian Rail Track Corporation (ARTC) concurrence as the work has potential to impact on the safety and operation of the rail network. Prior to the commencement of any work (demolition, excavation, construction and landscaping) within 25 metres of the rail corridor the person acting on the consent shall contact the ARTC Property Officer (P: 02 4941 9631; M: 0417 405 603; Email: mcox2@artc.com.au ) to obtain the relevant concurrence.

(Reason: To ensure the construction works do not impact on the safety and operation of the rail corridor.)

66. Prior to the issue of any Occupation Certificate a 1.8m high security fence shall be erected along the full eastern boundary of the site with the rail corridor.

(Reason: To prevent unauthorised access across the rail corridor from the development site.)

67. Ausgrid has LV/11kV overhead and underground assets located in the vicinity of the development. The developer must contact Ausgrid prior to -
- a) Any excavation work within 5.0 metres of power pole footings and provide details of the extent of the excavation so an assessment can be made.
  - b) Any work where persons, plant or equipment may come within 3.0 metres of live overhead mains.
  - c) Any excavation work near underground assets, if they prove to be within safe working distance as outlined in Workcover Codes of Practice and Ausgrid Network Standards.

*Note 1: All work on site must be completed in accordance with Safe Work/Work Cover guidelines '**Work near Overhead Power Lines**' and '**Work near Underground Assets**'.*

*Note 2: the customer should consider the electrical requirements of the development and submit their Connection Application in a timely manner to prevent possible delays.*

(Reason: To ensure construction works do not impact on electricity infrastructure and safety.)