

DATE OF DETERMINATION	29 September 2022
DATE OF PANEL DECISION	29 September 2022
PANEL MEMBERS	Sandra Hutton (Chair), Juliet Grant, Stephen Leathley, Aaron Cook and Sally Halliday
APOLOGIES	Alison McCabe
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 14 September 2022.

MATTER DETERMINED

PPSHCC-116 – Maitland – DA/2021/1702 at 20 Heritage Drive, Chisholm - mixed use development (as described in Schedule 1).

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel has had the benefit of a number of briefings from Council, including a final briefing with Council and the applicant. The Panel was supplied a revised set of conditions arising from discussions between the applicant and Council during the final briefing.

At the final applicant briefing, the applicant identified a residual concern relating to draft condition 46. The applicant expressed concern on the appropriateness of introducing some, but not all, of the works into the public road network, whether it was reasonable to impose those works when considering nexus and the proposed development and the already delivered public road network established for the urban release area by others, and otherwise to improve certainty and clarity on what each item of work specifically requires. The components queried by the applicant included the recommended pedestrian refuges to one intersection and two road frontages, the recommended reconstruction of a section of footpath and verge, the provision of certain zones and a bus shelter along the Tigerhawk Drive frontage, and appropriate lighting.

The Panel deliberated on this matter and were satisfied that the draft conditions as recommended were appropriate and justified in the context of the land uses and the specific application before the Panel. The proposal introduces a new mix of land uses that will become a hub for the surrounding community, and it is appropriate to actively and specifically encourage and improve access to the hub by active transport modes for all ages and abilities in the safest manner possible.

The application seeks approval for a pub with operating hours up to midnight, with future fit out and operations to be documented in separate applications and accompanying detailed assessments. The Panel is generally satisfied that the inclusion of a pub land use within the mix of uses in the precinct is reasonable, and its general siting and location within the broader site design and built form layout. The Council recommended the imposition of initial operating hours up to 10pm, in the absence of being fully satisfied that the level of design information provided a robust impact assessment that captured operational limitations and demonstrated suitable mitigation and management of impacts. The Panel concurs with Council's assessment. The Panel is of the view that it may be suitable for the hours to extend to midnight if proposed in conjunction with a specific design of the land use and details of mitigation and management. The Panel was of the view that there should be a consistency and alignment between the hours of operation of the food and drink premises and the pub.

The Panel raised various queries relating to the central pedestrian spine through the carpark, the nature of retaining and acoustic walls around the perimeter, the importance of the intent and specifications around material selection for the various barriers and details and objectives for landscaping be carried through in detailed design and construction. This requires additional conditions which have been identified and imposed.

The Panel expressed reservation that the design of the site and the new road did not accommodate a consistent opportunity for the provision of canopy tree planting along the interface of the road to the substantial walls and screens incorporated on that interface edge to accommodate the consolidating loading and service zone for the centre, in addition to hedge planting as proposed. Ideally, tree canopy would have assisted the direct interface to zoned and future residential land uses to the south. To marginally improve this, the Panel identified an opportunity at the western entry into the proposed new road to adjust footpath width to introduce additional tree canopy, which has been captured within additional conditions.

The suitability and appropriateness of the material selection of Coreten steel and the extent of it within elevations of the gym/child care centre was raised, whilst appreciating the design objective sought for that built form element. A condition has been imposed seeking further details that address issues of staining and durability via an alternative material selection.

The Council assessment report, as requested by the applicant, makes no assessment relating to the future PAD sites. The Panel in making its decision makes no representation that the area, its dimensions, future access, parking, loading/unloading or built form is suitable for any particular development outcome.

Arising from the mix of uses, the Panel identified the need to capture overall Operational Management outcomes including but not limited to loading/service areas, waste management, trolley management, acoustic management, safety and security, maintenance and the like, so that it is documented and available to interested stakeholders over time and imposed additional conditions to that effect.

Development application

The Panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel determined to approve the application for the reasons outlined in the Council Assessment Report.

The Panel was satisfied of the merits of the application. It is generally consistent with the adopted policy framework for the site. The site is an important land use precinct, and the proposal will increase the appropriate mix of uses that support the current and expanding residential community and further enhance a walkable and connected neighbourhood. The design and siting of the development has been responsive to its context. The application is sufficiently detailed to support the dominance on retaining walls and level changes to built form and site carparking through to various public domain frontages, which is heavily reliant on use of materials, details, finishes and landscaping.

CONDITIONS






The Development Application was approved subject to the conditions in Schedule 2. The conditions were amended from those attached to the Council report, incorporate further amended provided to the Panel following discussions with the Applicant and Council, as well as matters required by the Panel. Together these include:

- Condition 1 - Multiple corrections to approved documentation references listed in Condition 1.
- Condition 24 - Update parking spaces to reflect approved plans and correct typographical errors.
- Condition 29 –Amendment to limit the hours of operation to 10.00pm for food and drink premises and allow 7 day operation for the pub

- Introduce new conditions to capture an operational management plan across the mix of uses including to capture operational waste management, trolley containment and loading dock management, to Council's approval (refer Conditions 30, 32 and 34).
- Renumber Condition 33 – Delete reference to Settlers Boulevard and consolidate approved loading dock hours.
- Introduce new conditions to reinforce the requirement for consistency with materials and finishes of façade, spaces, retaining walls and landscaping from the approved documentation, other than requiring an alternative material for certain elevations due to concerns of staining and durability of the nominated Coreten material (refer Conditions 35 and 36).
- Expand on landscaping conditions to capture a series of amendments required by the Panel and to list specifications to be provided as part of detailed design to achieve early appropriate level of maturity in feature tree landscaping whilst maximising tree health and longevity (refer Condition 37).
- Expand on conditions relating to acoustic impact, social impact and CPTED to capture key elements of the recommendations in the referenced reports (refer Conditions 38, 41 and 44).
- Maintain draft Condition 46, renumbered as Condition 53, as proposed as reasonably and relevantly required.
- Various typographical and reference corrections and renumbering of conditions throughout, including updating references in Conditions 9-20 to capture amendments to the relevant certificates and approvals as requested by Council.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel notes that no written submissions were made during public exhibition and therefore no issues of concern were raised.

PANEL MEMBERS	
 Sandra Hutton (Chair)	 Juliet Grant
 Stephen Leathley	 Aaron Cook
 Sally Halliday	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSHCC-116 – Maitland – DA/2021/1702
2	PROPOSED DEVELOPMENT	<p>Mixed use development including:</p> <ul style="list-style-type: none"> • Commercial Premises (with retail premises, supermarket, mini major and liquor shop); • Recreational Facility (Indoor) with gym and swimming pool; • Food and Drink premises with Pub; • Centre based Child Care Facility (112 children); • Health Services Facility with Medical Centre; • Car Wash; • Signage; and • construction of a road and its dedication to Maitland City Council
3	STREET ADDRESS	<p>Lot 11 DP 1280255, 4 Heritage Drive, Chisholm NSW 2322</p> <p>Lot 12 DP 1280255, 2 Heritage Drive, Chisholm NSW 2322</p>
4	APPLICANT OWNER	<p>Chisholm SC Investment Trust</p> <p>Chisholm SC Pty Ltd</p>
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ State Environmental Planning Policy (Biodiversity and Conservation) 2021 [State Environmental Planning Policy (Koala Habitat Protection Policy) 2021 at lodgement]; ○ State Environmental Planning Policy (Industry and Employment) 2021 [State Environmental Planning Policy 64 – Advertising and Signage at lodgement]; ○ State Environmental Planning Policy (Planning Systems) 2021 [State Environmental Planning Policy (State and Regional Development) 2011 at lodgement]; ○ State Environmental Planning Policy (Resilience and Hazards) 2021 [State Environmental Planning Policy No. 55 – Remediation of Land at lodgement]; ○ State Environmental Planning Policy (Transport and Infrastructure) 2021 [State Environmental Planning Policy (Infrastructure) 2007]; ○ Draft Remediation of Land SEPP; ○ Draft SEPP (Environment); ○ Maitland Local Environmental Plan 2011. • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Maitland Development Control Plan No.1 • Planning agreements: Nil • Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil • Coastal zone management plan: Nil • The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality • The suitability of the site for the development • Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations • The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Council Assessment Report: 9 September 2022 • Written submissions during public exhibition: nil

8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing: 9 February 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Alison McCabe (Chair), Juliet Grant and Sandra Hutton ○ <u>Applicant representatives</u>: Emily Han, Anthony El-Hazouri, Stephen Blaxland, Naomi Ryan and Christophe Charkos ○ <u>Council assessment staff</u>: Brian Gibson, Kristy Cousins and Marc Hope ○ <u>Department staff</u>: Alexandra Hafner, Lisa Foley and Sharon Edwards • Briefing: 20 April 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Alison McCabe (Chair), Sandra Hutton, Sally Halliday and Aaron Cook ○ <u>Council assessment staff</u>: Brian Gibson and Ben Schaffer ○ <u>Department staff</u>: Leanne Harris • Site inspections: <ul style="list-style-type: none"> ○ <u>Sandra Hutton (Chair)</u>: 4 April 2022 ○ <u>Juliet Grant</u>: 17 April 2022 ○ <u>Sally Halliday</u>: 18 September 2022 ○ <u>Aaron Cook</u>: 16 September 2022 • Final briefing to discuss council's recommendation: 21 September 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Sandra Hutton (Chair), Juliet Grant, Stephen Leathley, Aaron Cook and Sally Halliday ○ <u>Council assessment staff</u>: Brian Gibson, Emmilia Johnson and Ben Schaffer and Kristy Cousins ○ <u>Department staff</u>: Leanne Harris and Lisa Foley • Applicant Briefing: 21 September 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Sandra Hutton (Chair), Juliet Grant, Stephen Leathley, Aaron Cook and Sally Halliday ○ <u>Council assessment staff</u>: Brian Gibson and Kristy Cousins ○ <u>Department staff</u>: Leanne Harris ○ <u>Applicant representatives</u>: Anthony El-Hazouri, Peter Dudzicki, Naomi Ryan, Christophe Charkos, Emily Han and Luke Barbeler <p><u>Note</u>: Applicant briefing was requested to respond to the recommendation in the council assessment report</p>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report

SCHEDULE 2**SCHEDULE OF CONDITIONS****Reason for Condition(s)**

The following condition(s) have been applied to the development, subject of this consent, to ensure that the development meets the requirements of the NSW Environmental Planning and Assessment Act 1979, the NSW Environmental Planning and Assessment Regulation 2000, and the various policies and development controls of Maitland City Council and other government agencies relevant to the development being undertaken.

APPROVED PLANS AND DOCUMENTATION

1. The development shall be carried out in accordance with the stamped approved plans and documentation as detailed in the following schedule and any amendments arising through conditions to this consent or as shown in red colour on the plans:

Architectural Plans prepared by: BN Group Pty Ltd; Project: Chisholm Shopping Centre			
Sheet Name	Drawing No.	Issue	Date
GLAR & Carparking Analysis	A00.20	C	10.08.2022
Proposed Site Plan	A02.01	D	10.08.2022
Proposed Site Plan – Scope of Work-Link Road	A02.01	D1	01.09.2022
Proposed Basement Floor Plan and Mezzanine Floor Plan	A02.02	C	10.08.2022
Proposed Ground Floor Plan	A02.03	F	10.08.2022
Proposed Ground Floor Plan – Scope of Work-Link Road	A02.03	F1	01.09.2022
Proposed Childcare Floor & Roof Plan	A02.06	C	10.08.2022
Proposed Roof Plan	A02.07	C	10.08.2022
North Elevation	A09.01	C	10.08.2022

South Elevation	A09.02	C	10.08.2022
East Elevation	A09.03	D	10.08.2022
West Elevation	A09.04	D	10.08.2022
Tigerhawk Drive Street Elevations Elevation	A09.05	C	10.08.2022
Childcare Elevation	A09.06	D	10.08.2022
Section A	A11.01	D	10.08.2022
Section B, C, D	A11.02	C	10.08.2022
Section E	A11.03	C	10.08.2022
Section F	A11.04	C	10.08.2022
Section G	A11.05	C	10.08.2022
Section - Childcare	A11.06	C	10.08.2022
3D – Perspective Views	A100.80	B	10.08.2022

Landscape Plans prepared by: Moir Landscape Architecture; Project Number 2073			
Sheet Name	Drawing No.	Issue	Date
Key Plan	LP03	E	9.08.2022
Landscape Plan 01	LP04	E	9.08.2022

Landscape Plan 02	LP05	E	9.08.2022
Landscape Plan 03	LP06	E	9.08.2022
Landscape Plan 04	LP07	E	9.08.2022
Planting Schedule	LP08	E	9.08.2022
Sections A-C	LP09	E	9.08.2022
Sections D-G	LP10	E	9.08.2022
Sections H-J	LP11	E	9.08.2022
Theming	LP12	E	9.08.2022

Concept Civil Engineering Plans prepared by: Triaxial Consulting; Project Number TX15901.00			
Sheet Name	Drawing No.	Issue	Date
Concept Sediment & Erosion Control Plan	DA2.00	A	10.12.2021
Concept Sediment & Erosion Control Details 1 of 2	DA2.01	A	10.12.2021
Concept Sediment & Erosion Control Details 2 of 2	DA2.02	A	10.12.2021
Concept Stormwater Management Plan	DA3.00	A	10.12.2021
Concept Stormwater Management Details Sheet 1 of 2	DA3.01	A	10.12.2021
Concept Stormwater Management Details Sheet 2 of 2	DA3.02	A	10.12.2021
Concept Road and Driveway Access Longitudinal sections	DA3.03	A	10.12.2021

Concept Stormwater Catchment Plan	DA3.04	A	10.12.2021
Concept Bulk earthwork Plan	DA4.00	A	10.12.2021
Appendix A Scope of Work for Link Road			
Concept Stormwater Management Plan – Scope of Work for Link Road	DA3.00	B	25.08.2022
Typical Road Cross Sections	DA3.01	C	25.08.2022
Concept Road and Driveway Access Longitudinal Sections	DA3.02	B	25.08.2022
Post Development Stormwater Catchment Plan	DA3.04	B	25.08.2022
Concept Bulk Earthworks Plan	DA4.00	A	25.08.2022
Concept Bulk Earthworks Depth Ranges	DA4.01	A	24.08.2022
Concept Bulk Earthworks Depth Ranges	DA4.02	A	24.08.2022

CONTRIBUTIONS & FEES

- Pursuant to Section 4.17 of the Environmental Planning and Assessment Act 1979 and the Maitland S94A Levy Contributions Plan 2006, a contribution of \$369,550 shall be paid to the Council.

The above amount may be adjusted at the time of the actual payment in accordance with the provisions of the Maitland S94A Levy Contributions Plan 2006.

Payment of the above amount is required prior to issued of the Construction Certificate for the development

The above condition has been applied to ensure that:

- Where the proposed development results in an increased demand for public amenities and services, payment towards the cost of providing these facilities/services is made in accordance with Council's adopted contributions plan prepared in accordance with the provisions of section 7.12 of the Environmental Planning and Assessment Act, 1979.
- Council's administration expenses are met with respect to the processing of the application.

CERTIFICATES

- The applicant shall submit to Council a “Notice of Commencement” form at least two (2) days prior to the commencement of construction works.

4. **Prior to the commencement of works** an application for a Construction Certificate shall be submitted to, and be approved by, the Accredited Certifier.
5. **Prior to the issue of an Occupation Certificate** all conditions of development consent shall be complied with.
6. **Prior to occupation** of the building an Occupation Certificate shall be issued by the Principal Certifying Authority.
7. **Prior to issue of the Construction Certificate**, a Compliance Certificate under Section 50 of the Hunter Water Act 1991 for this development, shall be submitted to the Accredited Certifier.

ROAD LINK

8. **Prior to the issue of the Occupation Certificate** for the subject development the road link between Settlers Boulevard and Heritage Drive shall be constructed and registered/dedicated as a public road.
9. **Prior to the release of the Construction Certificate** for the Subject Development, an approval under Section 138 of the Roads Act shall have been issued for the road link between Settlers Boulevard and Heritage Drive.
10. No construction vehicles or delivery vehicles can access the development site from the southern boundary until the road link between Settlers Boulevard and Heritage Drive has been constructed and registered/dedicated as a public road.

ROAD LINK – CONSTRUCTION & DEDICATION

11. **Prior to the issue of the Occupation Certificate** for the subject development, kerb and gutter, medians, pedestrian refuges and road construction with an asphaltic concrete wearing surface of all proposed roads and traffic facilities, together with all necessary stormwater drainage and infrastructure facilities, shall be provided in accordance with Council's Manual of Engineering Standards.
12. **Prior to the issue of an approval under Section 138 of the Road Act** a minimum 300mm select layer of sub-base quarry product material shall be added to the pavement design due to the presence of high swell clays in the Maitland Local Government Area.
13. **Prior to the issue of Occupation Certificate** for the subject development the applicant shall provide drainage and water quality facilities for the road link between Settlers Boulevard and Heritage Drive in accordance with the requirements of councils Manual of Engineering Standards, engineering details are to be provided to the Principle Certifying Authority **prior to the issue of an approval under Section 138 of the Roads Act.**
14. **Prior to the issue of the Occupation Certificate** for the subject development the road link between Settlers Boulevard and Heritage Drive shall apply the following road type:

ROAD TYPE	ROAD DESCRIPTION
Industrial Secondary	Commercial Road Between Heritage Drive and Settlers Boulevard

15. **Prior to issue of an approval under Section 138 of the Roads Act** all finalised service utilities plans (for example electrical, water, sewer, gas, communications) shall be submitted to Maitland City Council – Manager Development & Compliance. All services shall be clearly shown on the subdivision works drawings prior to any approval. Offsets from items such as road reserves, footpaths or retaining walls shall be shown demonstrating no impacts/encroachment into those adjoining items.
16. **Prior to issue of an approval under Section 138 of the Roads Act** for the road link between Settlers Boulevard and Heritage Drive, a drainage design shall be prepared by a suitably qualified and experienced drainage engineer, in accordance with Council's Manual of Engineering Standards. The major system requirements shall include, but not limited to, the following:
- a) In accordance with the approved drainage plan.
 - b) A major stormwater drainage system catering for discharge from contributing catchment areas in their ultimate developed state.
 - c) A stormwater detention system to reduce post-developed discharges to pre-developed discharges, for the critical storm up to and including the 1% AEP ("100 year") event.
 - d) A stormwater water quality system to collect gross pollutants, nutrients and hydrocarbons generated from the contributing catchment areas in their ultimate developed state.
17. **Prior to issue of an approval under Section 138 of the Roads Act** for the road link between Settlers Boulevard and Heritage Drive specific drainage requirements shall include the provision of:
- a) Provision of Q_{100} flow depths, freeboard, and velocity depth ratios shown on the construction drawings at relevant locations for overland flowpaths on road and drainage corridors.
 - b) Interallotment and/or public drainage provided to adjoining upstream properties
 - c) Interallotment drainage to internal lots as required.
18. **Prior to the issue of an approval under Section 138 of the Roads Act** for the road link between Settlers Boulevard and Heritage Drive a Bulk Earthworks Management Plan (BEMP) is required to be submitted to Maitland City Council – Manager Development & Compliance for approval. The BEMP must include a report from a suitably qualified engineer that examines and determines:
- a) the extent of bulk earthworks required for the construction of the development
 - b) how stockpiles will be managed during construction
 - c) where stockpiles will be located for each stage and what requirements are necessary to manage the locations
 - d) stock pile dimensions and stabilisation measures
 - e) site haulage routes and movement for each stage
 - f) how fill will be managed in the floodway during construction
 - g) any specific requirements relating to the management of Acid Sulfate Soils
19. **Prior to the issue of an approval under Section 138 of the Roads Act** for the road link between Settlers Boulevard and Heritage Drive, a Soil and Water Management Plan shall be submitted to Maitland City Council – Manager Development & Compliance for approval, in accordance with Council's Manual of Engineering Standards and "Managing Urban Stormwater – Soils & Construction 2004 Manual. The plan is to be prepared by a suitably qualified professional detailing temporary and permanent measures to be installed. The Plan is to include an analysis of the susceptibility of soil to erosion and is to be submitted with the Engineering plans. All erosion and sediment control measures undertaken on the site are to conform to the specifications and standards contained in the relevant Manual.
20. **Prior to issue of the Occupation Certificate**, all necessary works required for compliance with this consent and the **approval under Section 138 of the Roads Act** for the road link between Settlers Boulevard and Heritage Drive shall be provided in accordance with Council's Manual of Engineering Standards. Confirmation of works shall include:

- a) Confirmation that the construction works have been completed.
- b) Confirmation from the road authority for any Roads Act Approval requirements.
- c) Work-as-executed drawings, utilities plans, electronic files are provided to Council.
- d) Geotechnical testing (pavement, concrete, etc) and inspection certification is provided.

- 21.** No retaining walls are approved within:
- existing or future dedicated public land
 - road reserves
 - road reserve frontages.
- 22.** All batter slopes shall comply with the 'desirable' requirements as listed in Council's Manual of Engineering Standards.
- 23.** Easements to drain water, in accordance with Council's Manual of Engineering Standards, under Section 88B of the Conveyancing Act, shall be created over pipes, overland flow paths, final discharge structures, stormwater control devices, and stormwater dispersal areas where public stormwater is not located within public land.

CARPARKING

- 24.** The provision of on-site parking in accordance with Council's Car Parking Policy adopted 24 January 2006. For the subject application the required car parking has been assessed at a minimum of 668 spaces. The 668 car parking spaces relates to on-site parking only (within the property boundaries), and includes all accessible parking spaces, EV parking spaces, Parents parking, Mini Bus Bay and 'Click And Collect Spaces'.
- 25.** All driveways, parking areas and vehicular turning areas are to be constructed of bitumen sealed gravel pavement or a higher standard.
- 26.** All parking and loading/unloading bays, truck docks, driveways and turning areas are to be maintained clear of obstructions and under no circumstances are to be used for the storage of goods or waste materials.
- 27.** All parking and loading bays shall be permanently marked out on the pavement surface, with loading bays being clearly indicated by means of appropriate signage.
- 28.** All driveways, parking areas and vehicular turning areas are to be constructed of bitumen sealed gravel pavement or a higher standard acceptable to the Council.

HOURS OF OPERATION

- 29.** The operation of the Mixed Use Development shall be restricted to the following hours:
- Supermarket/Mini Major
Monday to Sunday - 7:00am to 10:00pm.
 - Retail/Shops
Monday to Sunday - 7:00am to 10:00pm.
 - Medical Centre

Monday to Sunday (excluding Public Holidays) - 7:00am to 10:00pm.

- Childcare Centre

Monday to Friday (excluding Public Holidays) - 7:00am to 7:00pm.

- Gym

Monday to Sunday – 24 hours.

- Swimming Pool

Monday to Sunday - 5:00am to 10:00pm.

- Food & Drink Premises

Monday to Sunday - 6:00am to 10:00pm.

- Pub

Monday to Sunday - 9:00am to 10:00pm.

- Car Wash

Monday to Sunday - 7:00am to 7:00pm.

- Basement Carpark

Monday to Sunday - 7:00am to 10:30pm.

All ancillary internal lobby areas, toilets, accessways and the like shall be open concurrent with the adjoining uses.

SHOPPING CENTRE OPERATIONAL MANAGEMENT PLAN

- 30.** A Plan of Management (PoM) for the Shopping Centre shall be submitted to and approved by Maitland City Council – Manager Development & Compliance prior to the issuing of the Occupation Certificate. The PoM shall incorporate all other PoMs or Management Plans (MP) as required by the conditions of this consent and include additional requirements having regard to:

- i. The Plan of Management for the Tavern;
- ii. The maintenance regime for the landscaping;
- iii. The maintenance and cleaning of the shopping centre toilets, forecourts, internal mall areas, play equipment and the like;
- iv. The maintenance and cleaning of the car park;
- v. CPTED measures to address:
 - a) Access Control to the Shopping Centre toilets/amenities, mall areas, forecourts, basement carpark;
 - b) back to base management of CCTV;
 - c) the removal of graffiti and the repair and maintenance damaged amenities/facilities, equipment, lighting, glazing, materials and the like;
 - d) safety and security;
- vi. Detail the hours of operation for the various elements of the shopping centre, including staffing by centre management;
- vii. Complaint handling;
- viii. Emergency procedures, including signage, rendezvous points/marshalling areas.

WASTE MANAGEMENT

31. The development shall operate in accordance with the Operational Waste Management Plan (Rev B) by Elephants Foot Consulting dated 10/12/2021 as amended by:
- a) Gym & Swim School - Waste collection is via the waste bins being transferred from the waste storage room on the Basement Floor Plan level to the kerb for collection by a private contractor.
 - b) Medical Centre - General waste and recycling from the medical centre will be disposed of into the compactors and bins located in the central loading dock for collection at a later point. Medical waste is to be collected by an appointed contractor, with collection to occur during between 7am and 7pm.

PLAN OF MANAGEMENT FOR TROLLEY CONTAINMENT

32. A Plan of Management (POM) is to be submitted to Maitland City Council – Manager Development & Compliance for approval with regard to the containment of Trolleys. The Plan of Management is to specifically address:
- i. The principles for the location and design of trolley storage bays;
 - ii. A trolley containment system that encourages the conferment of trolleys to the retailer's premises. Containment systems may include the following (but not limited to):
 - Coin/token operated systems with refund;
 - Trolleys with wheel locks activated by radio signal or magnetic strip;
 - Specialised paving, installation of bollards or other physical barriers that limit the removal of trolleys from the centre.
 - iii. A map and written schedule of surveillance and collection schedules detailing abandoned trolley services around the neighbourhood centre and neighbouring residential areas is to be supplied. This service map and schedule is to be reviewed and updated on an annual basis. In particular, the schedule of surveillance and collection should detail the style of service to be offered and the relevant contact details of service provider. Particular attention should be given to those areas known to regularly attract abandoned trolleys, such areas are to be provided with a service at least every 24 hours.
 - iv. Details as follows:
 - Process for collection of trolleys outside of retail hours;
 - Response time for collecting trolleys reported as stolen;
 - Signage within the development indicating that trolleys are not to be removed from the premises and that penalties apply for abandoned trolleys; and
 - Well signed trolley bays at exit points to the complex.
 - v. The POM shall include reference regarding the intended signage and public education programs which may include (but not limited to):
 - signage within stores and car parks;
 - signage at entry and exit points of stores and car parks;
 - signage on trolleys;
 - Publication of contact details registered at the developments website for the reporting of dumped trolleys and complaint handling during and outside of the approved hours of operation; and
 - Sign clearly advising the contact number of the collection agent.

The POM should include the commitment of the retailer or shopping centre management to the implementation of actions identified within the POM.

The Principal Certifying Authority must not issue the first or any Occupation Certificate without evidence of Council having approved the Plan of Management.

Prior to the issuing of the Final Occupation Certificate, the Shopping Trolley Management Plan is to be implemented and maintained in perpetuity with the operation of the Shopping Centre, and is to apply to the major retailers.

LOADING DOCK

- 33.** Operation and use of the loading dock shall be restricted to the following hours:

- Monday to Sunday - 7:00am to 10:00pm.

No Truck access for loading or unloading shall occur outside of these times.

- 34.** A management plan for the loading dock is to be submitted to Maitland City Council – Manager Development & Compliance for approval prior to the issuing of the first Occupation Certificate. The management plan shall provide details of, but not restricted to, the following:

- i. the loading/unloading facilities of the loading dock;
- ii. signage & linemarking;
- iii. parking and pedestrian management;
- iv. the vehicle types (and maximum size) to be used having regard to the unloading associated with the Tavern, Mini Major, Specialty Shops, the Supermarket and loading for home delivery;
- v. the frequency of deliveries and general delivery times associated with the unloading for the Tavern, Mini Major, Specialty Shops, the Supermarket and loading for home delivery;
- vi. access routes;
- vii. management of the loading dock such that there is no queuing/banking of delivery vehicles within the adjoining street network;
- viii. loading/unloading procedures;
- ix. waste collection procedures, both for removal from the centre and for depositing waste in the loading dock area by the Tavern, Mini Major, Specialty Shops, the Supermarket and the Medical Centre;
- x. management of noise associated with trucks reversing, braking, opening/closing of doors, idling and the associated operation of truck mounted crane/hoist/lifts and refrigeration equipment/units;
- xi. the cleaning and maintenance of the loading dock.

Note, the loading dock is opposite residential land and as such its operation is to minimise the impact and inconvenience on adjoining residents.

MATERIALS & FINISHES

- 35.** The drawings/details submitted with the construction certificate shall be consistent with the materials and finishes of the facades, public spaces, retaining walls and landscaping as reflected in the approved Architectural and Landscape plans/drawings.
- 36.** The elevations of the Gym/Swim School/Child Care Centre shall be constructed in a material other than coreten steel that will not result in staining of adjoining materials (footpaths and the like), which has suitable durability and anti-graffiti characteristics. Detailed construction drawings/details of the facades shall be submitted to and approved by Council's Urban Designer prior to the issuing of the construction certificate, via Maitland City Council – Manager Development & Compliance.

LANDSCAPING

- 37.** The Landscape plan is to be amended as follows:

- i. The (curved) pathway between the shopping centre and Tigerhawk Drive is to have a minimum width of 2.5 metres.

- ii. The corner of Heritage Drive and the unnamed road adjoining the south-west corner of the development is to incorporate additional canopy street trees.
- iii. The Landscape Plan is to be consistent with the Architectural Plan, particularly in regard to shade structures and the like.
- iv. Landscaping (including planter boxes, pots and the like) of the external physical environment of the Child Care Centre, generally in compliance with the *Child Care Planning Guideline* (August, 2017).

Landscape Construction Plan and Specifications are to be provided detailing:

- Proposed design levels and original ground levels/contours.
- Design details and materials of all surfaces, retaining walls, edging, embankments, furniture, planting, lighting and other structures.
- Typical cross sections through the site.
- Details of (street) tree protection and erosion control measures.
- Construction details for planting, paving and concrete jointing, edging and retaining walls.
- Hose-cocks and irrigation systems.
- Specification notes either on the drawings or in an associated report that adequately outline the quality of construction materials and contractual arrangements.
- Specification notes for maintenance works required during the planting establishment period.
- Specification notes outlining requirements for submissions, approvals and hold points for quality control, e.g. tree stock, soil testing and amelioration methods, maintenance log.
- Minimum pot sizes for all trees and plantings (shall reflect a reasonable maturity and health with appropriate height and spread, being a minimum 45 litres but recommended to be 100 litres).
- For trees to be installed in the public domain, ensure specifications reflect Council's Manual of Engineering Standards. The construction details shall include structural soil systems, like StrataCells or equivalent.

The Principal Certifying Authority must not release the first or any Construction Certificate without evidence of Maitland City Council – Manager Development & Compliance having approved the amended Landscape Plan and the Landscape Construction Plan and Specifications.

The landscaped area of the development is to be maintained at all times in accordance with the approved landscape plans. The landscaped areas shall be kept free of parked vehicles, stored goods, waste material, and the like.

ACOUSTIC

38. The development shall comply with the recommendations of the Noise Emission Assessment report by Acoustic Logic (Rev 3), (21 December 2021):

(a) Tavern

i) Acoustic Treatments

- Façade glazing to be minimum 10.38 laminated with Rw of 35 and acoustic seals to all opening windows/doors.
- Barrier/balustrade around terrace is to be installed with no gaps and have a minimum RO of 1.4m above terrace floor level.

ii) Management Controls

- Tavern to cease operations at 10pm.
- Signage to be displayed at venue instructing patrons to depart in a quiet and orderly manner.
- Façade to remain closed except for patron ingress/egress after 9pm.
- Music inside the venue to be electronically limited to 90dB(A) uniform sound pressure level.
- No music to be played in the outdoor seating areas.
- Patron numbers on western external terrace to be restricted as follows
 - Evening 20 (8pm to 10pm)
- Patrons no permitted to use southern external terrace after 8pm.

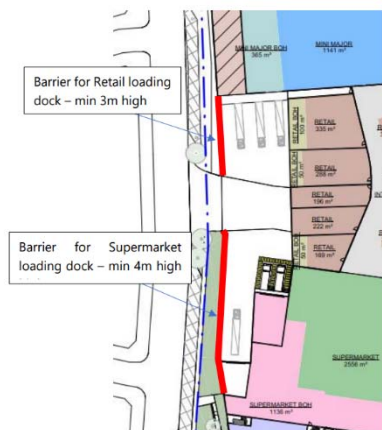
(b) Childcare Centre Operation

Recommended building treatments and management controls to control noise emissions from the indoor/outdoor play area of the childcare centre are detailed below:

- A 1.5m high barrier is to be constructed along the northern, southern and western boundaries of the childcare centre as indicated on architectural drawings.
- Barriers are to be constructed of solid, imperforate material with no gaps having a surface density exceeding 8 kg/m².
- Signs reminding staff and visitors to minimise noise at all times shall be installed at entry/exit points from the childcare centre.
- Management is to ensure children are supervised at all times to minimise noise generated by the children whenever practical and possible.
- Install a contact phone number at the front of the centre so that any complaints regarding centre operation can be made.
- The facility must not hold more than 112 children at any one time.
- Regular landscape maintenance which requires powered tools should be undertaken during daytime hours only (7am – 6pm).
- Internal cleaning activities should be undertaken with all facades (windows and doors) closed and may be undertaken at any time.

(c) Loading Dock

- Loading docks are to operate only between the hours of 7am and 10pm.
- Loading docks are to be screened from the residences to the south with a minimum 4m high barrier for the Supermarket and 3m high for the general retail. See markup below for extent of barriers.
- Barriers are to be constructed of solid, imperforate material with no gaps having a surface density exceeding 8 kg/m².



(d) Future Assessments

Detailed assessment of noise emissions is to be carried out for plant and equipment **prior to any construction certificate** that includes plant and equipment, with plans to satisfy requirements.

Fit out for major tenancies, gym and any entertainment uses may require specific detailed assessment of noise emissions.

39. A separate, detailed assessment is to be carried out prior to any complying development certificate and/or development consent for the fitout of the tavern to assess noise emissions from patrons, music and proposed plant. It shall consider noise emissions to residential receivers and the school (during school hours) so as not to exceed recommended noise levels and to make appropriate physical and management recommendations.

PUB FITOUT

40. The fitout of the pub requires separate development consent.

SOCIAL IMPACT

41. The development shall comply with the recommendations of the Social Impact Assessment by Urbis (10 June 2022):
- Consult with NSW Police and community organisation to understand potential concerns relating to alcohol-related harm.
 - Consider joining the Maitland Liquor Accord to regularly meet with other licences operators in the area and contribute to measures across the LGA to reduce rates of alcohol-related crime and anti-social behaviour.
 - Ensure the tavern maintains a high level of amenity throughout its operation. This includes providing good lighting, ventilation, regular cleaning and employing an appropriate number of staff per patrons.
 - Prepare a Plan of Management to include site-specific responsibilities for the packaged liquor outlet once the operator has been confirmed and prior to Occupation Certificate.
 - Ensure the licensed premises cannot be seen or deciphered by the surrounding educational uses. This extends to any external signage or associated advertising material.
 - Prohibit the consumption or sale of alcohol from the playground area.
 - Consult with surrounding landholders, including all education users, to inform them of the proposal and provide them with an opportunity to comment on the intended liquor uses, design and access.
 - Implement all operational recommendations outline for the tavern in the Noise Emission Assessment prepared by Acoustic Logic.

SAFETY AND AMENITY

42. The use and occupation of the premises including all plant and equipment installed therein, shall not give rise to any offensive noise as defined under the *Protection of the Environment Operations Act 1997 (NSW)*.
43. Lighting for car park areas and for security purposes shall be designed such that there is no light spill beyond the property boundary. All lighting installed on site shall comply with AS 4282-1997 - Control of the obtrusive effects of outdoor lighting.
44. The development shall comply with the recommendations of the CPTED Report (The Design Partnership, November 2018):
- (a) Surveillance
- (i) Sight lines
- Sight line considerations are multi-directional. They are important for the public looking into the development and for the those within the development looking out into the public domain.
- Sight lines into the site will be limited by the site's topography and the centres proposed perimeter structures including the shopping centre, childcare, gym and future 'pad site' buildings. The development will be reliant on good internal surveillance by users of the shopping centre. The facades fronting Heritage Drive, Settlers Boulevard and the carpark have active uses that can have good sightlines. Retails premises that front public spaces should limit the extent of signage and decals on windows that can inhibit sightlines.
- Blade walls are proposed in the landscape between the medical centre and Settlers Boulevard. These walls could inhibit sightlines from the road and should be reduced in height or increased in transparency.

The pedestrian link that separates the two ongrade carparks proposes 'coreten' balustrades. The balustrades can be used to channel students however, it could obscure views of children as they approach the shared crossing through the centre of the link. The balustrade could also block sightlines through the carpark. The balustrade should increase transparency and be designed in conjunction with the vegetation and lighting recommendations.

(ii) Vegetation

The development is proposed to be enhanced with a high quality landscape treatment. This provides the opportunity to implement positive CPTED outcomes from the outset.

- Places of concealment and entrapment

Places of concealment and entrapment can be easily created in the public and private domain. These are spaces which may enable someone to hide or trap a person.

Landscaping around the edges of the carpark, between Settlers Boulevard and the medical centre, within the pedestrian spine and along the southern facade is recommended to be limited to ground covers, shrubs and taller trees with no significant branches below 2 metres. Shrubs are recommended to be a maximum of 700mm in height.

Trees proposed within the carpark should be taller trees with no significant branches below 2 metres.

- Vegetation blocking lighting

Shadowy spaces are created where the trees obscure light fall from light poles and internal lighting. Consider the location of lighting and trees so as not to block the fall of light. This is particularly important in the parking areas where good lighting at night is important.

Future advice on lighting design, in conjunction with the landscape design (during the construction documentation and construction phase) is required. Modelling of proposed lighting in conjunction with landscaping is required to test light spill and shadows.

(b) Lighting & Technical Supervision

(i) General Lighting comments:

Lighting strategy and design should be undertaken by a qualified lighting engineer for the development prior to any construction certificate to test light spill and identify any spaces of shadow and concealment – particularly at the shopping centre entry, along perimeter footpaths, within the carpark, in the loading dock area and the path of travel from the loading area and associated staff parking to the main entry.

(ii) Lighting design:

Design the lighting approach to fulfil the following recommendations:

General Lighting and CCTV

- All pathways should have effective lighting which improves visibility and as a result reduces fear. Bollard lighting is discouraged as it is prone to vandalism and is not particularly effective at illuminating faces. Ground surface lighting is recommended along paths of travel to key areas. Ground surface lighting can assist with wayfinding as long as it does not result in night blinding when a person looks down.
- All lighting should comply with relevant Australian Standards, particularly AS 1158.
- Avoid using low-pressure sodium lamps.
- Vandal-resistant lamps are recommended.
- Avoid the use of coloured lighting
- Lighting can lose up to 20% capacity within 12 months, resulting in inadequate light levels. This should be considered when selected lighting type and brightness.

- General

- Ensure no shadowy spaces are created by the buildings, the gaps between the lights themselves and the landscape.
- Any signage should be as legible at night as it is during the day.
- Landscaping within the carpark, at the entry to the centre and along its edges is recommended to be limited to low ground covers and shrubs a maximum of 700mm

- high. Trees should have no significant branches below 2.0m to facilitate good view lines at night and reduce shadows.
 - Highlight the entries to the centre, tavern, pool/ gym, childcare centre and medical centre.
- On grade parking Areas
 - Lighting should be bright and even to allow an observer to see into a parked car.
 - Ensure any landscaping around the parking spaces does not obscure views into the car.
 - Areas where pedestrians and vehicles are in close proximity, such as pedestrian crossings, should be well lit to enable a person to be clearly visible.
- Residential basement carparking
 - Use high quality lighting and white finishes in the basement carpark. The white walls and columns to reflect the lighting back and enhances lighting outputs. This is also important for any transitional spaces such as fire exits and entry to the traveller.
 - Design lighting to allow for eyes to adjust after leaving a transitional space - as it can take up to half an hour for eyes to adjust. Pedestrian pathways and lobbies
- Pedestrian pathways and lobbies
 - Intelligent lighting that is based on sensors may be appropriate along the pathways within the shopping centre forecourt areas. But care should be taken to ensure that the transition between light and dark does not give rise to concealment opportunities.
- Pedestrian link
 - Lighting is required to be installed along the pedestrian link to create a welcoming environment that encourages its use. Opportunities to integrate public art into this space is encouraged.
 - Intelligent lighting that is based on sensors may be appropriate within the pedestrian link after hours. But care should be taken to ensure that the transition between light and dark does not give rise to concealment opportunities.
 - The lighting design is to consider the need for lighting in areas where pedestrians and vehicles are in close proximity such as
 - Tigerhawk Drive pedestrian crossing
 - Settlers Boulevard driveway entry where the footpath crosses
 - Heritage Drive driveway entry where the footpath crosses
 - pedestrian link crossings including the aisle split and the crossing adjacent the entry.

(c) Territorial Reinforcement

(i) Entry points

Establish distinct entry points that define the edges of the shopping centre and the entry points to the buildings. Use lighting, landscaping, variation in colour/material and signage.

(ii) Signage

Signage should be used to clarify ownership and responsibility. In the case of damage, signage should assist the public in reporting damage. Clear signage should be installed throughout the development. Overuse of signage is not supported as it becomes less effective. Consistency of design will add to the overall sense of a cohesive community and sense of place.

(iii) Lighting

Lights in the ground can be used to reinforce paths of travel within the development.

(iv) Maintenance

Maintenance of the development is a powerful tool in Territorial Reinforcement. A Maintenance Plan for the development should be identified at the Construction Certificate stage. The Maintenance Plan should include the selection of durable materials and plant species that do not require extensive maintenance.

(v) Public Domain Treatment

Landscaping is useful in reinforcing the difference between the shopping centre and the residential and educational areas of Chisholm. The shopping centre is a public space with a

varying degree of private spaces. The public domain treatment should demonstrate that this is a high quality development with strong local ownership. This can be achieved by incorporating bespoke treatments such as bespoke street furniture, lighting and paving inlays. Opportunities for local community involvement, including local shop owners and residents, can help identify themes and images to influence the treatments.

(vi) Separation of cars and pedestrians

The separation of cars and pedestrians are important in developments that are open to the public. The likely movement of school aged children from Tigerhawk Drive and to the centre has been well considered by the creation of the pedestrian link. It is noted, that the path is lined with 'coreten' balustrades. These balustrades have the benefit of channelling the children however, smaller children may not be as visible and could collide with a vehicle - in particular where the aisle break is provided. A less solid barrier should be considered that channels children while allowing for drivers to see children as they approach the openings and driveway crossings. The height of the balustrade should also consider the requirements for clear surveillance within the carpark as identified in Surveillance and Lighting conditions. The design of the balustrade should be factored into the landscaping and lighting design as per the recommendations.

(vii) Tavern

The design of the tavern terrace should consider the visual and acoustic impact on future residential development adjoining the development. The terrace also wraps behind the mini major which is a blank facade. It has no surveillance and could become a space for anti-social or crime activity. The redesign or repurposing of this space is recommended.

(viii) Water Play Area

The waterplay area at the Heritage Drive entry provides a space for families which strengthens Territorial Reinforcement. Families are positive user groups and can discourage anti-social behaviour. The areas role in the evening will require further consideration, in particular in association with the tavern. The water may need to be turned off to reduce opportunities for anti-social behaviour. The entry to the amenities, from the water play area should be locked at dusk or when the water is turned off.

(d) Environmental Maintenance

Regular maintenance and well designed landscaping will demonstrate to visitors that this development has a site guardian and is safe.

(i) Environmental Management Design:

- Walls and fences at the street and loading areas are at risk of malicious damage. The use of anti-graffiti coatings is recommended, in particular in the loading dock area and on the southern facade where there is little surveillance in the short term.
- Select materials that are robust and durable. Materials/elements should not be easily removed. However, the final outcome should not appear overly harsh, thereby reducing the amenity of the space and create fear.
- Provide rubbish bins and plan for regular removal to avoid build up of waste. Provide flame retardant bins through the development.
- Use low maintenance and drought-resistant plant species throughout the site.
- Fixtures such as the bike racks and bins should be secure and not easily removed.

(ii) Environmental Management Operational:

- Establish an Environmental Maintenance Plan.
- Graffiti should be removed quickly. The longer tags are left on display, the greater the reward for offenders.
- Avoid the use of porous materials in areas with the greatest risk of graffiti tagging.
- Establish a reporting system that allows users and visitors to quickly report damage or anti-social behaviour.
- Repair or replace broken or damaged furniture/ bins/signs quickly.
- Review the current trends in crime in the area with the local Police, Neighbourhood Watch and regularly update Environmental Maintenance Plan.

(e) Activity & Space Management

(i) Semi Public and Private Space

The design should enforce clarity of land use - making it clear what is semi-public (spaces where visitors can go - noting it is a private development) and what is private (private to childcare and back of house). Methods that can be adopted include:

- Use paving treatments that are distinctly different to footpaths outside the development.
- Provide entry features/statements/structures that reinforce the pedestrian thresholds.
- Clearly identify areas within the development which are not accessible by visitors such as back of house, storage areas and the childcare centre. However, be cautious of the over use of signage as it may become less effective.

(ii) Maintenance Planning

Establish a Maintenance Plan that ensures the site retains the appearance of a clean and well maintained sports precinct. The Maintenance Plan should include routines for rubbish removal and steps to take when rubbish accumulation exceeds the norm. Rubbish should be removed as soon as practical. The plan should also include:

- reporting of waste
- methods for reporting damage
- time frames for quick repair of damage.

(iii) Amenities

The amenities located in the western wing can be accessed internally and externally. Amenities can be spaces where anti-social behaviour and criminal activity can occur. Management through formal supervision and physical control of the space will be needed. This means an external door and CCTV should be considered. These amenities should not be available to the tavern.

(f) Access Control

- Provide wayfinding signage to identify what is public and what is private. Signage should clearly direct people to key buildings/ destinations in the centre.
 - Consider improving access to the childcare centre by making it clearly different to the entry to the gym/pool entry (from the carpark). Provide more space to the entry to the childcare centre and allow for waiting areas outside the entry - noting the changes to childcare pickup and drop off during COVID which could continue.
 - Establish entry points to centre, retail premises, tavern and medical centre that look different to the rest of the building. Use colour, materials, lighting and signage to distinguish.
 - Use signage to identify the location of public amenities. Provide an external door to the corridor and lock this door when outdoor cafes and retail premises have closed. Management of the centre may need to adjust the toilets hours of operation if there is anti-social/criminal behaviour. It should not be available for use by the tavern.
 - The proximity of the tavern and the loading dock could result in criminal activity. Security for back of house should be regularly reviewed.
 - The basement carpark needs to be secured after hours. This should include a garage door and a door to enclose and secure the travelator. The door should be located at the upper forecourt level as the basement lobby area and internal areas of the carpark could become a target for malicious damage and concealment.
- Undertake a Design/Definition/Designation assessment regularly.

45. A Management Plan shall be submitted for the 24 hour, Monday to Sunday, operation of the Gym. The management plan shall have regard to safety and security of patrons, guidance to patrons as to parking and access, etc. The 24 hour operation shall operate in a manner which does not cause disturbance to adjoining residents.

SIGNAGE

46. All signage is subject to separate development consent. No signage is approved under this development consent.

CONSTRUCTION

47. A revised Construction Management Plan (CMP) generally in accordance with the CMP by (Richard Crookes Constructions, May 2018) and the conditions of this consent shall be submitted to Maitland City Council – Manager Development & Compliance for approval **prior to the issue of the Construction Certificate**. The revised CMP shall include a copy of the dilapidation survey.
48. Where the construction period is in excess of 6 months, a Noise Management Plan shall be provided to Council prior to the issue of the first or any construction certificate. Such plan shall be prepared with the assistance of a suitably qualified acoustic engineer, indicating whether the use of machinery, plant and equipment during those operations can be completed without causing offensive noise (as defined in the Protection of the Environment Operations Act 1997) in the neighbouring area. The Noise Management Plan shall be complied with at all times during the construction period and shall identify any mitigation measures to control noise, noise monitoring techniques and reporting methods, likely potential impacts from noise and a complaints handling system.

FLORA AND FAUNA

49. The development shall comply with the recommendations of the Flora and Fauna Assessment by EPS (8 December 2021), and the recommendations of the report by Hunter Ecology (2 August 2022) regarding the removal of the hollow bearing tree:
- i The hollow-bearing tree (HBT) should be inspected by a qualified ecologist prior to the removal of the tree. Any species identified as utilizing the hollow will determine the timing of the removal the hollow-bearing tree and clearing activities should only occur outside of the breeding season for the resident fauna.
 - ii Hunter Wildlife should be contacted prior to the removal of the HBT to ensure that they have capacity to care for any injured fauna.
 - iii Ensure that a suitably qualified and licensed ecologist (who is vaccinated for Australian bat lyssavirus) supervises the removal of HBT. Any bats found must only be handled by a person vaccinated for lyssavirus and be relocated the following night in adjacent vegetation.
 - iv Check for fauna in the hollow before clearing and remove them before beginning operations if possible.
 - v Before felling HBT, tap along trunk using an excavator or loader to scare fauna from the hollows. Repeat several times to encourage any species present to self-relocate.
 - vi After clearing, re-check to ensure no fauna have become trapped or injured during clearing operations. Any fauna found should be safely relocated to nearby habitat.
 - vii If taking the HBT tree down in stages, the non-hollow-bearing branches should be removed before the hollow-bearing branches are removed.
 - viii Preferably, logs from the felled trees should be distributed into areas of vegetation nearby (drainage reserve directly west of the site) to be retained and provide additional potential habitat for ground dwelling fauna such as reptiles and small mammals.
 - ix The removal of the HBT should be offset by the placement of one Nestbox in adjacent vegetation to ensure no net loss of hollow.

- X The Nestbox should provide habitat for microbats and be constructed of durable material.
- xi The Nestbox should be installed prior to the removal of the HBT by a qualified ecologist or arborist, at least 3-4 metres from the ground.
- xii GPS location of the Nestbox should be provided to Council.

BUSHFIRE

50. General Terms of Approval – Bushfire Safety Authority under Section 100B of the NSW Rural Fires Act, 1997.

The following General Terms of Approval have been issued by NSW Rural Fire Service on 25 May 2022 and shall be complied with.

Asset Protection Zones

Intent of measures: to provide suitable building design, construction and sufficient space to ensure that radiant heat levels do not exceed critical limits for firefighters and other emergency services personnel undertaking operations, including supporting or evacuating occupants.

- (1) From the start of building works and in perpetuity, the entire property must be managed as an inner protection area (IPA) in accordance with the requirements of Appendix 4 of *Planning for Bush Fire Protection 2019*. When establishing and maintaining an IPA, the following requirements apply:
 - Tree canopy cover be less than 15% at maturity;
 - Trees at maturity are not touching or overhang the building;
 - Lower limbs are removed up to a height of 2m above the ground;
 - Tree canopies are separated by 2 to 5m;
 - Preference is given to smooth-barked and evergreen trees;
 - Large discontinuities or gaps in vegetation are provided to slow down or break the progress of fire towards buildings;
 - Shrubs are not located under trees;
 - Shrubs do not form more than 10% of ground cover;
 - Clumps of shrubs are separated from exposed windows and doors by a distance of at least twice the height of the vegetation.
 - Grass to be kept mown (as a guide grass should be kept to no more than 100mm in height);
 - Leaves and vegetation debris are removed; and
 - NSW Rural Fire Service's document *Standards for asset protection zones*.
- (2) Landscaping for the entire property must comply with Appendix 4 of *Planning for Bush Fire Protection 2019*. In this regard, the following principles are to be incorporated:
 - A minimum 1 metre wide area (or to the property boundary where the setbacks are less than 1 metre), suitable for pedestrian traffic, must be provided around the immediate curtilage of the building;
 - Planting is limited in the immediate vicinity of the building;
 - Planting does not provide a continuous canopy to the building (i.e. trees or shrubs are isolated or located in small clusters);
 - Landscape species are chosen to ensure tree canopy cover is less than 15% (IPA), and less than 30% (OPA) at maturity and trees do not touch or overhang buildings;
 - Avoid species with rough fibrous bark, or which retain/shed bark in long strips or retain dead material in their canopies;
 - Use smooth bark species of trees species which generally do not spread fire up the bark into the crown;
 - Avoid planting of deciduous species that may increase fuel at surface/ ground level (i.e. leaf litter);

- Avoid climbing species to walls and pergolas;
- Locate combustible materials such as woodchips/mulch, flammable fuel stores away from the building;
- Locate combustible structures such as garden sheds, pergolas and materials such as timber garden furniture away from the building; and
- Low flammability vegetation species are used.

Construction Standards

Intent of measures: to provide suitable building design, construction and sufficient space to ensure that radiant heat levels do not exceed critical limits for firefighters and other emergency services personnel undertaking operations, including supporting or evacuating occupants.

- (3) Construction must comply with the recommendations of the bush fire report prepared by Newcastle Bushfire Consulting, dated 30 November 2021.
- (4) Any new Class 10b structures (except for the childcare centre) as defined per the *National Construction Code* must be non-combustible.

Water and Utility Services

Intent of measures: to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building.

- (5) The provision of water, electricity and gas shall comply with Table 6.8c of *Planning for Bush Fire Protection 2019*.

Emergency and Evacuation Planning Assessment

Intent of measures: to provide suitable emergency and evacuation arrangements for occupants of SFPP developments.

- (6) A Bush Fire Emergency Management and Evacuation Plan for the shopping centre must be prepared consistently with the NSW RFS document: *A Guide to Developing a Bush Fire Emergency Management and Evacuation Plan*.

51. The proposal shall comply with the recommendations of the Bushfire Assessment Report (Newcastle Bushfire Consulting, 30 November 2021).

UNIVERSAL ACCESS

52. The proposal shall comply with the recommendations of the Access Report by Vista Access Architects, dated 8 November 2021.

VEHICLE ACCESS, PEDESTRIAN ACCESS & ROADWORKS

53. **Prior to issue of any Occupation Certificate** the following works shall be provided in accordance with Council's Manual of Engineering Standards:
 - i. Concrete pedestrian refuges to RMS standards on the eastern, southern and western legs of the Tigerhawk Drive and Heritage Drive intersection.
 - ii. Reconstruction of the footpath and verge area at the south-east kerb return of the Tigerhawk Drive and Heritage Drive intersection to provide footpath grades and cross fall to Council standards.

- iii. Upgrade of the existing school crossing on Tigerhawk Drive, to a combined school and zebra pedestrian crossing.

Note: this is subject to Traffic Committee approval process. If these works are not approved by Traffic Committee a pedestrian refuge with adjustments to kerb extensions will be required.

- iv. Westerly extension to the existing centre median on Tigerhawk Drive to physically prohibit right turn vehicles exiting the car park.
- v. Bus Zone to RMS Standards on the Tigerhawk Drive frontage accommodating two (2) buses adjacent to the main pedestrian access to the development.
- vi. Bus shelter at the Tigerhawk Drive bus stop(s) in accordance with Council's standard drawing SD023.
- vii. Taxi Zone to RMS Standards on the Tigerhawk Drive frontage for two (2) taxis near the main pedestrian access to the development.
- viii. A concrete pedestrian refuge to RMS standards on Heritage Drive to provide refuge for pedestrians using the existing footpath 35m north of the car park of the local park.
- ix. Concrete pedestrian chicane crossing and RMS type fencing within the median of Settlers Boulevard located within 20m south of the Settlers Boulevard vehicular access.
- x. All pedestrian, bus and taxi facilities mentioned above are to be illuminated by street lighting in accordance with public area lighting standard AS1158 applicable for high pedestrian use and safety.
- xi. All line marking to be thermoplastic for hold lines and pedestrian crossing facilities.
- xii. Signage for heavy vehicles indicating turning movement restrictions for the Tigerhawk Drive and Heritage Drive intersection. Swept paths shall be provided for buses and semi-trailers demonstrating which restrictions are required.
- xiii. All ancillary works and adjustments including lines, signs and utility relocations, and pram ramp repositioning.

All works within Council's road network shall be approved pursuant to Section 138 of the Roads Act 1993 (NSW). The **Occupation Certificate** shall not be issued until written confirmation is received from Maitland City Council confirming the works have reached satisfactory completion.

54. **Prior to the issue of any Construction Certificate or Roads Act Approval**, all (traffic) Regulatory line marking and signage shall be submitted to Council's Local Traffic Committee, and approved by Maitland City Council – Manager Development & Compliance. All recommendations of the committee shall be incorporated into approvals and works. The works to be approved include:
- a) *All regulatory line marking and regulatory signage including bus facilities.*
 - b) *line marking and adjustments.*
 - c) *Pedestrian facilities*
 - d) *Heavy vehicle restrictions due to insufficient turning paths.*

VEHICLE ACCESS

55. **Prior to issue of the Occupation Certificate** the driveway layout and profile shall be constructed in concrete (heavy duty), in accordance with Council's Manual of Engineering Standards, which include the retention of (or if damaged reconstruction as plain concrete of) any existing footpath, and with reference to Council's information document "*Footway Crossings (Driveways)*".

- 56. Prior to issue of the Construction Certificate** for the access/service driveways on Settlers Boulevard, Tigerhawk Drive, Heritage Drive and the unnamed road, and all internal car parking aisles to the driveway crossings, the on-road bus stops and other regulatory parking items, are to be approved by Council through the s138 Roads Act Approval process (including traffic committee) to ensure driveway locations are adjusted to achieve any required repositioning.

Note: a 'standard' driveway application is not required as driveways will be approved through the S138 (Developer Works) Roads Act Approval process.

- 57. Prior to issue of the Occupation Certificate** all driveways crossing Council's verge:
- i. Are to be designed in accordance with AS2890.
 - ii. Are to be designed and constructed to provide safety and dominance to pedestrians on footpaths.
 - iii. Two-way driveways are to be designed and constructed to be median separated.
 - iv. Are to be designed and constructed with line marking and signposting to provide the orderly control of traffic using the access.

STORMWATER DRAINAGE

- 58. Prior to issue of the Construction Certificate**, the design and construction details in accordance with Council's Manual of Engineering Standards shall be provided for the following stormwater requirements:
- i. Stormwater design that considers upstream and downstream catchments in their ultimate developed state to achieve a total system which does not adversely affect existing systems or properties within the flow path and catchment.
 - ii. Where the stormwater design creates adverse effects on the existing downstream system, properties or infrastructure (particularly the Tigerhawk Drive and Heritage Drive intersection) the design is to be amended to remove such adverse effects.
 - iii. After consideration of above, On-site Detention (OSD) of stormwater that reduces post-developed discharges to pre-developed discharges for the 1, 10 and 100yr ARI critical storm events, and generally in accordance with the approved stormwater management plans and stormwater management report, and
 - iv. Detailed pavement finished surface levels demonstrating 1% conveyance paths to, and 1% inlet capacity into the OSD tank/structure, and
 - v. Structural certification is required for underground detention systems where expected traffic loads are likely, and,
 - vi. an emergency overland flow path for major storm events, that is directed to the public drainage system, and
 - vii. entrapment of gross pollutants, nutrients and hydrocarbons generated from the contributing ground-surface catchment areas, and
 - viii. conveyance where necessary, of stormwater through the site from upstream catchments, (including roads and adjoining properties).
- 59. Prior to Occupation or Operation of the development**, a *Stormwater System Maintenance Procedure Plan* shall be prepared by an engineer, detailing a regular maintenance program for pollution control

devices, covering inspection, cleaning and waste disposal, a copy of which shall be supplied to the owner/operator and to Maitland City Council for supply of future owners as needed.

60. **Prior to issue of the Occupation Certificate**, the stormwater-control system shall be constructed in accordance with the approved stormwater drainage plan. A qualified engineer shall supply written certification to the PCA and Maitland City Council – Manager Development & Compliance that the constructed system including detention volume and discharge rates achieve the consent requirements for detention.

EROSION CONTROLS

61. The property shall be protected against soil erosion, such that sediment is not carried from the construction site by the action of stormwater, wind or “vehicle tracking”.

BUILDING CONSTRUCTION

62. All building work shall be carried out in accordance with the provisions of the Building Code of Australia.
63. All excavations and backfilling shall be executed safely, in accordance with appropriate professional standards and shall be properly guarded and protected to prevent the works from being dangerous to life or property.
64. Unless otherwise approved by Maitland City Council – Manager Development & Compliance in writing, all general building work shall be carried out between the hours of:
 - a. 7.00am to 6.00pm Monday to Friday
 - b. 7.00am to 5.00pm Saturday

Any work performed on Sunday's or Public Holidays that may cause offensive noise, as defined under the Protection of the Environment Operations Act, is prohibited. Minor works (such as hand sanding, painting, digging and the like) is permitted between the hours of 9.00am to 5.00pm. Power operated tools are not permitted to be used.

ELECTRICITY NETWORK

65. The development shall have regard to the requirements of Ausgrid (correspondence dated 14 February 2022) for augmentation and connection of the Development.

SERVICES & EQUIPMENT

66. Upon completion of the building BUT prior to its occupation, a Final Fire Safety Certificate with respect to each critical and essential fire safety measure installed in the building shall be submitted to Council. Such certificates shall be prepared in accordance with Division 4 of Part 9 of the Environmental Planning and Assessment Regulation, 2000.
67. A copy of the Fire Safety Schedule and Fire Safety Certificate shall be prominently displayed in the building in accordance with Division 4 of Part 9 of the Environmental Planning and Assessment Regulation 2000.

68. A Fire Safety Statement in respect of each required essential and/or critical fire safety measure installed within the building shall be submitted to Council and the NSW Fire Commissioner annually (or at a more frequent interval for supplementary statements).

Statements shall be prepared and issued in accordance with Division 5 of Part 9 of the Environmental Planning and Assessment Regulation, 2000. Note that monetary penalties may apply for failure to lodge a fire safety statement within the prescribed timeframe.

Statements to the NSW Fire Commissioner are to be submitted electronically to afss@fire.nsw.gov.au.

Standard forms and further information for lodging Fire Safety Statements may be downloaded from Councils website.

69. All roof top plant and equipment shall be suitably screened. Details are to be submitted to and approved by Maitland City Council -- Manager Development & Compliance **prior to the release of the Construction Certificate.**

SITE CONSIDERATIONS

70. All excavated and/or filled areas are to be retained or battered and suitably drained so as to prevent any subsidence of the area and constructed so as to deny any flow of water into the building.

Where a retaining wall is planned for this purpose and such wall requires consent (refer to State Environmental Planning Policy -Exempt and Complying Development Codes, 2008) plans and specifications of the wall shall be approved by Council and/or an accredited certifier.

Note: The submission of a separate Development Application is not required for a retaining wall associated with this approval and indicated on the approved plans.

All proposed retaining walls, including any excavation, footings, drainage and backfill shall be contained within the property boundaries. Retaining walls and associated earthworks shall not impede or redirect the natural flow of surface water from adjoining properties in a manner that creates nuisance.

71. If an excavation extends below the level of the base of the footings of a building/structure on an adjoining allotment of land, the person causing the excavation to be made.

- i) Must preserve and protect the building/structure from damage, and
- ii) If necessary, must underpin and support the building/structure in an approved manner, and
- iii) Must, at least 7 days before excavating below the level of the base of the footings of a building/structure on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building/structure being erected or demolished.

The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land. (Includes a public road and any other public place).

72. Rubbish generated from the development is to be suitably contained on site at all times. No rubbish shall be stockpiled in a manner which facilitates the rubbish to be blown off site.

73. If the work:

- i) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
- ii) involves the enclosure of a public place

a hoarding or fence must be erected between the work site and the public place.

If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.

The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place. Any such hoarding, fence or awning is to be removed when the work has been completed.

74. A sign must be erected in a prominent position on the work:

- i) stating that unauthorised entry to work site is prohibited, and
- ii) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted during work hours.

Any such sign is to be removed when the work has been completed.

Note: This condition does not apply to:

- i) *building work carried out inside an existing building, or*
- ii) *building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.*

75. Approved toilet facilities are to be provided, at or in the vicinity of the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. The provision of toilet facilities in accordance with this Clause must be completed before any other work is commenced.

76. The site is to be cleared of all building refuse and spoil immediately after completion of the building/structure.

77. No building materials, refuse or spoil is to be deposited on or be allowed to remain on Council's footpath.

78. Suitable and adequate measures are to be applied to restrict public access to the site and building works, materials and equipment.

79. Aboriginal heritage – stop work if evidence of occupation or relics found All workers on the site shall be informed of possible Aboriginal occupation. Should any Aboriginal artefacts be unexpectedly discovered in any areas of the site not subject to an excavation permit, then all excavation or disturbance in this area is to stop immediately and the National Parks and Wildlife Service of NSW should be informed in accordance with the National Parks and Wildlife Act 1974. Further works shall not occur until the necessary approvals/permits have been obtained.

80. Removal of asbestos to be in accordance with NSW WorkCover requirements

In the event of any unexpected find on the site where any construction, demolition, alteration or renovation works encounter asbestos or products containing asbestos, then the materials encountered shall be managed in accordance with the provisions of the NSW Work Cover Authority and Council must be notified.

81. Demolition / construction to cease where contamination encountered during works In the event of an undisclosed or unidentified contamination being found on-site or any potentially contaminating infrastructure (e.g. underground storage tanks) or soils (e.g. staining, odours, asbestos) being identified during works, a qualified and experienced consultant must inspect, review and advise on remediation or mitigation prior to further construction proceeding. Council must be notified if this occurs and must be provided with any resulting reports and recommendations.

FOOD PREMISES

82. The Commercial food premises are to be designed, constructed and fitted out to comply with Australian Standard 4674-2004, Design, construction and fit-out of food premises. Details and plans are to be provided with development applications for individual premises or as part of the Construction Certificate.

If Council is nominated as the Principal Certifying Authority, details of compliance are to be included in the plans and specifications for the Construction Certificate. Councils Environmental Health Officer is to be given 48 hours-notice to inspect the premises **prior to the commencement of the business.**

Prior to commencement of trade the business is to be registered with Council.

SWIMMING POOL

83. The applicant shall submit to Council a "Notice of Commencement" form at least two (2) days **prior to the commencement of construction works.**
84. Upon physical completion of the swimming pool, the swimming pool is to be registered on the NSW Swimming Pool Register. Registration of the pool can be done at www.swimmingpoolregister.nsw.gov.au.
85. Effective water circulation, filtration and disinfecting system required

The pool shall be equipped with an effective water circulation system, filter and continuous automatic disinfectant dosing control system. Automatic control and dosing refers to a continuous dosing system activated and controlled by feedback from electrical chemical sensing equipment and does not include the use of a dissolving chemical floating dispenser.

86. Inspections to be carried out by Council

In accordance with the Public Health (Swimming Pools and Spa Pools) Regulation 2000, Council's Environmental Health Officers may undertake inspections of the pool and surround, records, carry out field tests on pool water and take or remove samples of pool water. A fee may be charged for this inspection.

- 87.** The management of the swimming pool is to be in accordance with the NSW Ministry of Health's Public Swimming Pool and Spa Pool Advisory Document, the Public Health Act 2010 and Public Health Regulation 2012.
- 88.** The frequency of pool water testing shall be carried out in accordance with the NSW Ministry of Health's Public Swimming Pool and Spa Pool Advisory Document with the use of suitable testing apparatus to ensure accurate results. Plastic Perspex kits known as '4 in 1' or '5 in 1' kits are not suitable for testing public/learn to swim pools.
- 89.** A register or log book shall be used to record the results of every test performed on the pool. The register shall be used to record data as detailed NSW Ministry of Health's Public Swimming Pool and Spa Pool Advisory Document.

ADVICES

- A** You are advised that future intersection upgrade to Heritage Drive and Tigerhawk Drive, including a median joining the east and west pedestrian refuges or traffic signals, may be required as the Urban Release Area becomes fully developed.
- B** You are advised that traffic control devices and facilities in the public road are subject to consideration and approval of the Council's Local Traffic Committee upon receipt of detailed plans of those treatments.
- C** You are advised that where underground works within the road reserve are required for necessary for supply of services (such as water, sewer, electricity, gas), further consent for a "Road Opening" must be obtained from Council.
Refer to Council's form: *"Application for Registration to Open Roads/Footpaths"*.
- D** You are advised that in regard to potential soil erosion from the construction site, such pollution of the environment is an offence under the Protection of the Environment & Operations (POEO) Act and may incur infringement fines.
- E** You are advised to notify Council in writing, of any existing damage to the street infrastructure (including landscaping) along the frontage of the property, prior to commencement of construction. The absence of such notification signifies that no damage exists. Where necessary repairs are carried out by Council, the owner of the property shall be held liable for the cost of those repairs.
- F** You are advised that the issue of this development consent does not amount to a release, variation or modification by Council of any covenant or easement applicable to this property and that Council will not be held responsible when action on this consent results in any loss or damage by way of breach of matters relating to title of the property.
- G** You are advised that compliance with the requirements of the Disability Discrimination Act, (DDA) applies to works on this site. It should be noted that compliance with the Building Code of Australia does not necessarily meet the requirements of the DDA.
- H** Water recirculation and filtration system in the swimming pool shall comply with the Building Code of Australia and Australian Standards
- The water recirculation and filtration system in the swimming pool shall comply with the Building Code of Australia Volume 1, NSW GP1.2 (other pools) incorporating safety measures to avoid entrapment of/or injury to young children. Compliance with AS1926.3 – 2010 satisfies the requirement.
- I** Certificate of Compliance under the Electricity (Consumer Safety) Act 2004 required to be submitted to the Electricity Authority confirming compliance with AS 3000

Upon completion of the work, a Certificate of Compliance under the Electricity (Consumer Safety) Act 2004 is required to be submitted to the Electricity Authority confirming compliance with AS 3000.