

COUNCIL ASSESSMENT REPORT

HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

Panel reference	PPSHCC-185
DA Number	8/2023/64/1
LGA	Cessnock City Council
Proposed Development	Demolition of existing structures and construction of a new shopping centre (incorporating 'Woolworths') and associated works
Street Address	178 Lang Street (Lot 136 DP 869710), Kurri Kurri; and Unnamed Council-owned laneway
Applicant	Higgins Planning Pty Ltd
Owner	Mr G and Mrs M Vrachliotis and Voitrant No 124 Pty Ltd
Lodgement Date	21 February 2023
CIV	\$21,968,952 (excluding GST)
Recommendation	Approval
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011)	Clause 3, Schedule 6 of the <i>SEPP (Planning Systems) 2021</i> , being: Council is the current owner of the unnamed Council laneway where the development is proposed to be carried out, and the CIV of the proposed development is over \$5 million
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i> • <i>State Environmental Planning Policy (Planning Systems) 2021</i> • <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i> • <i>State Environmental Planning Policy (Industry and Employment) 2021</i> • <i>Cessnock Local Environmental Plan 2011</i> • <i>Cessnock Development Control Plan 2010</i>
Clause 4.6 requests	N/A
Agency referrals	<ul style="list-style-type: none"> • Transport for NSW: <i>SEPP (Transport and Infrastructure) 2021</i>: Section 2.122/Schedule 3 (Traffic Generating Development) • NSW Police (Local Area Command)
Total number of submissions	Four (4) in total, all during the first public exhibition period. Of these, one (1) was in support of the proposal, one (1) objected to the proposal, and the remaining two (2) specifically outlined that they did not object to the proposal (i.e., were generally supportive), however they raised issues of concern.

Summary of key submissions	Broadly summarised as: <ul style="list-style-type: none">• Traffic and parking• Social impacts• Design considerations• Miscellaneous/other																																				
List all documents submitted with this report for the Panel's consideration	<p>A. Architectural Plans, Project No. 2201 (Votraint No124 Pty Ltd):</p> <table><tr><th>Drawing No.</th><th>Revision</th><th>Date</th></tr><tr><td>DA01</td><td>C</td><td>21/02/2024</td></tr><tr><td>DA02-04</td><td>B</td><td>21/08/2023</td></tr><tr><td>DA05</td><td>C</td><td>21/02/2024</td></tr><tr><td>DA06</td><td>B</td><td>21/08/2023</td></tr><tr><td>DA07-08 and DA10-11</td><td>C</td><td>21/02/2024</td></tr><tr><td>DA12-13</td><td>B</td><td>21/08/2023</td></tr><tr><td>DA20</td><td>C</td><td>21/02/2024</td></tr><tr><td>DA21-23</td><td>B</td><td>21/08/2023</td></tr><tr><td>DA26</td><td>B</td><td>21/08/2023</td></tr><tr><td>DA30-32</td><td>A</td><td>31/01/2023</td></tr><tr><td>DA35-36</td><td>B</td><td>21/08/2023</td></tr></table> <p>B. Civil Engineering Plans, prepared by Metiri, Sheet Nos.01-09, Revision 2 (dated 15 August 2023)</p> <p>C. Preliminary and Detailed Contamination Assessment, prepared by Qualtest Laboratory (NSW) Pty Ltd (dated 21 December 2022)</p> <p>D. Heritage Impact Statement, prepared by Weir Phillips (dated September 2023)</p> <p>E. Traffic Impact Assessment, prepared by Colston Budd Rogers & Kafes Pty Ltd (dated January 2023)</p> <p>F. Demolition Waste Management Plan, prepared by WasteAudit (dated January 2023)</p> <p>G. Construction Waste Management Plan, prepared by WasteAudit (dated January 2023)</p> <p>H. Operational Waste Management Plan, prepared by WasteAudit (dated January 2023)</p> <p>I. Urban Design Peer Review, prepared by Matthew Pullinger Architect (dated 1 September 2023)</p> <p>J. Noise Impact Assessment, prepared by Reverb Acoustics (dated December 2022)</p> <p>K. Consultation Outcomes Report, prepared by Mara Consulting (dated 31 August 2023)</p> <p>L. CPTED Report, prepared by The Design Partnership (dated September 2023)</p> <p>M. Statement of Environmental Effects, prepared by Higgins Planning (dated February 2024)</p> <p>N. Planning Agreement, executed on 24 June 2024</p> <p>O. Draft conditions of consent</p> <p>P. Submissions</p>	Drawing No.	Revision	Date	DA01	C	21/02/2024	DA02-04	B	21/08/2023	DA05	C	21/02/2024	DA06	B	21/08/2023	DA07-08 and DA10-11	C	21/02/2024	DA12-13	B	21/08/2023	DA20	C	21/02/2024	DA21-23	B	21/08/2023	DA26	B	21/08/2023	DA30-32	A	31/01/2023	DA35-36	B	21/08/2023
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Report prepared by	Janine Maher (Principal Town Planner, Hunter Valley Development Services)																																				
Report date	18 July 2024																																				

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? **Yes**

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? **Yes**

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Not applicable**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? **Not applicable**

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment? **Yes**

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

1. EXECUTIVE SUMMARY

1. Development Application (DA) No. 2023/64 has been lodged seeking approval for the demolition of existing structures and construction of a new shopping centre (incorporating 'Woolworths') and associated works at 178 Lang Street and an unnamed Council-owned laneway, Kurri Kurri.

Specifically, the proposal involves:

- a. Demolition of existing structures and site works.
 - b. Alterations and additions to the existing pharmacy building located on Lang Street.
 - c. Construction of a two-storey commercial building containing a 'Woolworths' supermarket (including storage and preparation areas and mezzanine offices), two specialty shops, parking areas, usage and fit-out of all tenancies, signage, mural/s, and landscaping.
 - d. Acquisition of existing Council owned laneway and associated road/laneway closure (454m²), and transfer of land to Council for the purpose of a new public road (647m²).
 - e. Public domain works.
2. The subject application is referred to the Hunter and Central Coast Regional Planning Panel for determination pursuant to Clause 3, Schedule 6 of the *SEPP (Planning Systems) 2021*, being that Council is the current owner of the unnamed Council laneway where the development is proposed to be carried out, and the CIV of the proposed development is over \$5 million.
 3. The DA was referred to Transport for NSW for consideration pursuant to Section 2.122 of the *SEPP (Transport and Infrastructure) 2021*. The below table summarises this matter:

Relevant legislation	Relevant authority	Response
<i>SEPP (Transport and Infrastructure) 2021</i> Section 2.122/Schedule 3 (Traffic Generating Development)	TfNSW	Advice provided throughout the development assessment process; most recently on 21 March 2024. Advice provided comments and recommendations; these have been incorporated into the draft conditions of consent.

4. The subject site is located within the Kurri Kurri commercial area and is zoned E1 Local Centre under the *Cessnock Local Environmental Plan 2011*. The development is a permitted form of development and is consistent with the objectives of the E1 Local Centre zone.
5. The proposed development was exhibited in accordance with the provisions of Council's adopted Community Participation Plan on two (2) separate occasions. A total of four (4) submissions were received by Council, all during the initial exhibition period. Of these, one (1) was in support of the proposal, one (1) objected to the proposal, and the remaining two (2) specifically outlined that they did not object to the proposal (i.e., were generally supportive), however they raised issues of concern.

6. A Planning Agreement between the relevant parties (being Cessnock City Council, the developer and landowners) was entered into on 24 June 2024. Essentially, the main commitments contained in the Planning Agreement require the landowner to construct a new public laneway (647m²) and dedicate to Council and secondly, for Council to close and transfer the existing public laneway (454m²) to the landowner. In addition, the landowner will upgrade the balance of the existing laneway to ensure the entire length of the laneway is constructed to Council's standard/s, and carry out public domain works within the Barton Street frontage of the site.
7. The proposal has been assessed against the relevant matters for consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*. The assessment concludes that the proposed development is generally compliant with the provisions of the *Cessnock Local Environmental Plan 2011* and the planning controls contained within the Cessnock Development Control Plan 2010.
8. Overall, the proposed development is consistent with Council's strategic vision for both the site and the wider locality, as outlined within the Kurri Kurri District Strategy and the Kurri Kurri Commercial Centre Masterplan. The application proposes the redevelopment of the Kingsway Plaza site, which is identified as a catalyst site; accordingly, the redevelopment of the site is encouraged in principle.
9. Finally, the proposed development is expected to result in community benefits, including employment opportunities, road network improvements and public domain upgrades; and create improved commercial offerings within the Kurri Kurri town centre. On this basis, it is recommended that the DA be approved.

2. SITE DESCRIPTION AND LOCALITY

2.1 The Site

The subject site is identified in the following table:

Address	Lot/DP	Size
178 Lang Street, Kurri Kurri	Lot 136 DP 869710	6167m ²
Unnamed Council-owned laneway	N/A	454m ²
Total		6626m²

Table 1: Land comprising the subject site

For the purposes of this report, the abovementioned sites will be referred to as ‘the subject site’.

In total, the subject site is 6167m² in area, the existing unnamed Council-owned laneway is 454m² in area, and 647m² of the site will ultimately be dedicated to Council in accordance with the Planning Agreement entered into between the parties.

The subject site is located within the Kurri Kurri Town Centre. The site has dual road frontage to Lang Street and Barton Street and is currently separated by an existing unnamed Council-owned laneway.

The site is illustrated below.



Figure 1: The site (it is noted that the subject property is identified in red, and the unnamed Council-owned laneway is identified in yellow)

Site surface levels vary between approximately RL 51.05m AHD at the Barton Street frontage to approximately RL 53.35m AHD on the Lang Street frontage, being a 2.3m change in level.

Existing improvements on the site include a two-storey neighbourhood shopping centre known as the 'Kingsway Plaza' that contains approximately 3,200m² of retail space including a supermarket, various retail stores (some of which are vacant), and an at-grade car parking area. An existing dwelling house is located within the at-grade car parking area fronting Barton Street, and this is proposed to be demolished in conjunction with the overall redevelopment of the site.

The site directly adjoins a heritage item, being the building identified as the 'Kurri Kurri Hotel' (Item No. I125), located at 180 Lang Street. In addition, two (2) other heritage items are located nearby, being the 'Chelmsford Hotel' (Item No. I124), located at 122 Lang Street; and the 'Masonic Hall' (Item No. I1228), located at 130 Barton Street.

The site is not impacted by any identified constraints.

The below photos identify the subject site.



Photo 1: The site as viewed from Lang Street



Photo 2: The site as viewed from Barton Street



Photo 3: The site as viewed from Barton Street (identifying existing carparking area and existing dwelling to be demolished)



Photo 4: The existing carparking area on the site (looking east)



Photo 5: The existing laneway along the northern boundary of the site (looking east)



Photo 6: Vehicular access from Victoria street to the existing laneway

2.1 The Locality

The Kurri Kurri Centre Commercial Masterplan recognises the subject site as a catalyst site within the commercial centre.

Kurri Kurri is defined by Lang Street and Barton Street which contain the core shopping strip and commercial precinct. The primary area of activity is along Lang Street between Hampton and Victoria Streets.

In the hierarchy of centres and for local planning purposes, Kurri Kurri is a commercial centre whose role is to support the major centre of Cessnock.

The commercial centre currently contains 'Coles' and 'Aldi' supermarkets, and a number of commercial, retail and office developments.

Existing and surrounding development is predominantly single-storey commercial premises, however two-storey hotels bookend Lang Street with three other modest two-storey developments in between.

Kurri Kurri has a distinct character and history which is enhanced by public art which interprets the rich history of the area, noting that Kurri Kurri is known as 'The Town of Murals'.

The below photos identify the locality.



Photo 7: Existing development directly adjoining the site ('KFC') and opposite the site ('Aldi')



Photo 8: Existing development directly adjoining the site (heritage listed 'Kurri Kurri Hotel')



Photo 9: Existing commercial development directly opposite the site

3. HISTORY OF DEVELOPMENT APPLICATION

3.1 Chronology of Events

The below table summarises key dates and events in respect of the DA.

Date	Action/Event
21 February 2023	DA lodged.
28 March 2023 – 13 April 2023	DA placed on public exhibition. 4 submissions received (3 in support and 1 in objection).
4 April 2023	Kick-off Panel briefing.
Various (between 13 April 2023 and 27 July 2023)	Ongoing meetings held, and telephone discussions, between applicant and Council regarding laneway and Planning Agreement.
18 May 2023	Request for information issued by Council.
6 June 2023	Panel briefing held – Panel requested detail/timeframes for the road/closure and raised other design issues with Barton Street elevation in particular.
5 July 2023	Applicant commenced community consultation.
27 July 2023	Meeting held with applicant to discuss laneway options.
6 September 2023	Draft VPA provided to Council for consideration.
6 September 2023	Complete RFI package lodged via the NSW Planning Portal.
20 September 2023	Panel briefing – timeline/flowcharts/procedure requested for Planning Agreement and road closure process.
9 October 2023	Applicant lodged a request for road closure with Council.

12 October 2023	RFI documentation referred internally and externally (TfNSW).
31 October 2023	Council issued the applicant with a request for further information for an amended Traffic Impact Assessment (requested by TfNSW).
15 November 2023	Council supported and endorsed Report PE 40/2023 which related to a Planning Agreement Letter of Offer dated 29 September 2023 in respect of the subject site.
17 November 2023	Applicant provides a response to the matters raised by TfNSW.
20 November 2023	Draft Planning Agreement forwarded to Council's legal provider for review.
30 November 2023	Council officers provide Panel with draft timeline and flowcharts for the draft Planning Agreement and proposed road closure application.
5 December 2023	Panel briefing – key issues include design (eastern elevation), clarification regarding laneways within the locality and consistency with the adopted masterplan, outstanding/required referrals, pedestrian linkages and access to the carpark.
11 December 2023	Panel Record of Briefing issued.
19 December 2024	TfNSW provide comments on proposal.
25 January 2024	Request for information issued by Council.
22 February 2024	Council supported and endorsed Report PE 1/2024 which recommended exhibition of the Draft Planning Agreement and road closure application in conjunction with the DA.
22 February 2024	Applicant provides a response to the matters raised by TfNSW.
21 March 2024	TfNSW provide comments on proposal.
22 March 2024	Applicant responds to matters raised by TfNSW.
28 March 2024 – 2 May 2024	<p>DA placed on re-exhibition, along with the Draft Planning Agreement and the road closure application for the Council owned laneway, noting that:</p> <ul style="list-style-type: none"> • Nine (9) submissions were received in respect of the Planning Agreement (eight (8) in support and one (1) expressing concern regarding the amount of carparking spaces the development will provide as opposed to the current spaces already existing). • One (1) objection was submitted in respect of the road closure application from Ausgrid but was subsequently withdrawn. • Nil submissions were received in respect of the DA.
19 June 2024	<p>Outcome of exhibition of Draft Planning Agreement and road closure application reported to Council (Report PE 11/2024).</p> <p>Council resolved to authorise the General Manager to endorse the Planning Agreement and any necessary documentation in relation to the road closure.</p>
24 June 2024	Planning Agreement executed.

Table 2: Chronology of events (key dates)

4. DETAILS OF THE PROPOSED DEVELOPMENT

4.1 Introduction

DA No. 2023/64 seeks approval for the demolition of an existing shopping centre and construction of a new shopping centre (incorporating 'Woolworths') at 178 Lang Street and an unnamed Council-owned laneway, Kurri Kurri.

Specifically, the proposal involves:

- a. Demolition of existing structures and site works
- b. Alterations and additions to the existing pharmacy building located on Lang Street
- c. Construction of a two-storey commercial building containing a 'Woolworths' supermarket (including storage and preparation areas and mezzanine offices), two specialty shops, parking areas, usage and fit-out of all tenancies, signage, mural/s, and landscaping
- d. Acquisition of existing Council owned laneway and associated road/laneway closure (454m²), and transfer of land to Council for the purpose of a new public road (647m²)
- e. Public domain works

Plans illustrating the proposed development are contained within Appendices A and B.

These components are discussed in detail below.

4.2 Demolition of existing structures and site works

Demolition and associated site works are identified in Drawing No. DA04 of the architectural plans, as illustrated below.

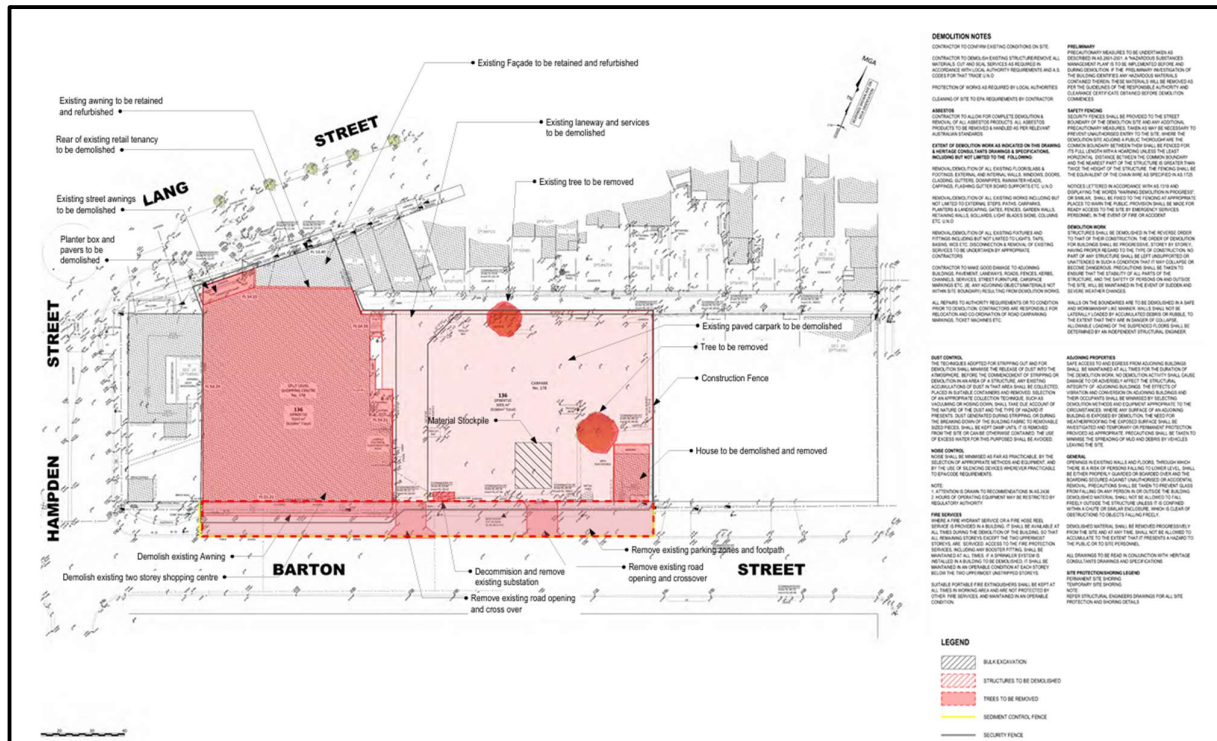


Figure 2: Demolition works

In summary, works include:

- Erection of construction/safety fences around the perimeter of the site
- Demolition of the existing two-storey shopping centre
- Demolition of identified awnings in both Barton Street and Lang Street
- Demolition of existing dwelling within the Barton Street frontage
- Demolition of existing planter box and pavers within the Lang Street frontage
- Removal of existing carpark surface
- Demolition of redundant vehicular access crossings within the Barton Street frontage
- Decommissioning and removal of existing substation within the Barton Street frontage
- Removal of existing parking zones and footpath within the Barton Street frontage
- Removal of existing trees
- Demolition/removal of existing services

4.4 Construction of a two-storey commercial building containing a 'Woolworths' supermarket (including storage and preparation areas and mezzanine offices), two specialty shops, parking areas, usage and fit-out of all tenancies, signage, mural/s, and landscaping

The works proposed in respect of the new commercial building with two (2) specialty shops and a new 'Woolworths' supermarket (and associated works) is identified in various drawings contained within the architectural plans.

An overall site plan and elevations of the proposed 'Woolworths' building, are illustrated below.

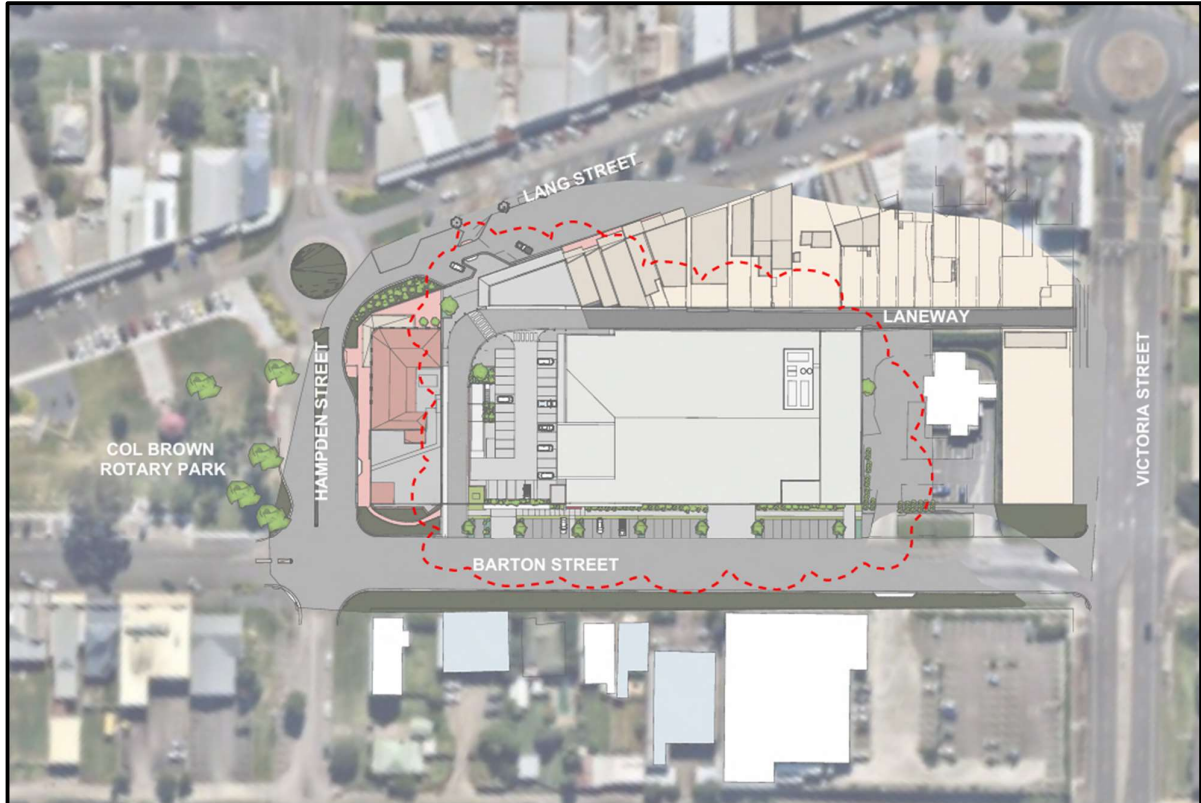
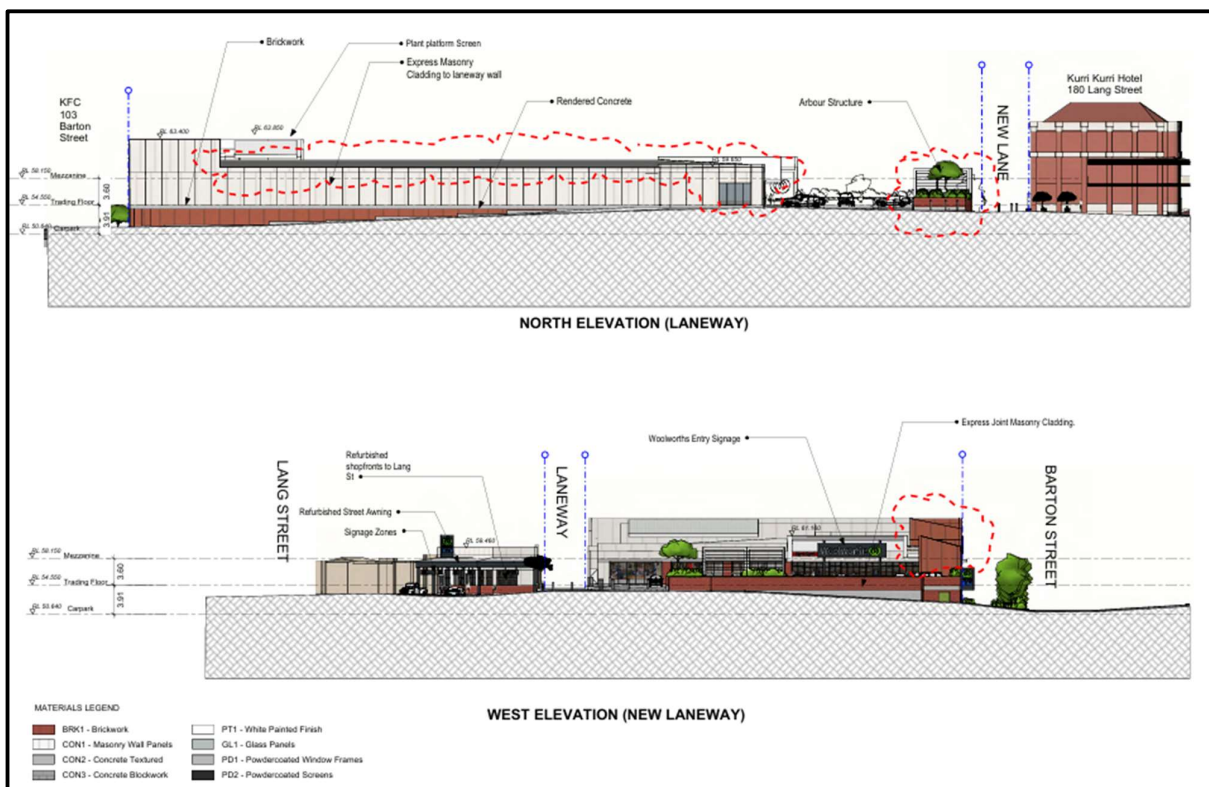
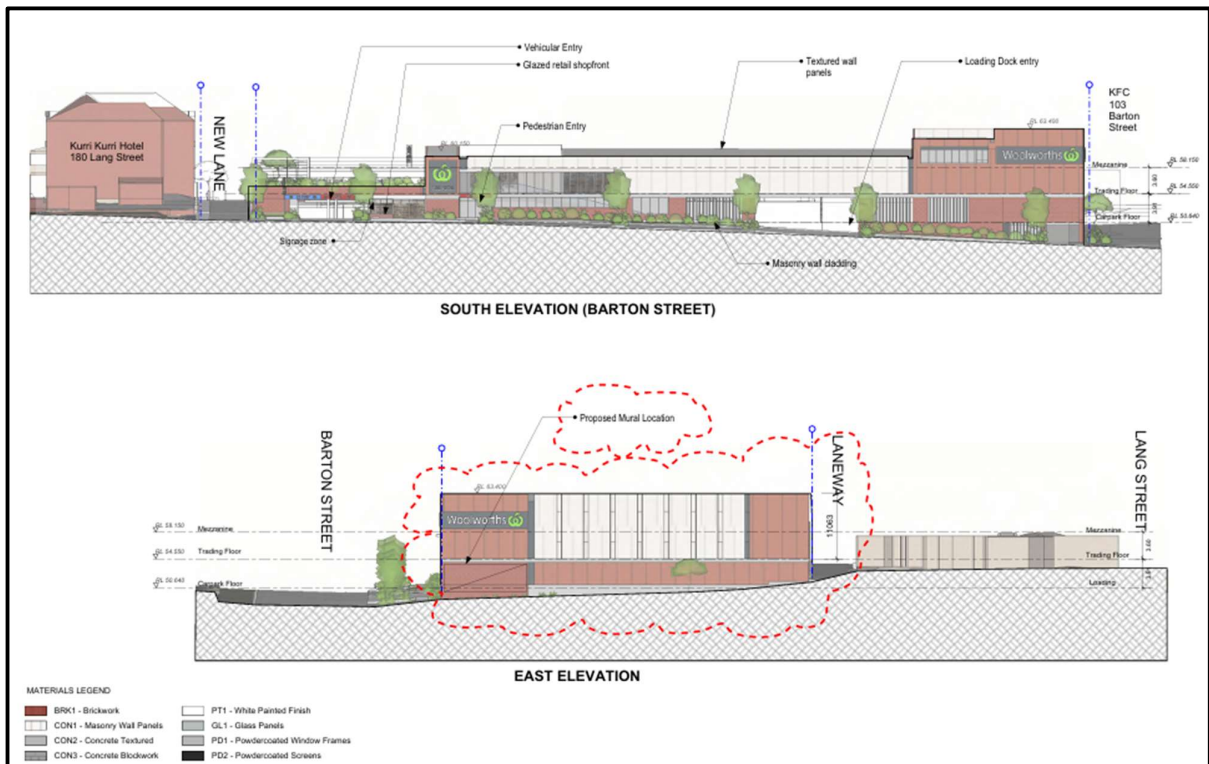


Figure 4: Overall site plan



In summary, works include:

- Construction of two (2) speciality shops (identified as Spec T1 and T2 in the plans)
- Construction of a 'Woolworths' supermarket including ancillary services such as a travelator, lifts, storage areas, and preparation areas
- Construction of a mezzanine containing offices, amenities and a plant room
- Construction of a basement carpark containing 120 spaces (including 6 direct-to-boot spaces)
- Construction of an upper-level carpark containing 31 spaces
- Erection/installation of signage on the building and throughout the site
- Identification of a location for replacement mural/murals on the eastern elevation of the building

When completed, the gross floor area in respect of each of the tenancies, will be as follows:

Tenancy	Gross floor area
Spec T1	350m ²
Spec T2	100m ²
'Woolworths' (including office component)	3607m ²

4.5 Acquisition of existing Council owned laneway and associated road/laneway closure (454m²), and transfer of land to Council for the purpose of a new public road (647m²)

Essentially, the applicant has negotiated with Council to purchase the existing Council owned laneway (454m²), which will be closed and incorporated into the development site (being 178 Lang Street, Lot 136 DP 869710).

In return, the developer will transfer a portion (647m²) of the development site (being 178 Lang Street, Lot 136 DP 869710) to Council for the purpose of a new public road. This is illustrated in the below plan.



Figure 7: Plan identifying existing laneway (pink) and proposed laneway (yellow)

A Planning Agreement outlining the process involved in this aspect of the proposal was executed between the parties on 24 June 2024.

All works and timeframes outlined above are contained within the Planning Agreement and are required to be carried out/completed in accordance with the timing specified in the Planning Agreement, which is reflective of the staging plans lodged in conjunction with the application (refer to below).

A copy of the Planning Agreement is contained in Appendix N, and a detailed explanation of the commitments contained in the Planning Agreement are outlined in Section 6 of this report.

Public domain works are identified in Drawing Nos. DA07 and DA08 of the architectural plans, as illustrated below.

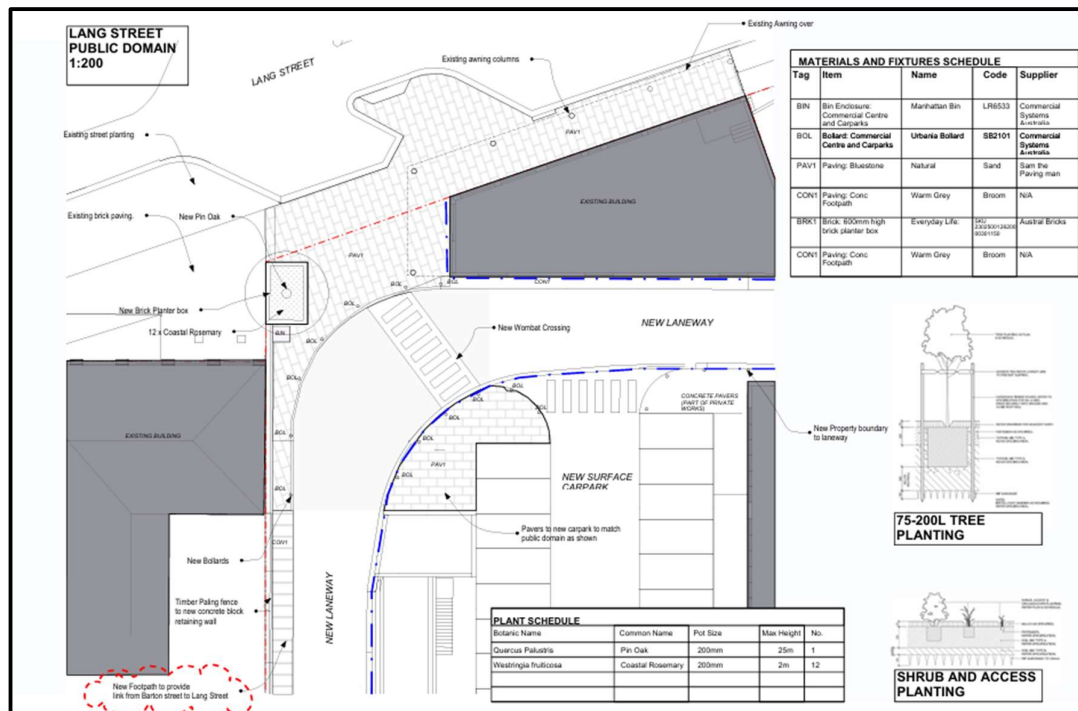


Figure 8: Public domain works in Lang Street and the plaza

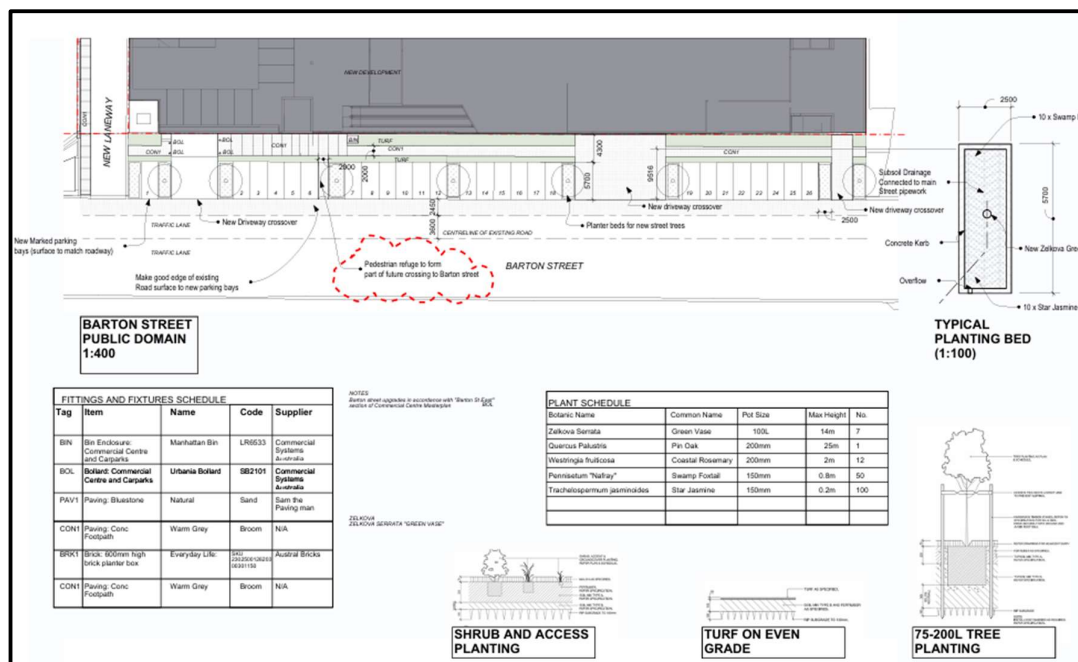


Figure 9: Public domain works in Barton Street

In summary, works include:

- New bluestone paving, planter box and associated landscaping along the Lang Street frontage and within the pedestrian access point into the 'Woolworths'.
- New wombat crossing linking Lang Street with the proposed 'Woolworths' car park and pedestrian access point.
- New footpath along the western boundary of the new laneway to provide a pedestrian link between Barton Street and Lang Street.
- Installation of bollards and a bin within the public domain area and the proposed 'Woolworths' car park and pedestrian access point.
- Formalisation of parking along the Barton Street frontage of the site totalling 26 spaces, including new planter beds and a pedestrian refuge to form part of a future pedestrian crossing (if warranted).

The public domain works within the Barton Street frontage are identified within the Planning Agreement and are required to be completed prior to the issue of an Occupation Certificate in respect of the proposed development.

The remainder of the public domain works, i.e., those within Lang Street and the proposed plaza, form part of the DA.

4.7 Staging of construction works

Whilst not lodged as, or seeking approval for, a staged development, the applicant has nominated the three (3) 'construction' stages to facilitate delivery of the overall development.

The staging is identified in Drawing No. DA06 of the architectural plan, as illustrated below.

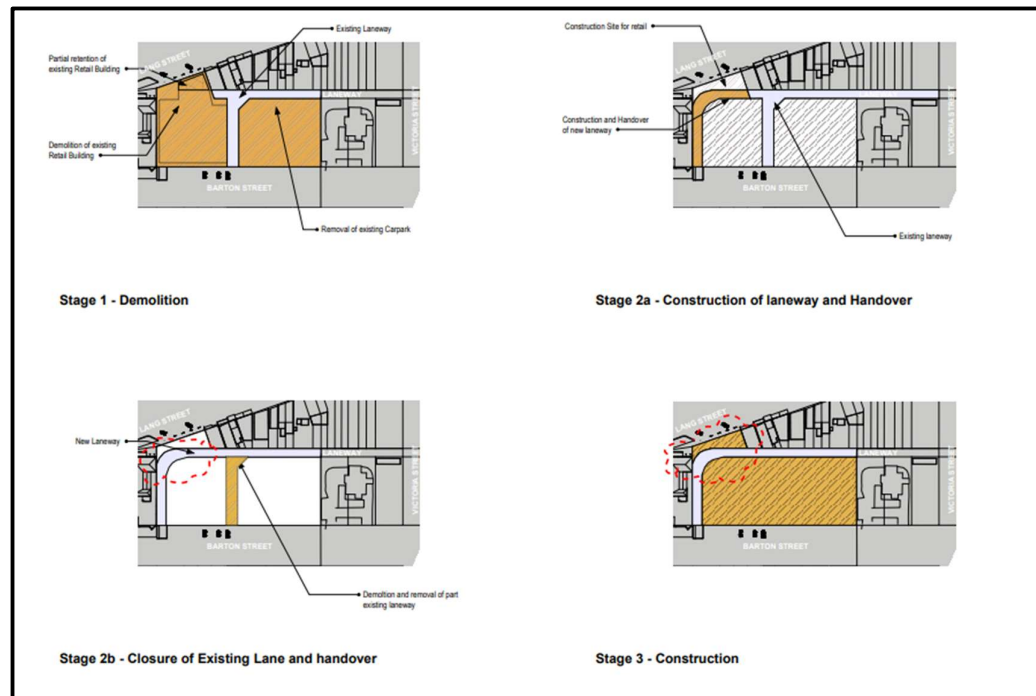


Figure 10: Plan identifying stages of delivery/construction

The purpose of the staging is to facilitate delivery of the overall development, with a particular emphasis placed on the works required to construct and open the new public road/laneway prior to closure of the existing laneway. In this regard, the proposed staging is also reflected in the Planning Agreement entered into between the parties on 24 June 2024, which is discussed later in this report.

Details in respect to the proposed staging are as follows:

Stage	Details
1	Demolition of existing 'Kingsway Plaza', alterations and additions to the existing pharmacy building located on Lang Street (identified as Spec T3), and removal of existing carpark.
2a	Construction of new laneway (including the widening of the existing laneway between the site and Victoria Street), and handover from landowner to Council whilst maintaining existing laneway.
2b	Closure of existing laneway and handover from Council to landowner.
3	Construction of the remainder of the proposed development, comprising a two-storey commercial building containing a 'Woolworths' supermarket (including storage and preparation areas and mezzanine offices), two specialty shops, parking areas, usage and fit-out of all tenancies, signage, mural/s, landscaping and public domain works.

Table 3: Staging

5. ASSESSMENT

Section 4.15(1) Evaluation

The following matters are relevant to the assessment of the DA:

4.15(1)(a)(i) The provisions of any environmental planning instrument

The environmental planning instruments that relate to the DA are:

1. *State Environmental Planning Policy (Resilience and Hazards) 2021*
2. *State Environmental Planning Policy (Planning Systems) 2021*
3. *State Environmental Planning Policy (Transport and Infrastructure) 2021*
4. *State Environmental Planning Policy (Industry and Employment) 2021*
5. *Cessnock Local Environmental Plan 2011*

An assessment of the DA under the environmental planning instruments is provided below:

1. State Environmental Planning Policy (Resilience and Hazards) 2021

Section 4.6 of *SEPP (Resilience and Hazards) 2021* requires Council to consider the following before granting consent to a DA:

- a) it has considered whether the land is contaminated, and
- b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and
- c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

A Preliminary and Detailed Contamination Assessment, prepared by Qualtest Laboratory (NSW) Pty Ltd (dated 21 December 2022) was lodged in conjunction with the application and is contained in Appendix C.

The assessment identified that historically, the western part of the site has been used for commercial purposes since the 1920s, whilst the eastern part of the site has been used for residential purposes since at least the 1940s. The majority of the dwellings on the eastern part of the site have been progressively removed over time, and an asphalt carpark was established on this portion of the site between the 1990s and early 2000s.

Three (3) areas of concern were identified having regard to the site's history and site observations. In total 16 soil sampling locations were tested.

The laboratory results confirmed:

- Concentrations of contaminants were below the adopted criteria and no asbestos was detected in soil samples.
- Chrysotile asbestos was detected in a small fragment of fibre-cement material.
- No phenols were detected in the sample of older asphalt tested, and no odours were observed, indicating that coal tar was not present.
- It is possible that fragments of asbestos containing materials (ACM) are present on the site, particularly in the area of the former dwellings and associated sheds. As the site

is currently paved with asphalt and concrete, the ACM does not currently pose a risk to site users. The ACM could pose a risk to future construction workers, and ACM will need to be managed during earthworks and construction of the proposed development.

The assessment concludes as follows:

Based on the preliminary and detailed assessment completed, it is considered that the site is suitable for the proposed shopping centre development (commercial purposes), provided the following recommendations are implemented:

- *Preparation of an Asbestos Management and Removal Plan to be implemented during earthworks and construction of the proposed development. The plan should outline how ACM will be assessed and identified prior to earthworks commencing on the site, and the procedures for the handling and removal of ACM (including soils containing asbestos). Care must be taken to prevent spreading ACM onto other areas of the site;*
- *Preparation of an Unexpected Finds Procedure to manage potential unexpected finds of contamination during earthworks and construction for the proposed development.*
- *The Asbestos Management and Removal Plan and Unexpected Finds Procedure could form part of the Construction Environmental Management Plan, to be prepared by the site owner/manager, or contractor.*

The abovementioned recommendations have been imposed as a condition of consent.

On the basis of the assessment carried out and in consideration of the above, it is reasonable to conclude that the site is not contaminated and is suitable for the proposed development.

2. State Environmental Planning Policy (Planning Systems) 2021

The subject application is referred to the Hunter and Central Coast Regional Planning Panel for determination pursuant to Clause 3, Schedule 6 of the *SEPP (Planning Systems) 2021*, being that Council is the current owner of the unnamed Council laneway where the development is proposed to be carried out, and the CIV of the proposed development is over \$5 million.

3. State Environmental Planning Policy (Transport and Infrastructure) 2021

The site is located less than 90 metres from Victoria Street (Main Road 588) and proposes the erection of a commercial premises containing 50 or more car parking spaces and more than 2,500m² of gross floor area. Therefore, in accordance with Section 2.122 of the *SEPP (Transport and Infrastructure) 2021*, the DA is required to be referred to TfNSW for comment.

TfNSW provided comment in respect of the DA throughout the assessment process, most recently on 21 March 2024. TfNSW comments can be summarised as follows:

- The width of the laneway connecting the site with Victoria Street, and the impact associated with queuing into Victoria Street.
- Appropriate speed/traffic environment in respect of the laneway.
- The need for TfNSW concurrence under Section 138 of the *Roads Act 1993* with respect to the intersection of the laneway and Victoria Street.

Matters relating to traffic and transport are assessed in detail later in this report.

4. State Environmental Planning Policy (Industry and Employment) 2021

The application proposes the erection/installation of signage throughout the site, as detailed in Drawing No. DA07; reproduced below.

In summary, a mixture of building/business identification signage and directional/way-finding signage is proposed on the external elevations of the building and throughout the site.

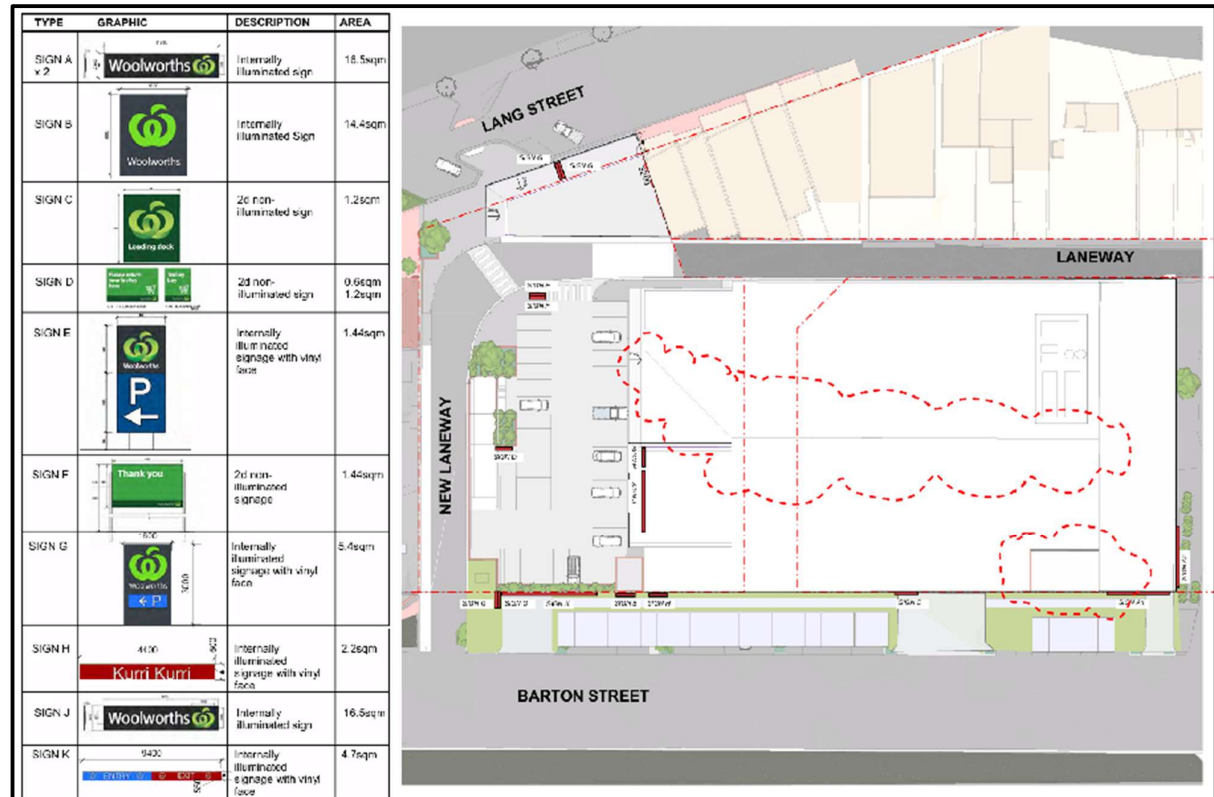


Figure 11: Plan identifying signage

The below table summarises the signage detailed in Drawing No. DA07 (i.e., those signs that are visible from a public place), and identifies how many of each sign are proposed to be erected/installed:

Sign reference	Type of sign		Number proposed	Size
	Building/business identification	Directional/way finding		
Sign A	<input checked="" type="checkbox"/>	<input type="checkbox"/>	2	16.5m ²
Sign B	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1	14.4m ²
Sign C	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1	1.2m ²
Sign D	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1	0.6 – 1.2m ²
Sign E	Both		1	1.44m ²
Sign F	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1	1.44m ²
Sign G	Both		4	5.4m ²
Sign H	Identifies town name		2	2.2m ²
Sign J	<input checked="" type="checkbox"/>	<input type="checkbox"/>	1	16.5m ²
Sign K	<input type="checkbox"/>	<input checked="" type="checkbox"/>	1	4.7m ²

Table 4: Summary of proposed signage

Chapter 3 Advertising and Signage of the SEPP is relevant to the DA and requires proposed advertising and signage to be considered/assessed against specific criteria to ensure it is consistent with the objectives of Chapter 3 of the SEPP.

The proposed signage (comprising building/business identification signage and directional/way-finding signage) is considered consistent with the objectives noting that is compatible with the commercial zoning of the site and its location within the Kurri Kurri town centre; is of a high-quality design and finish; and effectively communicates the specific components of the proposed development with future users.

An assessment of the proposed signage against the considerations specified within Schedule 5, is outlined below.

Assessment Criteria	Comment
Character of the area	The proposed signage is compatible with the existing and desired future character of the area considering the site's location in the commercial core of Kurri Kurri.
Special areas	<p>The proposed signage does not detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas.</p> <p>It is noted that a heritage item adjoins the site, and two (2) other heritage items are located within the vicinity of the site. However, the predominant orientation of the building to Barton Street, and the separation of the building's western elevation to the site containing the adjoining hotel will ensure the proposed signage does not adversely affect the visual significance of the hotel.</p>
Views and vistas	The proposed signage does not obscure or comprise important views; does not dominate the skyline; and does not impact the viewing rights of other advertisers. In this regard, all proposed signage is located within the boundaries of the development site.
Streetscape, setting or landscape	<p>The scale, size and location of the proposed signage is considered acceptable taking into account the site's location within the Kurri Kurri commercial centre.</p> <p>The proposed signage is not considered excessive and is commensurate with the size and intended use of the proposed development.</p>
Site and building	As outlined above, the proposed signage is compatible with the scale and proportion of the proposed building.
Associated devices and logos with advertisements and advertising structures	The 'Woolworths' logo has been incorporated into the proposed signage and forms an integral component of the signs.
Illumination	<p>A number of internally illuminated signs are proposed.</p> <p>In terms of the four (4) illuminated building/business identification signs proposed, the following is noted:</p> <ul style="list-style-type: none"> • The signage identified as 'Sign A' is proposed to be located on the southern and eastern elevations of the building, and these signs measure 16.5m² in area. • The signage identified as 'Sign B' is proposed to be located on the southern elevation of the building; adjacent to the main entry to the building as accessed from Barton Street, and this sign measures 14.4m² in area.

	<ul style="list-style-type: none"> The signage identified as 'Sign J' is proposed to be located on the western elevation of the building, and this sign measures 16.5m². <p>The illuminated signs will not result in unacceptable glare, impact on safety for pedestrians etc., or detract from any residential amenity considering the site's location within the Kurri Kurri commercial centre, the height at which the signage is proposed to be erected, and the specific location of the signage on the building.</p> <p>A condition of consent has been imposed to ensure that the illuminated signs comply with AS 4282:2023 Control of the Obtrusive Effects of Outdoor Lighting.</p>
Safety	The proposed signage does not represent or create any safety risks. Way-finding signage is proposed throughout the site which will reduce potential issues and assists with public safety.

Table 5: Assessment of proposed signage

5. Cessnock Local Environmental Plan 2011

5.1 Permissibility

The subject site is zoned E1 Local Centre under the provisions of the *Cessnock Local Environmental Plan (CLEP) 2011*, as illustrated below:



Figure 12: Zoning of the subject site

Each of the main components of the proposed development (being the ‘Woolworths’ supermarket and three specialty stores) are defined as a ‘shop’. The remainder of the components of the development, including the storage and preparation areas, mezzanine offices, signage, murals, landscaping and parking are all considered ancillary to the dominant use of the site.

Under the provisions of the CLEP 2011, a ‘shop’ is defined as:

shop means premises that sell merchandise such as groceries, personal care products, clothing, music, homewares, stationery, electrical goods or the like or that hire any such merchandise, and includes a neighbourhood shop and neighbourhood supermarket, but does not include food and drink premises or restricted premises.

Note—

Shops are a type of retail premises—see the definition of that term in this Dictionary.

‘Retail premises’ are a type of ‘commercial premises’.

‘Commercial premises’ are a permitted form of development in the E1 Local Centre zone, with consent.

5.2 Objectives

The objectives of the E1 Local Centre, and a response to each, are outlined in the below table.

Objective	Comment
<i>To provide a range of retail, business and community uses that serve the needs of people who live in, work in or visit the area.</i>	The proposed development will provide for a ‘Woolworths’ supermarket and three specialty stores; such shops will serve the needs of the community of Kurri Kurri and the wider locality.
<i>To encourage investment in local commercial development that generates employment opportunities and economic growth.</i>	The proposed development will generate employment opportunities and economic growth. The site is currently not being used to its full potential, and the proposal is consistent with the strategic vision for the site and the commercial core of Kurri Kurri.
<i>To enable residential development that contributes to a vibrant and active local centre and is consistent with the Council’s strategic planning for residential development in the area.</i>	No residential development proposed.
<i>To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.</i>	The application proposes the retention of an existing commercial tenancy on the Lang Street frontage (being the existing pharmacy), and the establishment of a new commercial tenancy on the ground floor of the Barton Street frontage.


Table 6: Summary of zone objectives

Overall, the proposed development is expected to result in community benefits, including employment opportunities, road network improvements and public domain upgrades; and create improved commercial offerings within the Kurri Kurri town centre.

On the basis of the above, it is considered that the proposed development is consistent with the objectives of the E1 Local Centre zone.

5.3 Relevant Clauses

The Application was assessed against the following relevant clauses of the CLEP 2011:

Cessnock LEP 2011		
Provision	Required	Comment
Land Use Table	Site is zoned E1 Local Centre	As outlined above, the proposed development is a permitted form of development.
Clause 2.7 Demolition requires development consent	Requires development consent for any demolition works	The application proposes demolition works, as outlined in Section 4 of this report. Development consent is sought for all proposed demolition works.
Clause 5.10 Heritage conservation	Consideration of items of heritage significance	<p>The subject site adjoins a heritage item of local significance (located to the west at 180 Lang Street), being the <i>Kurri Kurri Hotel</i> (Item No. I125 under Schedule 5), as identified below.</p>  <p>In addition to the above, the site is located within the vicinity of the following items of heritage significance:</p> <ul style="list-style-type: none"> • 'Chelmsford Hotel' (Item No. I124) at 122 Lang Street, Kurri Kurri • 'Masonic Hall' (Item No. I228) at 130 Barton Street, Kurri Kurri <p>A Heritage Impact Statement, prepared by Weir Phillips (dated September 2023), was lodged in conjunction with the application (Appendix D), and this was referred to Council's Heritage Advisor for comment.</p> <p>In summary, Council's Heritage Advisor is satisfied that the proposed development addresses the requirements of Clause 5.10 of the CLEP 2011 and the relevant provisions of Part D12 of the Cessnock Development Control Plan 2010, and raises no objection to approval of the DA subject to the imposition of conditions of consent.</p>

		Matters relating to heritage are assessed in detail later in this report.
Clause 7.2 Earthworks	Consideration of earthworks	<p>Earthworks are proposed in conjunction with the overall development. The earthworks are considered commensurate with the type of development to be carried out on the site and are consistent with expectations for commercial development.</p> <p>The proposed earthworks are unlikely to result in the disruption of any existing drainage patterns and soil stability, will not affect the likely future use or redevelopment of the land, and will not result in any adverse impacts on adjoining properties and nearby waterways.</p> <p>Consistent with the requirements of Clause 7.2(h), appropriate erosion and sediment control measures are proposed to be installed whilst the development is being constructed, and these are illustrated in the erosion and sediment control plan submitted in conjunction with the DA (prepared by Metiri, Sheet No. 03).</p> <p>It is concluded that the earthworks proposed are consistent with the requirements of this clause.</p>

Table 7: LEP compliance

4.15(1)(a)(ii) The provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved).

No proposed instrument is relevant to the DA/subject site.

4.15(1)(a)(iii) The provisions of any development control plan

Cessnock Development Control Plan 2010

The following provisions of the Cessnock Development Control Plan 2010 are relevant to consideration of the DA.

CHAPTER C1 PARKING AND ACCESS															
Required		Provided	Complies												
			Yes	No	N/A										
1.1 - Introduction															
Application, purpose, aims and objectives		Noted.													
1.2 – Car parking standards															
On site parking to be provided in accordance with Table 1.2		The application proposes a total of 151 on-site parking spaces, in the following areas:			<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>								
The three specialty stores are required to provide 1 space per 20m² of gross floor area. Therefore, 33 spaces are required for this component.		<table><tr><th>Area</th><th>Number of spaces</th></tr><tr><td>Basement</td><td>120 (including 6 direct-to-boot spaces)</td></tr><tr><td>At-grade parking area</td><td>31</td></tr><tr><td>Total</td><td>151</td></tr></table>			Area	Number of spaces	Basement	120 (including 6 direct-to-boot spaces)	At-grade parking area	31	Total	151			
Area	Number of spaces														
Basement	120 (including 6 direct-to-boot spaces)														
At-grade parking area	31														
Total	151														
The supermarket is required to provide 1 space per 15m² of gross floor area. Therefore, 225 spaces are required for this component.		In addition to the above, 26 parking spaces are proposed to be provided within the frontage of the site on Barton Street.													

<p>The office component is required to provide 1 space per 30m² of gross floor area. Therefore, 8 spaces are required for this component.</p> <p>Overall, the development is required to provide a total of 266 spaces.</p> <p>The DCP outlines that these car parking requirements may be reviewed subject to the submission of a detailed traffic assessment report that demonstrates that a reduced level of parking is satisfactory for the proposed development and both the immediate and general locality.</p>	<p>The applicant submitted a detailed Traffic Impact Assessment, prepared by Colston Budd Rogers & Kafes Pty Ltd (dated January 2023), to support the application, commentary within which relates to the shortfall in parking (Appendix E).</p> <p>On the basis of the TIA submitted, along with an assessment of the proposal against the TfNSW Guide to Traffic Generating Developments, the variation is considered acceptable.</p> <p>The proposed variation is assessed in detail later in this report.</p>			
1.3 – Qualifications and exceptions to car parking standards				
<p>1.3.8: Major Traffic Generating Development</p> <p>Parking requirements for major new developments will be assessed on merit</p>	<p>Noted.</p> <p>In this case, the provision of on site parking has been assessed on merit.</p>			
<p>1.3.9: Referrals</p> <p>Requirement to refer to TfNSW in certain circumstances</p>	<p>TfNSW provided comment in respect of the DA throughout the assessment process, most recently on 21 March 2024. In summary, TfNSW comments can be summarised as follows:</p> <ul style="list-style-type: none"> • The width of the laneway connecting the site with Victoria Street, and the impact associated with queuing into Victoria Street. • Appropriate speed/traffic environment in respect of the laneway. • The need for TfNSW concurrence under Section 138 of the <i>Roads Act 1993</i> with respect to the intersection of the laneway and Victoria Street. 			
1.4 – Design guidelines for off-street vehicular parking areas				
<p>1.4.1 – 1.4.7: Design Considerations</p> <p>Requirements relating to access, driveway/s, design, parking for person/s with a disability, loading/unloading facilities and landscaping</p>	<p>All proposed parking areas, driveways and loading/unloading areas are compliant with the requirements relating to the design of off street vehicular parking areas.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

CHAPTER C3 CONTAMINATED LANDS				
Required	Provided	Complies		
		Yes	No	N/A
<p>Contaminated land is identified through appropriate investigations</p> <p>The contaminated site is appropriately and effectively remediated prior to occupation of the land for its intended use</p>	<p>Addressed under <i>State Environmental Planning Policy (Resilience and Hazards) 2021</i>. Refer to previous comments.</p> <p>No further consideration required.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Changes to land use will not increase the risks to public health or the environment as a result of contamination on site, or adjacent properties				
Investigation, remediation and management is undertaken in accordance with the relevant legislation and policy				

CHAPTER C5 WASTE MANAGEMENT AND MINIMISATION					
Required		Provided	Complies		
			Yes	No	N/A
Waste Management Plan required for demolition works	A detailed Demolition Waste Management Plan, prepared by WasteAudit (dated January 2023), was lodged in conjunction with the DA, a copy of which is contained in Appendix F. The Demolition Waste Management Plan contains information and arrangements in respect of the following matters: <ul style="list-style-type: none">• An assessment of existing structures located on the site• Waste management practices to be utilised• Record keeping• Materials storage• Liquid waste• Asbestos• An assessment of the amount of waste to be removed from the site• Details relating to contractor management• Details relating to training and education.		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Waste Management Plan required for construction stage	A detailed Construction Waste Management Plan, prepared by WasteAudit (dated January 2023), was lodged in conjunction with the DA, a copy of which is contained in Appendix G. The Construction Waste Management Plan contains an estimate of the amount of waste likely to be generated during the construction phase and the proposed waste management strategy proposed to be utilised.		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Waste Management Plan required for ongoing operation/use	A detailed Operational Waste Management Plan, prepared by WasteAudit (dated January 2023), was lodged in conjunction with the DA, a copy of which is contained in Appendix H. The Operational Waste Management Plan contains information and arrangements in respect of the following matters: <ul style="list-style-type: none">• Resource streams• Volumes, bins and collection frequency• Storage area requirements• Bin transfer and collection• Collection vehicle details• Management systems• Waste contractor standards• Tenant and stakeholder education		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

CHAPTER C8 – SOCIAL IMPACT ASSESSMENT AND CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN					
Required		Provided	Complies		
			Yes	No	N/A
Social impact assessment					
Social Impact Assessment (SIA) to be lodged in conjunction with a development application proposing construction of a new commercial premises with an estimated cost of development of \$5 million or more	A Social Impact Comment (SIC) was initially lodged in conjunction with the development application. This was later supplemented by extensive additional community consultation, the outcome of which was documented in a Consultation Outcomes Report, prepared by Mara Consulting (dated 31 August 2023); refer to Appendix K. Cumulatively, these reports are considered to constitute a Social Impact Assessment (SIA).		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SIA to be undertaken in accordance with Cessnock City Council's Social Impact Assessment Guidelines	The SIC and related documents were undertaken in accordance with Council's Social Impact Assessment Guidelines.		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SIA to be prepared by a suitably qualified and experienced person	The SIC and related documents were prepared by a suitably qualified and experienced person.		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Crime Prevention Through Environmental Design					
CPTED or Crime Risk Assessment Report to be lodged in conjunction with a development application proposing construction of a new commercial premises and specialised retail premises with an estimated cost of development of \$5 million or more	A CPTED Report was lodged in conjunction with the development application. This was later supplemented by an amended CPTED Report, prepared by The Design Partnership (dated September 2023), in response to extensive community consultation that was undertaken by the applicant; refer to Appendix L.		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
CPTED Report to be undertaken in accordance with Cessnock City Council's Crime Prevention Through Environmental Design Guidelines	The CPTED Report was undertaken in accordance with Council's Crime Prevention Through Environmental Design Guidelines.		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
CPTED Report to be prepared by a suitably qualified person who has completed the NSW Police Safer by Design Course	The CPTED Report was prepared by a suitably qualified person who has completed the NSW Police Safer by Design Course.		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Matters relating to social impact and CPTED are assessed in detail later in this report.					

CHAPTER D5 – OUTDOOR SIGNAGE																		
Required		Provided		Complies														
				Yes	No	N/A												
5.1 - Introduction																		
Objectives and definitions		Noted.																
5.2 – Where are signs allowed?																		
The table identifies where signs are allowed		All proposed signage is permitted in the E1 Local Centre zone.		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>												
Signs shall be located on the actual property that contains the business or activity identified or promoted on the sign itself		All proposed signage is located on the site. No off-site signage is proposed.		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>												
The table identifies the maximum number of signs permitted		A mixture of building/business identification signage and directional/way-finding signage is proposed on the external elevations of the building and throughout the site. For the purpose of this assessment, the four (4) proposed building/business identification signs are considered. Directional/way finding signage is not assessed. The below table summarises compliance with this provision. <table><tr><th>Type of sign</th><th>Permitted</th><th>Proposed</th></tr><tr><td>Post-supported</td><td>2</td><td>1</td></tr><tr><td>Wall</td><td>2</td><td>2</td></tr><tr><td>Entrance</td><td>2</td><td>1</td></tr></table> In summary, the number of signs proposed is considered compliant.		Type of sign	Permitted	Proposed	Post-supported	2	1	Wall	2	2	Entrance	2	1	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Type of sign	Permitted	Proposed																
Post-supported	2	1																
Wall	2	2																
Entrance	2	1																
5.3 – Design criteria																		
Requirements relating to number, size and dimensions of signs, along with the requirement to assess proposed signage against the assessment criteria contained in section 5.5		The majority of the assessment criteria does not apply to the type of signage proposed. However, of relevance is the criteria applying to post, pole or pylon signs. The below table summarises compliance with this provision. <table><tr><th>Criteria</th><th>Permitted</th><th>Proposed</th></tr><tr><td>Area</td><td>8m² (max)</td><td>16.5m²</td></tr><tr><td>Height</td><td>8m (max)</td><td>6.6m (max)</td></tr></table> Whilst the entrance sign does not comply with this provision, it is noted that two (2) such signs are permitted per site; whereas the application only proposes one (1) of these signs. It is noted that the proposed signage has been considered against the assessment criteria contained in Schedule 5 of the <i>State Environmental Planning Policy (Industry and Employment) 2021</i> , most of which is representative of the requirements contained in section 5.5 of the DCP. Overall, the proposed signage is considered compatible with the commercial zoning of the site, commensurate		Criteria	Permitted	Proposed	Area	8m² (max)	16.5m²	Height	8m (max)	6.6m (max)	<input type="checkbox"/>	<input checked="" type="checkbox"/> Partly	<input type="checkbox"/>			
Criteria	Permitted	Proposed																
Area	8m² (max)	16.5m²																
Height	8m (max)	6.6m (max)																

	with the size of the site, and appropriate considering the site's location within the Kurri Kurri town centre.			
5.4 – Roadside directional signage				
Requirements relating to roadside directional signage	Application does not propose the erection of roadside directional signage.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
5.5 – Assessment criteria				
Assessment criteria	Refer to previous comments.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5.6 – Special provisions				
Contains provisions for the area adjoining the RU4 zone, identified in Map 1	Site does not adjoin an RU4 zone and is not contained within the area identified in Map 1.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

CHAPTER D12 – HERITAGE CONSERVATION AND DESIGN GUIDELINES					
Required		Provided	Complies		
			Yes	No	N/A
12.1 - Introduction					
Introduction and objectives		Noted.			
12.2 - Background					
Explanation of settlement, heritage items and conservation areas, and description of building types		Noted.			
12.3 – 12.5: General conservation guidelines					
Guidelines regarding the conservation of existing heritage items		Application does not propose to conserve an existing heritage item.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
12.6 – Change of use					
Guidelines applicable to a change of use		Application does not propose a change of use.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
12.7 – Alterations and additions					
Guidelines applicable to alterations and additions		Application does not propose alterations/additions.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
12.8 – New buildings in conservation areas					
Guidelines applicable new buildings in a heritage conservation area		Site is not located within a heritage conservation area.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
12.9 – Requirements for Development Applications					
Development Application required for proposals which potentially impact upon the heritage significance of a heritage item		Development Application lodged adjoining a site containing a heritage item of local significance (located to the west at 180 Lang Street), being the <i>Kurri Kurri Hotel</i> (Item No. I125 under Schedule 5). In addition to the above, the site is located within the vicinity of the following items of heritage significance: <ul style="list-style-type: none">• ‘Chelmsford Hotel’ (Item No. I124) at 122 Lang Street, Kurri Kurri• ‘Masonic Hall’ (Item No. I228) at 130 Barton Street, Kurri Kurri	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Heritage Impact Assessment to be submitted		Satisfactory Heritage Impact Statement, prepared by Weir Phillips (dated September 2023), submitted in conjunction with the application; refer to Appendix D.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Matters relating to heritage are assessed in detail later in this report.					

CHAPTER E21 – CENTRES				
Required	Provided	Complies		
		Yes	No	N/A
PROVISIONS RELEVANT TO ALL E1 LOCAL CENTRE ZONES				
Active street frontages				
Consistent with the provisions of the DCP, refer to specific requirements relating to the Kurri Kurri town centre (discussed below).		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Addressing the street and public domain				
Entries to retail and commercial premises are directly accessible from the street and public domain.	Entry to the site is available directly from the Barton Street frontage, and via the proposed plaza connecting the site with Lang Street.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Entrances are to be visible to the street and well lit.	Entry is visible and well lit from Barton Street, and directional/way finding signage is proposed on Lang Street to direct customers to the site.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Blank walls are only permitted on the sides and at the rear of buildings.	Blank walls are not proposed, and frontages along the southern, western and eastern elevations are considered to incorporate a variety of colours, treatments and finishes. It is noted that the frontage adjoining the laneway (the northern elevation of the building) proposes a combination of brickwork, rendered concrete and express masonry cladding.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Alternative treatments, for example changes in materials, artwork, articulated wall elements are required where walls are visible from public spaces.	Various treatments are proposed, and the plans identify a schedule of colours and finishes.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Awnings				
Consistent with the provisions of the DCP, refer to specific requirements relating to the Kurri Kurri town centre (discussed below).		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Building materials, finishes and colours				
Developments are to use a combination of colour, texture and/or materials.	Various treatments are proposed, and the plans identify a schedule of colours and finishes in respect of the proposed development.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Built form, setbacks and street hierarchy				
Where there is an established zero metre setback on one or both adjoining buildings, the setback is zero metres.	Zero setback proposed to all boundaries (in places), considered acceptable on the basis of adjoining development, i.e., the development will be surrounded by public laneway/road on three (3) sides, and a carpark on a recently developed site to the east.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Where a zero-metre setback is not achievable or is not desirable, the setback should be consistent with the established setback in the street.	Refer to above comments.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Where there is no established setback, the setback is within 20% of the average of adjoining building/s.	Refer to above comments.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Where there is no adjoining building/s, the front setback is zero metres.	Refer to above comments.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

No windows are permitted on the side boundaries that abut another developable site.	The development will be surrounded by public laneway/road on three (3) sides, and a carpark on a recently developed site to the east. No windows proposed on the eastern elevation.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Each building facade is to be well-articulated using of changes in materiality, articulated elements like recesses in facades, awnings, and recessed doorways etc.	The proposed design is considered representative of its intended use and comprises different materials and finishes to provide variation in the streetscape.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Articulation treatments are the same or similar to existing buildings in the streetscape.	No similar buildings in the streetscape to compare.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
The design of the building includes clear differentiation between the base, middle and top.	The proposed design provides a clear differentiation between the base, middle and top through the use of different materials, colours and textures including brickwork, rendered concrete, express masonry cladding, glass panels and screens.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Frontages that exceed 20m must incorporate design elements to differentiate and interrupt the façade such as changes in materials and or building elements.	Refer to above comments.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Building height				
Consistent with the provisions of the DCP, refer to specific requirements relating to the Kurri Kurri town centre (discussed below).		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Roof form				
New roofs should take design cues from existing buildings in the streetscape including form, pitch and materials.	No similar buildings in the streetscape to compare. Proposal is considered acceptable in terms of its relationship to the adjoining heritage item.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Variations in roof form including the use of skillions, gables and hips are to be provided in the development.	The proposed roof form is considered appropriate and reflective of the use of the building.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lift over-runs and service plant must be concealed within roof structures.	Screening to the plant area is identified on the elevations, and is considered acceptable.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
All roof plant must be represented on plans and elevations.	Plant areas identified in the sections.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Outdoor recreation areas on flat roofs are to be landscaped and incorporate shade structures and wind screens to encourage use.	No outdoor recreation area proposed as development does not incorporate a residential component.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Gateways and landmark sites				
Relates to corner sites.		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Site servicing				
Garbage, mail box structures, service meters, air conditioners and the like are to be integrated with the overall design of the buildings and/or landscaping.	Relevant services commensurate with the intended commercial use of the site are identified.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Garbage storage areas are not permitted along the primary or secondary street frontage.	No garbage storage areas are proposed external to the building.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ventilation stacks are to be utilised wherever possible to vent shops and basements.	No ventilation stack proposed.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Landscaping				
New large format retail developments must be accompanied by a landscape plan that includes: <ul style="list-style-type: none"> Plant species palette, Planting layout, Planting densities, Irrigation detail, and Maintenance schedule. 	The landscaping proposed is considered acceptable taking into account the commercial use of the site and the intended use of the proposed building. Landscaping is identified in the public domain plans.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Landscaping shall be consistent with Council's Engineering Standards and Specifications.	Landscaping species are consistent with desired landscaping for the Kurri Kurri commercial area.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Plant species are chosen to ensure longevity and vigour.	Refer to above comments.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Plant selection and landscape design should be consistent and complementary with any adopted public domain plans for the centre.	Refer to above comments.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Plant selection along pathways ensures: <ul style="list-style-type: none"> a clear trunk height of minimum 1.8m at maturity; a shrub height of maximum 1m at maturity. 	Refer to above comments.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Development provides planting areas within car parking areas that are protected by wheel stops or bollards.	Limited opportunities available for landscaping within the at-grade carpark; notwithstanding, some landscaping is proposed and this is considered acceptable.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Parking and access				
Consistent with the provisions of the DCP, refer to specific requirements relating to the Kurri Kurri town centre (discussed below).		<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
PROVISIONS RELEVANT TO THE KURRI KURRI TOWN CENTRE				
Application				
Applies to the Kurri Kurri town centre, as identified in Figure 9.	Subject site is located within the area identified in Figure 9 (being the Kurri Kurri town centre).			
Development provisions				
Master plan and public domain plan				
The development is to be consistent with the Kurri Kurri District Plan and Master Plan	Matters relating to compliance with the provisions of the Kurri Kurri District Strategy and the Kurri Kurri Commercial Centre Masterplan are addressed in detail later in this report.			
Building height				
Maximum of two-storeys.	Proposed building is a maximum of two-storeys.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Circumstances where additional storeys may be permitted.	N/A – proposed building does not exceed two-storeys in height.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Active street frontages				
Active street frontages are to be provided along: 1. Barton Street between Allworth and Hampden Streets; and 2. Lang Street between Allworth and Mitchell Avenue.	1. Barton Street – N/A as site is not located between Allworth and Hampden Street 2. Lang Street - active street frontage is proposed consisting of a refurbished/reconfigured pharmacy building and plaza connecting to the proposed new development.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Awnings				
A continuous awning is provided along: 1. Barton Street between Allworth and Hampden Streets; and 2. Lang Street between Allworth and Mitchell Avenue.	1. Barton Street – N/A as site is not located between Allworth and Hampden Street 2. Lang Street - the existing awning associated with the pharmacy building is to be refurbished. Note: A continuous awning cannot be provided in this particular location of Lang Street as it is subject to the provisions relating to a 'through link/arcade' - refer to below discussion.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Parking and access				
An open arcade is provided from Lang Street to Barton Street in accordance with the Kurri Kurri Master Plan. The through-link: 1. provides tree planting within the arcade; 2. is an active frontage which may include outdoor dining, a new entry to the supermarket, specialist retail; 3. is appropriately signed; and 4. establishes setbacks to open and improve sight lines along the length of the arcade.	Open arcade provided, comprising: <ul style="list-style-type: none">New bluestone paving, planter box and associated landscaping along the Lang Street frontage and within the pedestrian access point into the 'Woolworths'New wombat crossing linking Lang Street with the proposed 'Woolworths' car park and pedestrian access pointNew footpath along the western boundary of the new laneway to provide a pedestrian link between Barton Street and Lang StreetInstallation of bollards and a bin within the public domain area and the proposed 'Woolworths' car park and pedestrian access point Matters relating to compliance with the provisions of this chapter of the DCP, along with the Kurri Kurri District Strategy and the Kurri Kurri Commercial Centre Masterplan are addressed in detail later in this report.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mixed use sites				
Provisions relating to mixed-use sites.	Application does not propose a form of mixed-use development containing a residential component.	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Table 8: DCP compliance

4.15(1)(a)(iia) The provision of any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4

A planning agreement has been proposed in conjunction with this DA.

Details in respect of the planning agreement are outlined in Section 6 of this report.

4.15(1)(a)(iv) The provisions of the regulations

Sections 61 to 68 of the *Environmental Planning and Assessment Regulation 2021* outlines additional matters that are to be considered when determining a DA, as prescribed by Section 4.15(1)(a)(iv) of the *Environmental Planning and Assessment Act 1979*.

The application has been assessed against the provisions prescribed by the Regulation, and it is noted that the following sections are relevant:

Required	Provided	Considered?		
		Yes	No	N/A
Section 61 - Additional matters that consent authority must consider				
Applies to demolition works	<p>Section 61(1) requires the consideration of Australian Standard AS 2601—2001: <i>The Demolition of Structures</i> for development applications proposing the demolition of a building.</p> <p>In this case, the application proposes the demolition of all existing structures and site works, as outlined previously within this report. Development consent is sought for these works, and a detailed demolition plan and construction management plan have been submitted in conjunction with the application to identify how demolition works will be carried out and managed.</p> <p>A condition of consent has been imposed requiring compliance with the requirements of Australian Standard AS 2601—2001: <i>The Demolition of Structures</i>.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Section 66A – Council-related development applications				
Applies to Council-related development applications.	<p>Section 66A outlines that a council-related development application must not be determined by the consent authority unless –</p> <p>a. The council has adopted a conflict of interest policy, and</p> <p>b. Council considers the policy in determining the application</p> <p>Due to Council being the landowner of the existing unnamed Council laneway, usually the DA would be subject to the provisions of 66A of the regulation.</p> <p>However, in this instance, the DA was lodged on 21 February 2023, and the provisions in respect of Council-related development applications did not take effect until 3 April 2023.</p> <p>In consideration of the above, Section 66A of the regulation does not apply to the DA.</p>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Table 9: EP&A Regulation 2021 assessment

4.15(1)(b) *The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts on the locality*

Based on the assessment undertaken, it is considered that the development is unlikely to have a significant impact on both the natural and built environments, and the social and economic conditions of the locality. In particular, the following is noted:

Heritage Considerations

Introduction

The subject site adjoins a heritage item of local significance (located to the west at 180 Lang Street), being the *Kurri Kurri Hotel* (Item No. I125 under Schedule 5).

In addition to the above, the site is located within the vicinity of the following items of heritage significance:

- 'Chelmsford Hotel' (Item No. I124) at 122 Lang Street, Kurri Kurri
- 'Masonic Hall' (Item No. I228) at 130 Barton Street, Kurri Kurri

As outlined previously, a Heritage Impact Statement was lodged in conjunction with the application (Appendix D), and this was referred to Council's Heritage Advisor for comment.

Demolition of existing development

In respect of existing development, it is noted that the subject site presently contains a large commercial built form, which displays characteristics attributed to the late 20th century and loosely attributed to the late 20th century post-modern architectural style. Due to the fall of the land, the existing building presents as single-storey to Lang Street and two-storey to Barton Street.

The existing building contributes to the established built form character of both Lang Street and Barton Street and reinforces the fairly low-scale building typology within the town centre. The building forms a visible element in the backdrop to the adjoining Kurri Kurri Hotel but does not contribute to the identified significance or curtilage of the heritage item.

On the basis of the above, Council's Heritage Advisor raises no objection to the demolition of the existing buildings and structures on the site, subject to conditions of consent to address demolition methodology and protection of the adjoining heritage item. Conditions of consent have been imposed to reflect these requirements.

Relationship to adjoining heritage item

The proposed building will be configured to sit towards the northern end of the site, meaning the replacement-built form will be afforded physical and visual separation to the adjoining Kurri Kurri Hotel. A new laneway will be introduced running parallel to the shared boundary with the Kurri Kurri Hotel, and this will predominantly be used by customers to access the new at-grade open carpark which further separates the Kurri Kurri Hotel from the proposed building.

The positioning of the laneway will positively assist in separating the built forms to retain visual emphasis and exposure of the Kurri Kurri Hotel; additionally, the open plaza will further assist in visually amplifying the visual prominence of the heritage item. This will also positively protect secondary views to the heritage item from Barton Street.

Construction of new building

The scale of the built form on the triangulated portion of the site fronting Lang Street is acceptable and will be afforded sufficient spatial separation from the heritage item by the plaza/laneway. It is of an overall height and scale that will respect the visual prominence of the Kurri Kurri Hotel as a prominent local landmark in the townscape and respects the ‘...fairly low scale townscape...’ as noted in the Statement of Significance for the Kurri Kurri Hotel.

When viewed from Barton Street, the bulk and height of the proposed building will be concentrated towards the northern end, taking advantage of the natural topography of the site. This is considered to have an acceptable impact on the heritage item known as the Masonic Hall in Barton Street, predominantly because when viewing that heritage item, the viewer has their back to the subject site. Furthermore, the lower scale and height of the building directly opposite the Masonic Hall will not result in an overwhelming sense of dominance or scale.

Boundary fencing

The site plan and sections submitted in conjunction with the application indicate that a 1800mm high boundary fence comprising timber palings atop a retaining wall, will be installed along the shared boundary to the Kurri Kurri Hotel; the plans identify that the boundary fencing will extend for the full length of the boundary, terminating at the location of the proposed bin and planter box (located within the new plaza).

As the fencing will appear in the visual backdrop to the heritage item, it is important that the fencing is sympathetic to the character of the hotel. Therefore, a condition of consent has been imposed requiring that the traditional hardwood timber paling fence atop the retaining wall be constructed of specific materials/finishes.

Materials and finishes

Generally, the materials and finishes of the building are acceptable, however the materials and finishes schedule does not include specifications on the proprietary products to be used; rather, it is a general representation of the nominated materials and finishes. Therefore, a condition of consent has been imposed requiring the submission of comprehensive details of the materials and finishes to be used.

Summary

On the basis of the above, the proposed development is considered to satisfy the requirements of Clause 5.10 of the CLEP 2011 and the relevant provisions of Part D12 of the Cessnock Development Control Plan 2010. Consequently, the proposal is supported on heritage grounds.

Built Form, Context and Settings

Introduction

The site is located within the Kurri Kurri town centre, as identified in Figure 9 of Chapter E21 – Centres (Kurri Kurri Town Centre).

It is noted that Chapter E21 of Council’s DCP 2010 was adopted by Council on 13 December 2023 and became effective on 9 January 2024. This chapter does not contain a savings provision; therefore, the application has been assessed against the relevant provisions contained within Chapter E21. A summary of the proposed development’s compliance with Chapter E21 has been outlined previously in this report.

In addition to the planning controls contained within Chapter E21 of Council's DCP 2010, it is also outlined that development within the Kurri Kurri town centre is to be consistent with the Kurri Kurri District Strategy and the Kurri Kurri Commercial Centre Masterplan. An assessment of the proposed development, with reference to these strategies, is outlined below.

Kurri Kurri District Strategy

The Kurri Kurri District Strategy outlines a collective vision, directions and actions for land use planning and development in the district to 2036. The district is entering a period of renewal and growth, with significant urban growth anticipated in coming years.

The Kurri Kurri commercial centre is located on either side of Lang and Barton Streets, between Alexandra and Merthyr Streets, and functions as the district's main commercial precinct.

It is noted that the Strategy is supported by a commercial centre masterplan for Kurri Kurri. The masterplan sets out more detailed considerations for the commercial centre, along with an indicative program to guide public domain improvements in the years ahead.

In accordance with Section 3.5 (Employment Land) of the Strategy, minimising 'out of centre' commercial development will be vital to the ongoing viability of the Kurri Kurri commercial centre. The Strategy notes as follows:

'It is important that the established commercial centres at Kurri Kurri and Weston are not further weakened by 'out of centre' development, which has established in non-commercial zones.

To cater for new development, such as a supermarket or other large floorplate retail development, priority will first be given to proposals that seek to redevelop within the existing commercial centres and take advantage of key sites, including the Goodyear Automotive site, the former Workers' Club site and the Kingsway Plaza site in Lang Street Kurri Kurri. These sites offer a range of opportunities for redevelopment'.

The application proposes the redevelopment of the Kingsway Plaza site, and in this regard, the redevelopment of the site is encouraged in principle.

The Strategy also identifies that the manner in which development addresses rear lanes is an issue, particularly in the block bounded by Hampton, Lang, Victoria and Barton Streets. In this regard, the Strategy outlines that the inclusion of specific provisions in Council's Development Control Plan for the siting and built form of commercial development will assist in improving the amenity and functionality of new or redeveloped commercial development.

Section 4 of the Strategy confirms that the subject site is located within the area impacted by the Kurri Kurri Commercial Centre Masterplan, which is discussed below.

Kurri Kurri Commercial Centre Masterplan

The Kurri Kurri Commercial Centre Masterplan identifies that a number of significant developments have occurred in land adjacent to Kurri Kurri in recent years, indicating that the district is entering a period of renewal and growth.

The Masterplan notes as follows:

The impact of growth associated with these developments will have the potential to alter the character of the Kurri Kurri District and its commercial centres. This prospect has intensified the need for an area specific strategy to coordinate local policy for Kurri Kurri and Weston.

The overarching objective of the masterplans for Kurri Kurri and Weston is to guide future public domain improvements in the commercial centres. Revitalising the public domain and differentiating the centres from those nearby will help attract redevelopment and activate the public domain for a range of ancillary uses. It is envisaged that the public domain improvements proposed in the masterplans will attract new businesses and redevelopment to the commercial centres.

The Masterplan recognises the subject land as a catalyst site within the commercial centre, as illustrated below.

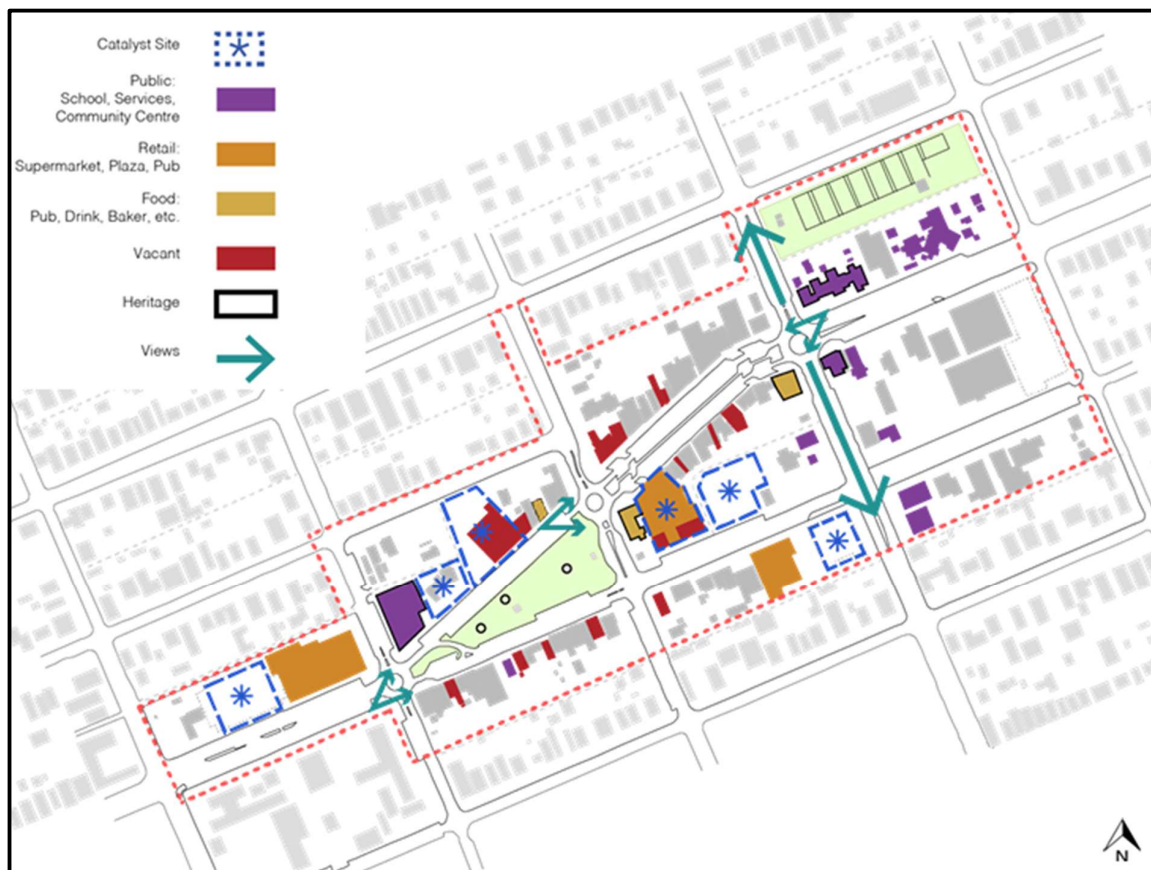


Figure 13: Kurri Kurri Commercial Centre Landmark Building Analysis

The Masterplan provides opportunities to place further emphasis on the key buildings/sites by ensuring they remain the cornerstone to the streetscape character and wayfinding strategies.

A major focus of the Masterplan is to improve the pedestrian environment, access and connectivity. In this regard, the Masterplan identifies a future connection between Lang Street and Barton Street impacting the site the subject of the Development Application, as illustrated below.

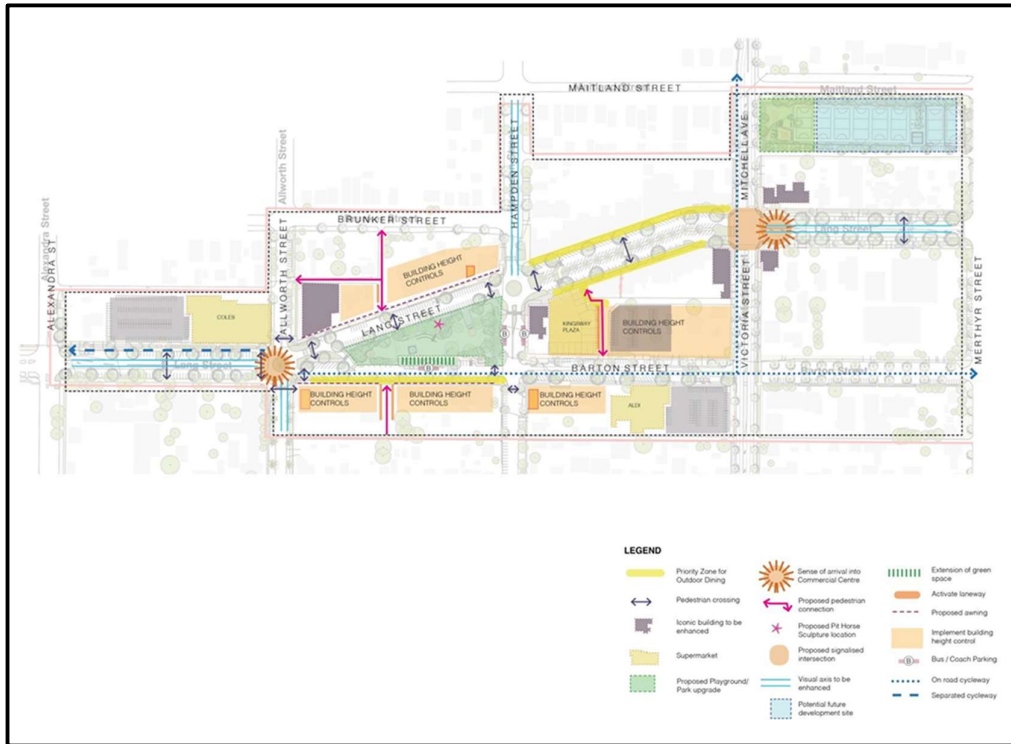


Figure 14: Kurri Kurri Commercial Centre Masterplan Opportunities Framework Design

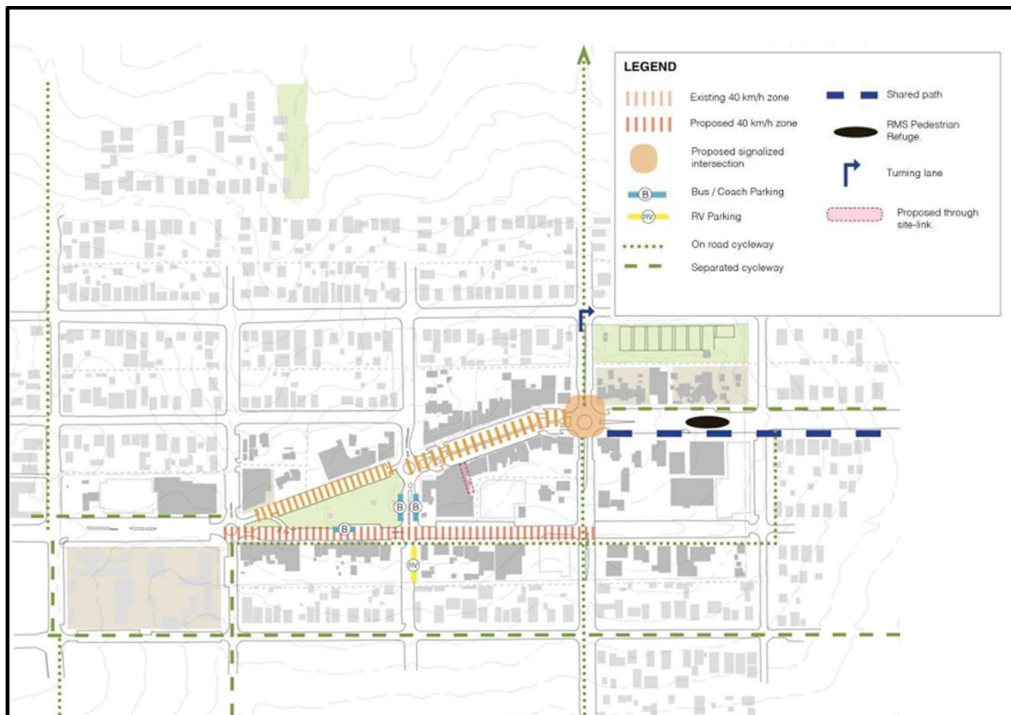


Figure 15: Kurri Kurri Commercial Centre Masterplan Traffic and Movement Principles Diagram

In addition to the above diagrams, the Masterplan states as follows:

Enhance connectivity from Barton Street and the Kingsway Plaza Car Park to Lang Street. Connectivity is presently limited to a narrow pedestrian walkway (between nos. 164-166) or internally through the Plaza, which is closed after-hours.

It is noted that, whilst the Masterplan does envisage development of the site for the purpose of a supermarket, it does not consider that the existing parking area accessed from Barton Street may be redeveloped in the manner proposed in conjunction with the Development Application. Therefore, strict compliance with the opportunity's framework identified in the Masterplan, cannot be achieved in this case.

Notwithstanding the above, it is noted that the Development Application proposes the establishment and construction of a pedestrian link alongside the western boundary of the site, to be established in conjunction with the proposed new laneway. This will effectively provide a new pedestrian link between Lang Street and Barton Street, consistent with the vision identified in the Masterplan.

The Masterplan identifies that a pedestrian arcade connecting Lang Street and Barton Street will be provided within the subject site, as illustrated below.



Kurri Kurri Commercial Masterplan Key

- | | | |
|--|--|---|
| 1. LANG STREET WEST
Streetscape upgrades to Lang Street between Alexandra Street and Allworth Street to create sense of arrival to the Commercial Centre. | 7. HAMPDEN STREET
Streetscape improvements, including street tree planting to Hampden Street. | 14. NETBALL COURTS
Reconfiguration of existing netball courts. |
| 2. ALLWORTH STREET
Streetscape improvements, including street tree planting to Allworth Street. | 8. PEDESTRIAN ARCADE
Proposed pedestrian connection between Lang Street and Barton Street. | 15. LANG STREET EAST
Streetscape upgrades to Lang Street between Victoria Street and Merthyr Street to create sense of arrival to the Commercial Centre. |
| 3. LANG STREET CENTRAL (WEST)
Streetscape upgrades to Lang Street between Allworth Street and Hampden Street. | 9. LANG STREET CENTRAL (EAST)
Streetscape upgrades to Lang Street between Hampden and Victoria Streets. | 16. PEDESTRIAN CONNECTION UPGRADE
Installation of pedestrian refuge at centre of road to improve pedestrian safety when crossing Lang Street. |
| 4. ROTARY PARK UPGRADES
Upgrades to Rotary Park. | 10. LANG STREET CENTRAL (EAST)
Work with landowner to improve existing lighting, safety and amenity. | 17. ALLWORTH STREET
Streetscape upgrade to create sense of arrival into Commercial Centre. |
| 5. BARTON STREET WEST
Streetscape upgrade to Barton Street fronting Rotary Park between Allworth and Hampden Streets. | 11. MITCHELL AVENUE
Streetscape improvements including street tree planting to Mitchell Avenue. | 18. BIKE LANE UPGRADE
Bike lane and median upgrade at the intersection of Burton and Victoria Street allowing for safer bike crossing |
| 6. BARTON STREET EAST
Streetscape improvements to Barton Street, including street tree planting. | 12. VICTORIA STREET
Streetscape upgrades to Victoria Street. | |
| | 13. PLAYGROUND | |

Figure 16: Kurri Kurri Commercial Masterplan, Pedestrian Arcade

The pedestrian arcade is identified as Project 5 in the Masterplan, as illustrated below.

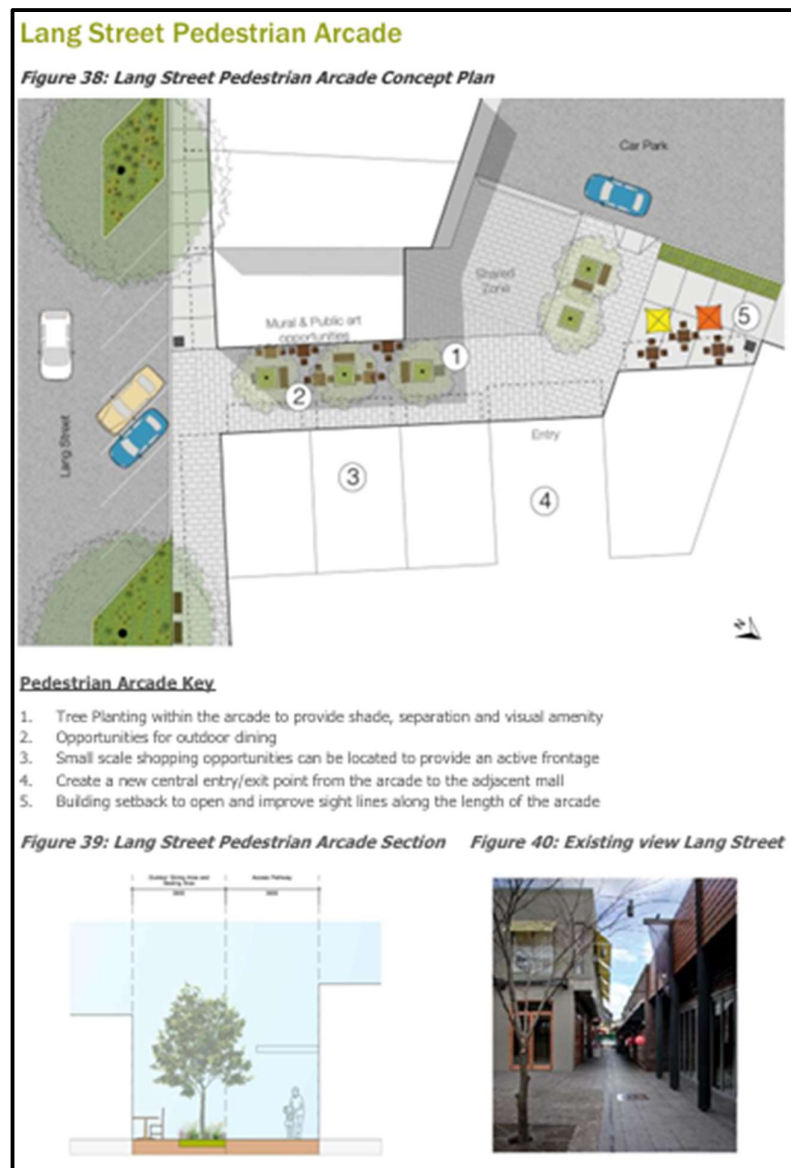


Figure 17: Lang Street pedestrian arcade

Consistent with the Masterplan, the Development Application proposes construction and establishment of a pedestrian plaza, however the location is not consistent with the location identified in the Masterplan; primarily because the Masterplan does not envisage the site being developed in a different configuration to its current boundaries.

The public domain works associated with the proposed plaza have been outlined previously in this report and consist of:

- Installation of new bluestone paving, planter box and associated landscaping along the Lang Street frontage and within the pedestrian access point into the 'Woolworths'.
- Installation of bollards and a bin within the proposed plaza.
- Construction of a new wombat crossing linking Lang Street with the proposed 'Woolworths' car park and pedestrian access point.

It is acknowledged that the proposed plaza provides limited opportunities for outdoor dining due to its configuration and location. Notwithstanding, it is considered that an opportunity may exist in the future for the establishment of outdoor dining subject to occupancy of the existing building located on Lang Street (Specialty T3).

In respect of the portion of Lang Street the subject of this application, the Masterplan identifies that the existing footpath should be upgraded, with a consistent material palette utilised throughout the commercial centre. As outlined above, the application proposes the installation of new bluestone paving along the Lang Street frontage. This paving will be used throughout the proposed plaza and the at-grade carpark adjacent to the proposed 'Woolworths' building to ensure the entire area adopts a unified approach. The paving type is consistent with Council's preferred schedule of materials; the details of which were provided to the applicant by Council's Works and Infrastructure department.

In respect of the portion of Barton Street the subject of this application, the Masterplan identifies the planting of street trees. The application proposes to upgrade the Barton Street frontage of the site consisting of formalisation of parking to provide a total of 26 spaces, including new planter beds and a pedestrian refuge to form part of a future pedestrian crossing (if warranted).

In respect of murals, the Masterplan identifies the location of existing murals within the commercial centre, as well as identifies potential future locations that may be appropriate for murals, as illustrated below.



Figure 18: Kurri Kurri Commercial Centre Mural Location Diagram

The application proposes the demolition of all existing structures on the site, thereby resulting in the loss of two (2) existing murals, as follows:

1. 'Stairway to Nowhere' on the northwestern corner; and
2. 'Drive In Theatre' on the western wall

The owner/developer has confirmed that the existing murals will be replaced and has been working with 'Towns with Heart' to identify appropriate locations for new murals. In addition, the developer will consult with 'Towns with Heart' on the design for the new murals, which have not been developed at this point in time.

The eastern elevation was the preferred location discussed with the representative from 'Towns with Heart'; hence the architectural drawings include a location for a public art mural replacement. It is also noted that the applicant has confirmed that a further location for a replacement mural can be discussed with Council and Towns with Hearts.

'Urban Design Peer Review', prepared by Matthew Pullinger Architect, dated 1 September 2023

During the assessment process, the applicant arranged for an independent review of the proposed design to be undertaken. Accordingly, a document titled 'Urban Design Peer Review', prepared by Matthew Pullinger Architect (dated 1 September 2023), was prepared and submitted in support of the application (Appendix I).

In conjunction with advice provided by Mr Pullinger, the proposed development was amended to address concerns raised by relevant stakeholders, including Council and the Regional Planning Panel.

The 'Urban Design Peer Review' states as follows:

After considering the amended development proposal and its improved relationship to the local context and neighbouring built form, I note the following points:

- *The key design strategy adopted by the proposal - which delivers meaningful public benefit - is the extension of the existing lane way to connect with Barton Street in a manner that serves to improve the general visibility, permeability and connectivity of the site within the local area.*
- *This fundamental siting strategy establishes a direct visual and physical connection from Lang Street into the proposed supermarket and specialty shops at a convenient point close to the centre of Kurri Kurri's main street.*
- *It also serves to efficiently consolidate a larger parcel of land in a format suited to a supermarket and specialty retail development not otherwise achievable in the traditional town centre.*
- *This siting strategy - and particularly the creation of a new plaza space along Lang Street - also works to strike a positive relationship between the shops of the traditional main street and the primary entry to the proposed supermarket.*
- *The new plaza enhances the presence of the heritage listed Kurri Kurri Hotel which occupies a prominent corner site and comprises a northern elevation that would not otherwise accord with the prevailing street alignment followed by the main street shops.*
- *The new plaza also conforms with Council's vision for public domain improvements anticipated for the town centre and as described in the Kurri Kurri master plan including the preferred bluestone pavement material and provision of deep soil to support significant tree planting.*
- *The site's other primary address, along Barton Street, has been refined to strengthen its architectural composition, with a reduction in parapet height by 1-2m in height, a stronger delineation of the building plinth and more extensive use of characterful face brick and oxidised metal panels.*
- *Planter beds accommodating landscape planting are arranged along the edge of the upper grade carpark to present a softer green edge to Barton Street.*

- *More broadly, the public domain treatment along Barton Street adopts the anticipated public domain described in the Kurri Kurri master plan and increases the provision of new street trees interspersed between on street car spaces and new footpaths.*
- *The building incorporates a provision for large format public art in a prominent location.*

In summary, the final amended development proposal has been carefully considered in its urban design, balancing the key operational parameters of the supermarket use alongside the concerns and feedback raised by Council during the initial DA assessment.

In its resolved form, the proposal provides significant public benefit through the introduction of a new supermarket and speciality shops with address and presence to Lang Street across a new publicly accessible plaza space.

By intelligently responding to the opportunities presented by a larger amalgamated site, the resolved development proposal represents a well-mannered, well-designed and considerate contribution to the Kurri Kurri town centre.

Council officers concur with the findings contained within the 'Urban Design Peer Review' and consider that the final design responds appropriately to the site's context and location within the commercial centre of Kurri Kurri.

Summary

Overall, the proposed development is considered generally consistent with the requirements of the Kurri Kurri District Strategy and the Kurri Kurri Commercial Centre Masterplan.

The application proposes the redevelopment of the Kingsway Plaza site, which is identified as a catalyst site; accordingly, the redevelopment of the site is encouraged in principle.

Some departures to the Strategy and Masterplan are proposed, largely due to the fact that the site is proposed to be reconfigured and this is not envisaged or catered for in these documents. Notwithstanding, it is considered that the proposed development is consistent with the aims and objectives of the documents and Council's overall strategic vision for the Kurri Kurri town centre.

Traffic and Parking Considerations

Traffic

A Traffic Impact Assessment (TIA) prepared by Colston Budd Rogers & Kafes Pty Ltd (dated January 2023), was submitted in conjunction with the application (Appendix E).

The TIA estimated the traffic generated by the proposed development as follows:

- 15.5 vehicles per hour per 100m² GFA for the supermarket component.
- 4.6 vehicles per hour per 100m² GFA for the specialty retail.

It is noted that the TIA did not make a separate allowance for the various office, mezzanine and pick up areas as they are considered to be ancillary to the dominant use as a shopping centre and do therefore generate traffic/vehicle trips in their own right.

The TIA states the following with respect to the sites potential traffic generation:

'Applying these rates, the proposed development would therefore generate some 580 vehicles per hour (two way) in the weekday afternoon peak hour. TfNSW Guidelines suggest that some 25% of the traffic generated would be passing trade.

The additional traffic has been assigned to the road network as shown in Figure 2 and summarised in Table 3.2. This is a conservative approach as no discount for the existing uses on the site has been applied. Based on the above rates, the previous supermarket (some 1,800m²), and other retail (some 1,400m² - vacant and operational) generated some 340 vehicles per hour (two way) in the weekday afternoon peak hour'.

As described above, the figures quoted in the TIA make no allowance for passing trade or any discounting for the existing site uses. The figures are therefore considered to be conservative in nature. Additional generated traffic and its location is shown in the TIA (Table 3.2), as illustrated below.

Table 3.2: Existing + Development Two-Way (Sum of Both Directions) Peak Hour Traffic Flows		
Road	Weekday Afternoon	
Barton Street		
– west of Hampden Street	490	+ 180
– east of Hampden Street	255	+ 280
– west of Victoria Street	336	+ 265
Hampden Street		
– north of Barton Street	290	+ 40
– south of Barton Street	201	+ 60
Victoria Street		
– north of Barton Street	808	+ 140
– south of Barton Street	942	+ 45
Plaza Car Park		
– north of Barton Street	43	+ 460
Service Lane		
– north of Barton Street	3	+ 100
– west of Victoria Street	10	+ 20

Table 3.2 identifies that the following additional traffic flows are generated during the weekday afternoon peak hour:

- 180 to 280 additional vehicles (two way) on Barton Street;
- 45 to 140 additional vehicles (two way) on Victoria Street;
- 40 to 60 additional vehicles per hour (two way) on Hampden Street; and
- 20 to 100 additional vehicles per hour (two way) on the service lane, with the higher increase is in the short section between Barton Street and the car park access.

The intersections have been analysed in the TIA with the development traffic in place using SIDRA to model these intersection locations. The results of the analyses are summarised below:

- the intersection of Barton Street and Victoria Street would continue to operate with average delays of less than 15 seconds per vehicle in the weekday afternoon peak hour. This represents level of service A/B, a good level of service;
- the intersection of Barton Street and Hampden Street would continue to operate with average delays of less than 15 seconds per vehicle in the weekday afternoon peak hour. This represents level of service A/B, a good level of service; and
- the intersections of Barton Street with the site accesses and the service lane would operate with average delays of less than 15 seconds per vehicle in the weekday afternoon peak hour. This represents level of service A/B, a good level of service.

The applicant has provided Council with copies of the SIDRA files and modelling. These files confirm that the modelling was acceptable, and Council's Principal Development Engineer has agreed that the additional traffic generated by the proposed development is able to be accommodated within, and absorbed by, the existing road network without any upgrading works being required.

The proposed development includes the extension of the unnamed Council laneway from its current termination point, continuing around the exterior of the at-grade car parking area and connecting to Barton Street adjacent to the Kurri Kurri Hotel.

The proposed laneway is identified in the concept civil engineering plans, as reproduced below.

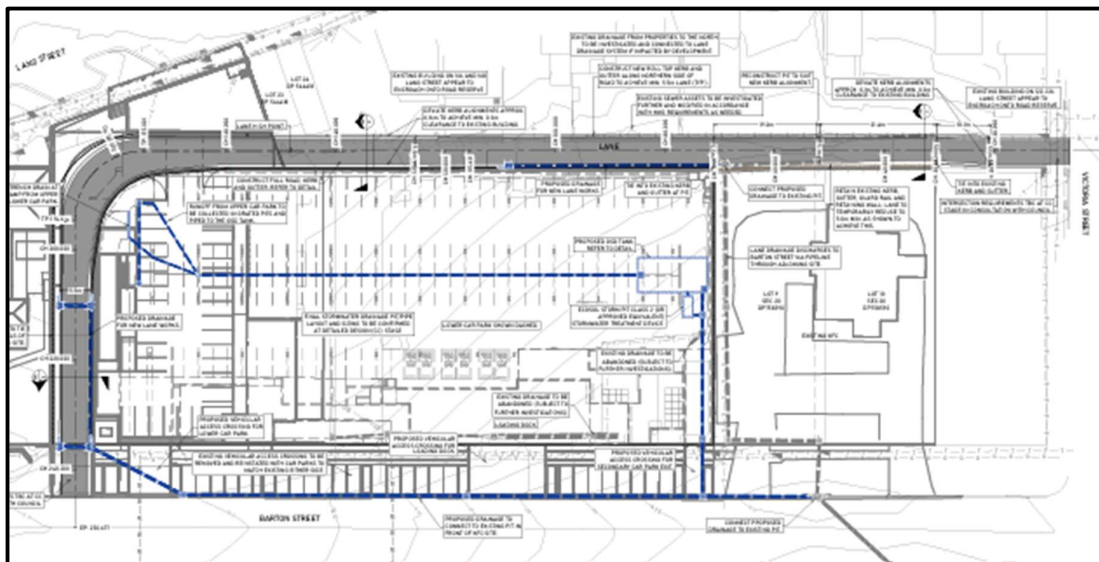


Figure 19: Plan identifying laneway width/s

Newly constructed sections of the laneway will be a minimum of 5.5m in width and will allow for a two-way flow of traffic between Victoria Street, Barton Street and the at-grade car park entry. The upgraded laneway will also continue to serve existing businesses fronting Lang Street, which in most cases, rely on rear servicing arrangements.

The existing laneway is also being upgraded to a width of 5.5m wide with the exception of a short section adjacent to the existing 'KFC' development; this portion of the laneway is min. 5.0m wide as a result of an existing encroachment which cannot be rectified due to specific constraints on the adjoining 'KFC' site. It is noted that this section is 50m in length, which is considered a minor portion of the laneway overall. Council's Infrastructure Manager, Traffic Engineers and Principal Development Engineer have all reviewed this proposal and accepted the reduced width subject to ongoing monitoring of the operation of the laneway. In acknowledging this reduced pavement width, TfNSW has recommended that the laneway be maintained as a low speed environment through the installation of a posted 20km/hr speed limit, the installation of traffic calming devices to ensure speeds are kept low, and the installation of an entry treatment for pedestrians, such as coloured pavement or raised threshold at the connection between the plaza and the entry to the at-grade car park. These matters have been imposed as conditions of consent.

The formal arrangements between the developer and Council with respect to the opening and closing of the existing/proposed laneways have been addressed via the executed VPA.

Finally, it is noted that the actions required to close the existing laneway have been commenced by both Council and the developer.

Parking

The following table outlines the total number of on site parking spaces required in accordance with both Table 1.2 of Chapter C1 Parking and Access of Council's DCP 2010, and the RMS Guide to Traffic Generating Developments.

Component	Rate and total number of spaces required in accordance with Council's DCP (GFA based calculations)		Rate and total number of spaces required in accordance with RMS Guide to Traffic Generating Developments (GLFA calculations)*	
Specialty stores (650m ²)	1 space per 20m ² of gross floor area	33 spaces	$((650 \times 0.75)/100) \times 6.1$	30 spaces
Supermarket (3375m ²)	1 space per 15m ² of gross floor area	225 spaces	$((3375 \times 0.75)/100) \times 6.1$	155 spaces
Office component (232m ²)	1 space per 30m ² of gross floor area	8 spaces	1 space per 40m ² of gross floor area	6 spaces
Total	266 spaces		191 spaces	
*GLFA has been assessed as 75% of GFA as recommended by the RMS Guide to Traffic Generating Developments				

Table 10: On site parking required

The application proposes to provide on site parking, as summarised below.

Area	Number of spaces
Basement	120 (including 6 direct-to-boot spaces)
At-grade parking area	31
Total	151

Table 11: On site parking proposed to be provided

In addition to the above, 26 parking spaces are proposed to be provided within the frontage of the site on Barton Street, and these spaces are proposed to be upgraded in accordance with the public domain works included in the application.

The DCP outlines that Council's car parking rates/requirements will be reviewed subject to the submission of a detailed traffic assessment report demonstrating that a reduced level of parking is satisfactory for the proposed development and both the immediate and general locality.

As previously outlined, a TIA, along with subsequent amendments, were lodged in support of the application.

It is noted that the TIA suggests that the six (6) direct to boot (DTB) spaces would be utilised by up to 30 vehicles per hour; given that the average shopper car park turnover is in the order of 30 minutes, the six (6) DTB spaces would therefore account for a parking credit of 15 spaces.

It is also considered that the office component of the development is ancillary to the dominant use as a shopping centre; therefore, this component should not be separately considered or required to contribute to the car parking demand, similarly to how employees associated with the overall operation of the supermarket (for example stockists, service personnel and

cashiers) do not generate a separate parking demand. As such, a credit of six (6) car parking spaces can be applied.

Whilst it is noted that the car parking numbers proposed do not comply with the requirements contained within Council's DCP, the information contained within the RMS Guide to Traffic Generating Developments is based upon actual survey information from existing shopping centres with mixed/multiple uses. The RMS figures are considered to be more indicative of the actual car parking required for the proposed development and have therefore been adopted for the purpose of assessing the parking demand generated by the proposal.

When adopting the RMS calculations, the proposed development is required to provide 191 on site parking spaces.

This figure (191 spaces) can be reduced by a total of 21 spaces (comprising 15 spaces associated with the DTB operation and six (6) spaces associated with the office component); therefore, a total of 170 on site parking spaces are required to be provided when adopting the RMS calculations.

As stated above, the plans show the provision of 151 on site parking spaces and 26 parking spaces within the frontage of the site on Barton Street. Considering the applicant's proposal to upgrade the on street parking spaces on Barton Street, and the direct link between those spaces and the proposed development, it is considered acceptable to assume that these spaces will be utilised by customers associated with the proposed development. Therefore, a total of 177 parking spaces can be attributed to the proposal. This is summarised below.

Provision	Number of spaces
RMS Guide to Traffic Generating Developments requires the provision of:	191
Credit for direct-to-boot spaces	- 15
Credit for office component	- 6
Total number of on site parking spaces to be provided:	170
Total number of car parking spaces proposed to be provided on site:	151
Additional on street parking spaces within Barton Street	+ 26
Total number of parking spaces attributed to the proposed development	177

Table 12: Total number of parking spaces attributed to the proposed development

Whilst not strictly in accordance with the DCP requirement that all car parking be provided on-site, it is noted that no discount for cross-use (i.e., between the different tenancies) has been requested or applied for; as such, the car parking numbers are considered to be quite conservative.

Finally, it is noted that the site is located within the commercial centre of Kurri Kurri, and other on street car parking opportunities exist in the immediate vicinity of the site.

Based upon the assessment outlined above, the provision of 151 on site parking spaces and 26 on street parking spaces, is considered acceptable in this instance.

An area for bicycle parking has not been identified within the plans, however a condition of consent has been imposed requiring the provision of 10 bicycle parking spaces at/near the main entries to the proposed development to encourage usage of other modes of transport.

Acoustic Considerations

In respect of the operational aspects of the proposed development that may result in noise/acoustic impacts, the following is noted:

Hours of Operation

The proposed hours of operation in respect of the Woolworths supermarket are:

- Monday to Sunday: 6:00am to 12:00am (midnight)

The proposed hours of operation for the loading dock are:

- Monday to Sunday: 5:00am to 12:00am (midnight)

A Noise Impact Assessment (NIA), prepared by Reverb Acoustics (dated December 2022), was submitted in conjunction with the application (Appendix J).

A background noise level survey was conducted in accordance with Appendix B of the NSW Environment Protection Authority's (EPA's) – Noise Policy for Industry. The environmental noise logging monitor was installed on the northern side of Barton Street, as illustrated below.



Figure 20: Noise logging monitor location (indicated by yellow dot)

It is noted that the location utilised for the purpose of obtaining background noise levels is close to an existing dwelling that will be demolished in conjunction with the proposed development. However, such location constitutes a close residential receiver (occupied on a permanent residential basis), and in this regard, no objection is raised to its use within the NIA.

Noise levels were continuously monitored from 24 November to 1 December 2022, to determine the existing background and ambient noise levels for the area.

The NIA references the hours of operation for both the site and the loading dock, consistent with the information contained within the Statement of Environmental Effects, as outlined above.

The NIA identifies and assesses the relevant noise sources from the proposed development that have the potential to generate unreasonable noise impacts upon neighbouring premises. Importantly, these are measured on a cumulative basis, i.e., the acoustic sum of all noise generating items expected to operate at the site, are measured.

Broadly, the types of noise sources assessed within the NIA include:

- Road traffic (delivery trucks, customer vehicles and on site manoeuvring)
- Mechanical plant (refrigeration, air conditioning, exhaust)
- Loading dock activities (including unloading, truck movements)
- Garbage collection
- Activities associated with the outdoor/external areas
- General site noise including trolley return

Based on predicted noise levels, the NIA concludes as follows:

Providing the recommendations presented in this report are implemented, operation of the new development will not have any long term adverse impact upon the acoustical amenity of nearby residents.

In consideration of the above, it is concluded that the site is suitable for the proposed development from an acoustic perspective, provided the recommendations outlined in Section 4 of the NIA are complied with. Specifically, Section 4 contains detailed recommendations in respect of the following matters:

- Site operations: hours of operation, hours of waste collection, restrictions in respect of amplified entertainment in the outdoor areas.
- Loading dock: hours of operation, treatment of the loading dock area, restrictions in respect of congregating/queuing of trucks within the road network leading into the site.
- Mechanical plant: construction of specific noise control measures.

The recommendations contained in Section 4 have been imposed as conditions of consent, including the requirement to ensure that all recommendations have been implemented and certified prior to occupation/use of the proposed development. In addition, a condition of consent requiring the preparation of a Plan of Management to address the operational aspects associated with the use of the site, has been imposed.

The proposed hours of operation in respect of the specialty shops are:

Monday to Sunday: 9:00am to 6:00pm

Considering that each of the specialty stores will require lodgement and approval of a separate Development Application for their first use, it is considered appropriate to address hours of operation in conjunction with those applications. In this regard, no conditions of consent have been imposed in respect of operational issues associated with the specialty stores, including hours of operation.

Social Considerations

Initially, the Development Application was accompanied by a Social Impact Comment (SIC). However, Council raised concern that the SIC had not been prepared in accordance with Chapter C8 – Social Impact Assessment and Crime Prevention Through Environmental Design of Council's DCP 2010, and Council's Social Impact Assessment Guidelines, in that adequate community consultation had not occurred prior to lodgement of the Development Application.

In consideration of the above, the applicant undertook significant community consultation separately to the development assessment process, and as a result of the outcomes from the consultation process, prepared and lodged the following documents with Council:

- Consultation Outcomes Report, prepared by Mara Consulting (dated 31 August 2023).
- CPTED Report, prepared by The Design Partnership (dated September 2023).

These reports and their findings are discussed below.

Consultation Outcomes Report

The Consultation Outcomes Report (Appendix K) identifies that community consultation was undertaken between 3 July 2023 and 5 August 2023. Consultation activities included:

- proponent-led one-on-one key stakeholder meetings
- establishment of project email address for enquiries and feedback
- letterbox drops to nearby businesses and neighbours
- emails to, and meetings with Council and Councillors
- emails to, and meetings with key stakeholders
- emails including project information, how to provide feedback and an invitation to attend the drop-in session
- webpage with project information, how to provide feedback, survey link and event details
- drop-in information session
- survey

The Consultation Outcomes Report identifies that the engagement approach for the project was guided by the International Association for Public Participation (IAP2) spectrum of public participation, delivered at an 'inform' and 'consult' level. In determining the approach to the communication and consultation, consideration was given to the Department of Planning, Industry and Environment's Undertaking Engagement Guidelines July 2021.

The engagement sought to understand concerns, issues and impacts resulting from the proposal and demonstrate how those concerns had been addressed. If concerns could not be addressed, the Consultation Outcomes Report identified why this was not possible.

During the consultation period more than more than 650 people visited the project website seeking information about the project. Additionally, an in-person drop-in session was held with approximately 44 people attending. Interested stakeholders were reached via email, letterbox deliveries, phone calls and door knocking providing project updates and invitations to engagement events.

The issues raised during the consultation period were diverse, and can be summarised as follows:

- construction timeframe
- plan for existing tenants
- whether shops other than 'Woolworths' will be established on the site
- number of carparking spaces
- location of public toilet/s
- vehicular access points
- traffic management and traffic concerns
- loss/replacement of murals
- security measures

Of the 65 responses received to the survey, 85% of respondents were very supportive of the proposed development.

Based on the comments and feedback received, the Consultation Outcomes Report identifies what changes were made to the design of the proposed development to address the issues raised. These are summarised as follows:

- laneway changes and improvements
- design changes to the proposed building
- changes to the public domain works on Lang Street
- changes to the public domain works on Barton Street
- design changes to the building façade

Council's assessment of the Consultation Outcomes Report confirms that the consultation methods utilised encompassed a diverse way in which impacted and interested parties could gain information about the proposed development and provide comment.

It is considered that the community engagement undertaken for the Consultation Outcomes Report meets the requirements of Cessnock City Council's Social Impact Assessment Guidelines. In addition, it is concluded that the Consultation Outcomes Report is detailed, comprehensive and of sound quality.

CPTED Report

A CPTED Report was lodged in conjunction with the development application. This was later supplemented by an amended CPTED Report (Appendix L), in response to the comments received during the extensive community consultation undertaken by the applicant between 3 July 2023 and 5 August 2023. As outlined above, issues in respect of CPTED, including safety and security, were identified within the Consultation Outcomes Report.

Council's assessment of the updated CPTED Report confirms that it provides a far more thorough analysis of the site, the proposed development, and the local area. The nature of the proposed development lends itself to many CPTED challenges, however it is considered that the risks can be mitigated with reasonable measures and implementation of a Plan of Management in respect of the operational aspects of the proposed development.

The CPTED Report provides recommendations to mitigate the risks identified, including in respect of the following matters:

- surveillance
- lighting and technical supervision
- territorial reinforcement
- environmental maintenance

- activity and space management
- access control
- design/definition/designation

Both the NSW Police and Council's Principal Community Planner have reviewed the application, including the Social Impact Comment, CPTED Report and Consultation Outcomes Report; and raise no objection to approval of the Development Application subject to the imposition of conditions of consent reflecting the recommendations contained within the CPTED Report. Broadly speaking, conditions relate to the following matters:

- Preparation and adoption of a Plan of Management relating to the operational aspects of the proposed development
- Installation of lighting
- Installation of CCTV
- Management of car parking areas
- Installation of way-finding signage
- Management of access points throughout the development
- Implementation of measures to control and/or remove graffiti
- Replacement of public art

Summary

Overall, it is considered that, based on the Consultation Outcomes Report, along with the submissions lodged with Council in response to the public exhibition periods relating to the Development Application, the community is generally in favour of the proposed development.

There is significant potential for the development to result in benefits to the community, including via job creation in both the short and long term.

The commercial centre of Kurri Kurri lacks adequate activation, and it is likely that the proposed development will encourage residents to utilise the site and the wider commercial locality. Additionally, a major tenant such as 'Woolworths' can often attract additional investment to the area and importantly, the community will benefit from additional shopping options.

The challenges identified in the CPTED Report can be appropriately mitigated through a range of measures, and conditions of consent have been imposed in this regard.

Economic Considerations

Overall, the proposed development is expected to result in community benefits, including employment opportunities, road network improvements and public domain upgrades. The current 'Kingsway Plaza' is in disrepair. Similarly, the existing laneway requires maintenance. The proposed land swap and upgrade of the existing public laneway, referred to in the Draft Planning Agreement, will be carried out at the developer's expense and will improve the standard of the laneway.

The proposed development will improve connectivity from Lang Street through a revitalised plaza, and result in significantly improved streetscapes within both Barton Street and Lang Street. The revitalisation of this key site within Kurri Kurri will have flow-on positive economic impacts throughout the wider town centre.

During construction, the development will result in job creation and employment opportunities. 'Woolworths' has been seeking an appropriate site within the town of Kurri Kurri for some time

now, and the results of the community consultation carried out by the applicant, and the feedback provided to Council directly from the community, identify that an additional supermarket will be well-received by the community.

4.15(1)(c) *The suitability of the site for the development*

The site is identified within the Kurri Kurri District Strategy and the Kurri Kurri Commercial Centre Masterplan as a catalyst site.

Large sites such as the one the subject of this DA are not common within the commercial centre, and it is acknowledged that the proposed development presents a rare opportunity to contribute to the reinvigoration of Kurri Kurri.

The site is zoned appropriately and benefits from its key location within the town centre. Furthermore, it is considered that surrounding land uses are compatible with the proposed development, and the construction and use of the building will not result in land use conflict.

Overall, it is considered that the proposal will contribute positively to Kurri Kurri and is consistent with the strategic vision for the site.

On the basis of the above, it is considered that the site is suitable for the proposed development.

4.15(1)(d) *Any submissions made in accordance with this Act or the regulations*

The Development Application was publicly exhibited in accordance with the provisions of Council's adopted Community Participation Plan on two (2) separate occasions, as follows:

- 28 March 2023 to 13 April 2023
- 28 March 2024 to 2 May 2024

A total of four (4) submissions were received by Council during the initial exhibition period. Of these, one (1) was in support of the proposal, one (1) objected to the proposal, and the remaining two (2) specifically outlined that they did not object to the proposal (i.e., were generally supportive), however they raised issues of concern. Copies of the submissions are contained in Appendix P.

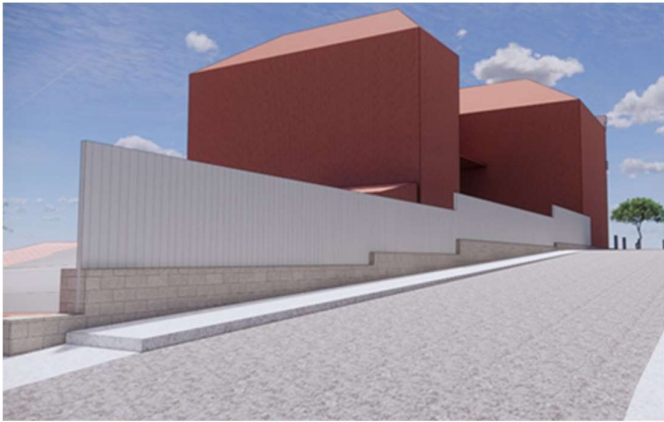
It is noted that no submissions were received in response to the second exhibition period in respect of the development application. Submissions were received in respect of the Planning Agreement and the proposed road closure; however, the concerns raised have been addressed in conjunction with separate Council reports in respect of those matters.

The following table outlines the issues/concerns raised in the submissions lodged with Council with respect to the DA, along with a response to each matter.

Issue	Comment
Traffic and parking	
Shortfall in parking. The traffic report has relied on there being an existing shortfall of parking and claiming credits for those. It will see continued reliance on on-street parking outside of the site which is a detriment to the shopping street and	Issues relating to parking have been addressed previously. Based upon the assessment carried out, the provision of 151 on site parking spaces and 26 on street parking spaces, is considered acceptable in this instance.

other businesses. Overall, a shortfall of 100 on-site parking spaces is proposed.	
<p>Loading/unloading facilities and traffic access points are poorly located. At present they are accessed to the rear, off the street, relying on the internal Council lane.</p> <p>Four (4) access points are proposed to be located to Barton Street. The frontage to Barton will be entirely replaced with a dead façade that will only be used for vehicle entry delivery and waste removal.</p> <p>Due to the proposed traffic and servicing arrangements, Barton street will not be pedestrian friendly, i.e., a safe and low speed environment.</p>	<p>It is acknowledged that the Barton Street frontage will contain a number of vehicular access points, and that all loading/unloading areas are accessed via Barton Street.</p> <p>Notwithstanding the above, Barton Street will also be one of the main pedestrian access points into the proposed development. This will result in activation of the area.</p> <p>In addition, public domain works are proposed along the entire Barton Street frontage of the site comprising car parking (26 spaces) and landscaping, thus contributing to a greatly improved environment.</p>
Servicing arrangements are unclear, i.e., how will the specialty shops be serviced?	The specialty shops will share common servicing arrangements located within the development.
Social Impacts	
All existing shops and businesses have been removed from Barton Street and the majority of the façade along laneways will be non-active frontages which encourages opportunities for crime and anti-social behaviour.	<p>It is acknowledged that the proposal will result in a significant change to both the Barton Street frontage and the existing corridor located alongside the laneway.</p> <p>'Woolworths' has particular servicing arrangements which, to a certain degree, dictate the layout of the proposed development, partly due to the need to separate customer parking areas from loading/unloading areas to ensure public safety etc; hence resulting in multiple vehicular access points.</p> <p>The laneway is not of sufficient width to permit servicing to occur from the laneway, and in this regard, Barton Street becomes the only realistic option. Therefore, whilst it is acknowledged that a number of vehicular access points have been proposed along this frontage, this is considered a reasonable response to the specific needs of the development.</p> <p>Considering that the entire Barton Street frontage of the site is proposed to be upgraded via public domain works including car parking (26 spaces) and landscaping, and that this area will be a main pedestrian access point to the development, thus activating the area, it is considered that crime and anti-social behaviour will not be encouraged.</p>
The proposal should incorporate more smaller tenancies especially along Barton Street, a larger plaza with outdoor seating area/shared zone for users, improved lighting	For reasons outlined previously, the development the subject of the current proposal is considered satisfactory, and addresses the issues previously raised by submitters and Council officers.

and installation of CCTV, improved landscaping, upgraded layout of the at-grade carpark, and installation of public facilities to discourage potential anti-social behaviour.	<p>The application proposes an improved plaza incorporating public domain works, along with appropriate safety and security measures. These measures are outlined in the CPTED report and include responses to matters such as sight lines, vegetation and landscaping, places of concealment and entrapment, territorial reinforcement and access control.</p> <p>Both the NSW Police and Council's Principal Community Planner have reviewed the application, including the Social Impact Comment, CPTED Report and Consultation Outcomes Report; and raise no objection to approval of the Development Application subject to the imposition of conditions of consent reflecting the recommendations contained within the CPTED Report.</p>
Design Considerations	
The alignment of the building and proposed laneway extension will have long term adverse impacts on the high street. It will reduce pedestrian permeability which will reduce foot traffic on Lang Street. There has been no regard to Council's urban design studies and desires for the redevelopment of the subject site.	<p>The development the subject of the current proposal incorporates a new footpath along the western boundary of the new laneway to provide a pedestrian link between Barton Street and Lang Street.</p> <p>Pedestrian connectivity is further reinforced through the inclusion of a wombat crossing to link the proposed plaza with the 'Woolworths' development.</p> <p>It is considered that the current proposal is consistent with Council's strategic vision for the site.</p>
The continuation of the laneway around the subject site, to be dedicated to Council, in exchange for the internal laneway, is a poor deal for Council. The laneway as proposed has no public benefit and will sever the pedestrian connection between the subject site and the high street. At present the public land provides a public benefit by allowing servicing to occur internally rather than at a street front.	<p>It is considered that the commitments contained in the Planning Agreement executed on 24 June 2024 will result in a superior outcome for the community as the applicant is required to construct a new laneway and upgrade the balance of the existing laneway (from the site to Victoria Street) to ensure the entire length of the laneway is constructed to Council's standard/s, at no cost to Council. Considering the current standard of the existing laneway, this is a positive outcome.</p> <p>In addition, existing servicing arrangements for the businesses that currently rely on this laneway (predominantly those with frontage to Lang Street), will be unchanged.</p>
<p>The physical connection between Lang Street and pedestrian access to the proposed supermarket should be improved. The proposed plaza is small and does not contain any street furniture. The size of the plaza should be increased.</p> <p>No pedestrian crossing is proposed at the laneway to improve connectivity between Lang and Barton Streets.</p>	<p>In response to concerns raised by the community and Council officers, the plaza area has been re-considered and specific plans in respect of the plaza have been lodged detailing the works proposed. These have been outlined previously in this report, and include:</p> <ul style="list-style-type: none"> • New bluestone paving, planter box and associated landscaping along the Lang Street frontage and within the pedestrian access point into the 'Woolworths' • New wombat crossing linking Lang Street with the proposed 'Woolworths' car park and pedestrian access point. • Installation of bollards and a bin within the public domain area and the proposed 'Woolworths' car park and pedestrian access point

	<ul style="list-style-type: none"> New footpath along the western boundary of the new laneway to provide a pedestrian link between Barton Street and Lang Street. <p>The works are considered appropriate and are consistent with the Kurri Kurri Commercial Centre Masterplan.</p>
<p>The redevelopment provides a once in a lifetime opportunity to reinvigorate the Kurri Kurri high street. That can be achieved with provision of appropriate off-street car parking and integration of the redevelopment with the high street through pedestrian permeability and good urban design. The current proposal looks like it would hasten its decline by segregating access physically and visually.</p>	<p>It is acknowledged that large sites such as the one the subject of this DA are not common within the commercial centre, and that the proposed development presents a rare opportunity to contribute to the reinvigoration of Kurri Kurri.</p> <p>It is considered that, since the application was initially exhibited, the matters raised by both submitters and Council officers have been considered and addressed by the application through the re-design process.</p> <p>This is further evidenced by the fact that no submissions were received in response to the re-exhibition period.</p> <p>Overall, it is considered that the proposal will contribute positively to Kurri Kurri and is consistent with the strategic vision for the site.</p>
<p>Concern regarding the interface between the site and the adjoining hotel, including replacement fencing, existing exit points and location of footings.</p>	<p>The architectural plans identify the construction of a timber paling fence atop a new concrete block retaining wall to a total height of 1.8m, along the boundary between the site and the adjoining hotel. This is illustrated below:</p>  <p>Existing exit points from the hotel will not be impacted by the proposed development, and any excavation associated with the proposed building is located approximately 7.8 metres from the boundary between the site and the adjoining hotel; thus, not impacting on the hotel. In addition, construction of the laneway will be appropriately managed to ensure no impact on the adjoining hotel.</p> <p>A new footpath is proposed along the eastern side of the replacement fence (adjoining the proposed new laneway), which will link with the proposed new plaza; thus, facilitating pedestrian access between Barton Street and Lang Street. No access is available to the hotel site from this footpath, as a 1.8 metre high boundary fence is proposed to be erected between the footpath and the hotel.</p>

Proposal is inconsistent with the Kurri Kurri masterplan as Lang and Barton Streets are not interconnected, safe and pedestrian friendly.	<p>The application proposes construction of a footpath along the western boundary of the new laneway to provide a pedestrian link between Barton Street and Lang Street.</p> <p>In addition, a wombat crossing is proposed to link the proposed development with the new plaza (with access to Lang Street), thereby providing connectivity between the site and all street frontages.</p>
The interaction of the proposed development with the adjoining heritage item is not considered acceptable.	As outlined previously, Council's heritage advisor is satisfied with the proposed development and its impact on the adjoining and nearby heritage items.
Other	
Confirmation requested as to whether a licensed premises will be contained within the building, as there is an abundance of them within Kurri Kurri.	As lodged, the DA does not seek approval for use of any part of the proposed development as a licensed premises.
There is limited information on the proposed use of the specialty shops. A condition of consent is recommended requiring a DA for first use.	<p>Consent is not sought for the use of the new specialty stores in conjunction with the application.</p> <p>A condition of consent will be imposed requiring separate DA's to be lodged seeking approval to use the individual premises (specialty stores).</p>
Removal of two significant murals and the proposed area for one mural shown on plan is too small and inappropriately located.	<p>The application proposes the demolition of all existing structures on the site, thereby resulting in the loss of two (2) existing murals, as follows:</p> <ul style="list-style-type: none"> • 'Stairway to Nowhere' on the northwestern corner; and • 'Drive In Theatre' on the western wall <p>The developer has confirmed that they have been working with 'Towns with Heart' to identify appropriate locations for new murals, and will consult with them in respect of the design/s.</p> <p>The eastern elevation was the preferred location discussed with the representative from 'Towns with Heart'; hence the architectural drawings include a location for a public art mural replacement. A further location for a replacement mural can be discussed with Council and Towns with Hearts.</p> <p>The commitments made by the applicant have been imposed as a condition of consent.</p>
Insufficient landscaping is proposed.	<p>Street trees are proposed along the Barton Street frontage of the site, which will be integrated with the public domain works in this area that include the provision of 26 car parking spaces.</p> <p>Landscaping is also proposed within the plaza area (accessed via Lang Street), comprising a tree with a deep soil zone and, is proposed within the at-grade carpark (accessed from the proposed laneway).</p>

Some documents are inconsistent with respect to the number of specialty stores proposed.	Noted. It is confirmed that three (3) specialty stores are proposed, and this is clearly reflected in the architectural plans.
DA should be withdrawn and resubmitted once deficient matters have been addressed.	<p>Noted, however the matters raised by Council during the assessment process have been addressed and resolved to the satisfaction of Council officers.</p> <p>Similarly, a number of the matters/concerns raised in the submissions received have been resolved.</p> <p>On the basis of the above, it is not considered necessary for the applicant to withdraw the DA.</p>

Table 13: Summary of issues raised during public exhibition period, and response to each

Is noted that positive comments in respect to the proposal are not contained in Table 13 (above), however they can be summarised follows:

- An additional supermarket would be a welcome addition to Kurri Kurri.
- The proposal would revitalise and breathe new life into Kurri Kurri.
- The proposal would generate employment opportunities and growth in the region.
- The proposal would provide a once in a lifetime opportunity to revitalise the Kurri Kurri township.
- The store would provide choice and variety for residents.
- The store would result in both temporary and permanent employment opportunities.
- The store would encourage competition within the township.
- The development would revitalise the CBD of Kurri Kurri and clean up a site that has started to become a negative distraction to the town.

4.15(1)(e) The public interest

The public interest is served through the detailed assessment of this Development Application under the *Environmental Planning and Assessment Act 1979*, *Environmental Planning and Assessment Regulation 2021* and Council policies.

The proposed development will create additional commercial offerings within the Kurri Kurri town centre, and result in the revitalisation of a site which is currently not developed to its full potential. In addition, temporary employment opportunities will be generated during construction of the proposed development, along with long-term employment opportunities when it ultimately commences operation.

The proposal satisfies the provisions contained within the Cessnock LEP 2011 and is consistent with Council's adopted planning controls. No adverse impacts are envisaged, and it is considered that the proposal will contribute positively to the Kurri Kurri commercial area.

On balance, the proposed development is considered to be in the public interest.

6. PLANNING AGREEMENT

A Planning Agreement between the relevant parties (being Cessnock City Council, the developer and landowner) was executed on 24 June 2024 (Appendix N).

6.1 Background

Following lodgement of the Development Application, Council officers commenced negotiations with the applicant and landowner in order to enter into a Draft Planning Agreement in respect of the Development Application.

Key dates are as follows:

Date	Action/Event
15 November 2023	Council supported and endorsed Report PE 40/2023 which related to a Planning Agreement Letter of Offer dated 29 September 2023 in respect of the subject site.
22 February 2024	Council supported and endorsed Report PE 1/2024 which recommended exhibition of the Draft Planning Agreement and road closure application in conjunction with the Development Application.
28 March and 2 May 2024	The Draft Planning Agreement was exhibited in conjunction with the Development Application and a road closure application relating to the Council owned laneway. Nine (9) submissions were received in respect of the Planning Agreement (eight (8) in support and one (1) expressing concern regarding the amount of carparking spaces the development will provide as opposed to the current spaces already existing).
19 June 2024	Outcome of exhibition of Draft Planning Agreement and road closure application reported to Council (Report PE 11/2024). Council resolved to authorise the General Manager to endorse the Planning Agreement and any necessary documentation in relation to the road closure.
24 June 2024	Planning Agreement executed.

Table 14: Key dates associated with Planning Agreement

6.2 Summary of Planning Agreement

Essentially, the main commitments contained in the Planning Agreement require the landowner to construct a new public laneway (647m²) and secondly, for Council to transfer the existing public laneway (454m²) to the landowner. In addition, the landowner will upgrade the balance of the existing laneway to ensure the entire length of the laneway is constructed to Council's standard/s, and carry out public domain works within the Barton Street frontage of the site.

The terms of the Planning Agreement are summarised as follows:

- The landowner proposes to construct and dedicate a new public laneway (647m²) within the subject site at the developer's cost, as set out in yellow in the figure below, and subject to Council approval.

- The landowner proposes to upgrade the existing public laneway to Victoria Street in accordance with plans approved by Council at the developer's cost, as set out in light grey in the figure below.
- The landowner proposes to acquire part of the existing public laneway from Council and apply to Council to close this section of road, as set out in pink in the figure below.
- Council will facilitate closure of the existing public laneway.
- The landowner proposes to pay Council's reasonable legal fees in relation to Council's costs associated with the road closure.
- On completion of the new public laneway, the landowner will transfer and dedicate the new laneway to Council.
- The closure of the existing public laneway will not take effect until the new public laneway is constructed, completed and dedicated to Council.
- The landowner proposes to carry out public domain works on Barton Street in accordance with plans approved by Council, aligning with Council's Kurri Kurri Commercial Centre Masterplan.
- The landowner acknowledges that s7.12 Development Contributions will be levied on any future development approval relating to the land.



Figure 21: Plan identifying commitments contained in the Planning Agreement regarding laneways

It is noted that the actions required to close the existing laneway have been commenced by both Council and the developer.

As outlined previously in this report, the development is proposed to be constructed in stages to facilitate compliance with the commitments contained in the Planning Agreement.

Both the DA and the Planning Agreement are consistent in respect of the timing and delivery of specific components of the proposed development. Schedule 2 of the Planning Agreement identifies the timing associated with the proposed works, as reproduced below.

Column 1 Item	Column 2 Public Purpose	Column 3 Manner & Extent	Column 4 Timing
1. New Laneway Works	The New Laneway Works, Laneway Upgrade Works and dedication of the Dedication Land will serve the public purpose of providing greater connectivity for the community and improvement of the existing public road network.	The Developer will complete the New Laneway Works at its cost, and in accordance with the Plans of Proposed Development and Council's Engineering Requirements for Development.	Prior to the issue of a Construction Certificate for the Commercial Centre.
2. Laneway Upgrade Works		The Developer will complete the Laneway Upgrade Works at its cost in accordance with section 138(1) of the Roads Act.	Prior to the issue of a Construction Certificate for the Commercial Centre.
3. Dedication of the Dedication Land		The Developer will dedicate the Dedication Land to Council in accordance with the procedure set out in clause 14.	Prior to the issue of a Construction Certificate for the Commercial Centre.
4. Public Domain Works	The Public Domain Works will serve the public purpose by improving public amenity, particularly pedestrian amenity.	The Developer will complete the Public Domain Works at its cost and in accordance with the Plans of Proposed Development and Council's Engineering Requirements for Development. The Public Domain Works are to align with the Kurri Kurri Commercial Centre Masterplan.	Prior to the issue of an Occupation Certificate for the Commercial Centre.

Table 15: Schedule 2 of Planning Agreement (executed on 24 June 2024)

The conditions of consent reflect the abovementioned table and the stages proposed in conjunction with the Development Application.

7. INTERNAL REFERRALS

The Development Application was referred to the following Council officers for comment:

Officer	Comment
Strategic Planning	Supported: Comments and conditions of consent provided
Development Engineer	Supported: Comments and conditions of consent provided
Heritage	Supported: Comments and conditions of consent provided
Strategic Planning	Supported: Comments and conditions of consent provided
Environmental Health	Supported: Comments and conditions of consent provided
Environment: Waste	Supported: Comments and conditions of consent provided
Community Planning	Supported: Comments and conditions of consent provided
Traffic/Works and Infrastructure	Various comments provided in respect of a range of issues associated with the laneway closure/opening, and construction of the laneway; incorporated into conditions of consent, as relevant.

Table 16: Summary of internal referrals

8. EXTERNAL REFERRALS

The Development Application was referred to the following external agencies for comment:

Agency	Outcome
NSW Police	<p>Comments provided on 1 May 2024. NSW Police noted that:</p> <ul style="list-style-type: none">• Kurri Kurri is overrepresented in a number of crime categories which has the potential to impact on the proposed development.• Rotary Park (located nearby) is a hangout during the hours of darkness where persons of all ages congregate, some of whom engage in anti-social and criminal behaviour.• It is possible that anti-social and criminal behaviour in the area will transfer to the Woolworths complex due to the open access of the car park, basement ramp, basement stairs, travellerator and lift areas of the complex; all of which provide concealment opportunities.• Due to the ongoing housing and rental crisis, an increase in the number of homeless persons wandering the streets of Kurri Kurri has been observed in recent times. Concern is raised that these community members may take the opportunity to utilise the accessible undercover areas of the complex to sleep and shelter from the elements, thereby resulting in an uncontrolled negative impact for the proposed development.• The open access off Lang and Barton Streets to the front forecourt of the proposed development and laneway is of concern due to the likelihood of persons congregating in the area during hours of darkness.• Persons leave licensed premises in varying states of intoxication. Darkened areas of the forecourt and laneway would be obvious targets for anti-social behaviour.• The forecourt and publicly open areas could become a target for skateboard and scooter riders which could result in incidents of anti-social behaviour and malicious damage incidents, whilst also posing a risk to public safety.

	<p>Overall, NSW Police raised no objection to approval of the application subject to the imposition of conditions of consent relating to the following matters:</p> <ul style="list-style-type: none"> • Access restrictions associated with the use of the lift from Barton Street to the Woolworths forecourt, i.e., that access to the lift be restricted to operational staffing hours. • Access restrictions associated with the basement parking areas, basement stairs, and travellator, i.e., that access to these areas be restricted to operational staffing hours. • Installation of physical skateboard deterrents and anti-skate fittings as well as utilisation of anti-skate architecture; all of which are to be incorporated into the design and construction of the publicly accessible areas of the proposed development. • Preparation/implementation of a Plan of Management (PoM) with respect to the operational aspects of the proposed development, including security. • Any other recommendations contained in the CPTED report.
TfNSW	<p>TfNSW provided comment in respect of the DA throughout the assessment process, most recently on 21 March 2024. TfNSW comments can be summarised as follows:</p> <ul style="list-style-type: none"> • The width of the laneway connecting the site with Victoria Street, and the impact associated with queuing into Victoria Street. • Appropriate speed/traffic environment in respect of the laneway. • The need for TfNSW concurrence under Section 138 of the <i>Roads Act 1993</i> with respect to the intersection of the laneway and Victoria Street.

Table 17: Summary of external referrals

9. CONCLUSION

The DA has been assessed in accordance with s4.15 of the *Environmental Planning and Assessment Act 1979*.

As outlined within this report, the proposed development is consistent with the provisions of relevant environmental planning instruments and associated planning controls. The proposal is considered worthy of support, noting the following:

- The proposal is a permitted land use in the E1 Local Centre zone and is consistent with the zone objectives in that the proposed development will provide retail and business uses that will serve the needs of people, particularly those who live in Kurri Kurri and the wider locality.
- It is considered that the proposal will contribute positively to Kurri Kurri and will generate employment opportunities and economic growth. The subject site is considered suitable for the proposed development; furthermore, it represents an appropriate form of development within the town centre. The site has been zoned to permit this type of development, and the resultant development will be consistent with the strategic vision for the site.
- The Planning Agreement executed on 24 June 2024 will result in the construction of a new public laneway, which facilitates a more useable development site, hence resulting in a superior outcome. Secondly, the Planning Agreement requires the applicant to upgrade the balance of the existing laneway to ensure the entire length of the laneway is constructed to Council's standard/s, at no cost to Council, and carry out public domain works within the Barton Street frontage of the site.
- Issues raised during the public exhibition periods have been addressed in this report, and it is considered that the issues raised do not warrant refusal of the application.

Having regard to s4.15 of the *Environmental Planning and Assessment Act 1979*, the DA is, on balance, considered worthy of support. On this basis, it is recommended that the DA be approved.