

REASONS FOR THE DETERMINATION & CONSIDERATION OF COMMUNITY VIEWS

The determination decision was reached for the following reasons:

- The proposed development, subject to the recommended conditions, is consistent with the objectives of the applicable environmental planning instrument(s), being the *Cessnock Local Environmental Plan 2011 (CLEP)*, *State Environmental Planning Policy (Resilience and Hazards) 2021*, *State Environmental Planning Policy (Transport and Infrastructure) 2021* and *State Environmental Planning Policy (Industry and Employment)*.
- The proposed development is, subject to the recommended conditions, consistent with the objectives of the Cessnock Development Control Plan 2010 (DCP).
- Subject to the recommended conditions, the proposed development will be provided with adequate essential services required under the *Cessnock Local Environmental Plan 2011 (CLEP)*.
- The proposed development is considered to be of an appropriate scale and form for the site, and is consistent with the character of the locality.
- The proposed development, subject to the recommended conditions, will not result in unacceptable adverse impacts upon the natural or built environments.
- The proposed development is a suitable and planned use of the site and its approval is consistent with the public interest.
- Any issues raised in submission/s have been taken into account in the assessment report and where appropriate, conditions of consent have been imposed on the determination. Council has given due consideration to community views when making the decision to determine the application.

CONDITIONS OF CONSENT

1. Approved Plans and Documents

Development must be carried out strictly in accordance with DA No. 8/2023/64/1 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
Architectural Plans, Project No. 2201, Site Acquisition Plan, Drawing No. DA03, Rev B	TBC	21/08/2023
Architectural Plans, Project No. 2201, Demolition Plan, Drawing No. DA04, Rev B	TBC	21/08/2023
Architectural Plans, Project No. 2201, Landscape Plan, Drawing No. DA05, Rev C	TBC	21/02/2024
Architectural Plans, Project No. 2201, Site Staging Plan, Drawing No. DA06, Rev B	TBC	21/08/2023
Architectural Plans, Project No. 2201, Public Domain Part 1, Drawing No. DA07, Rev C	TBC	21/02/2024
Architectural Plans, Project No. 2201, Public Domain Part 2, Drawing No. DA08, Rev C	TBC	21/02/2024
Architectural Plans, Project No. 2201, Lower Ground Floor, Drawing No. DA10, Rev C	TBC	21/02/2024
Architectural Plans, Project No. 2201, Upper Ground Floor, Drawing No. DA11, Rev C	TBC	21/02/2024
Architectural Plans, Project No. 2201, Mezzanine Floor, Drawing No. DA12, Rev B	TBC	21/08/2023
Architectural Plans, Project No. 2201, Roof Level, Drawing No. DA13, Rev B	TBC	21/08/2023
Architectural Plans, Project No. 2201, Elevations – South & East, Drawing No. DA20, Rev C	TBC	21/02/2024
Architectural Plans, Project No. 2201, Elevations – North & West, Drawing No. DA21, Rev B	TBC	21/08/2023
Architectural Plans, Project No. 2201, Sections – AA & CC, Drawing No. DA22, Rev B	TBC	21/08/2023
Architectural Plans, Project No. 2201, Detail Sections, Drawing No. DA23, Rev B	TBC	21/08/2023
Architectural Plans, Project No. 2201, Signage Schedule, Drawing No. DA26, Rev B	TBC	21/08/2023
Architectural Plans, Project No. 2201, Materials and Finishes, Drawing No. DA35, Rev B	TBC	21/08/2023

Document Title	Prepared By	Dated
Civil Engineering Plans, Sheets No. 01-09, Rev 2	Metiri	15 August 202
Preliminary and Detailed Contamination Assessment	Qualtest Laboratory (NSW) Pty Ltd	21 December 2022
Heritage Impact Statement	Weir Phillips	September 2023
Traffic Impact Assessment	Colston Budd Rogers & Kafes Pty Ltd	January 2023
Demolition Waste Management Plan	WasteAudit	January 2023
Construction Waste Management Plan	WasteAudit	January 2023
Operational Waste Management Plan	WasteAudit	January 2023
Noise Impact Assessment	Reverb Acoustics	December 2022
Crime Prevention Through Design (CPTED) Report, Issue B	The Design Partnership	6 September 2023

In the event of any inconsistency between the approved plans and supplementary documentation, the plans will prevail.

2. CC/SWC, PC & Notice Required

In accordance with the provisions of Section 6.6/6.12, 6.7/6.13 of the *EP&A Act 1979*, construction/subdivision works approved by this consent must not commence until:

- a) A *CC/SWC* has been issued by a Certifier (being Council or a registered certifier); and
- b) A *PC* has been appointed by the person having benefit of the development consent; and
- c) If Council is not the *PC*, notify Council no later than two (2) days before building/subdivision work commences as to who is the appointed *PC*; and
- d) At least two (2) days before commencement of building/subdivision work, the person having benefit of the development consent is to notify Council as to the intention to commence building/subdivision work.

3. BCA Compliance

Pursuant to Section 4.17(11) of the *EP&A Act 1979* all building work must be carried out in accordance with the requirements of the *BCA*.

Note: Section 69 of the *EP&A Reg 2021* and Section 19 of the *EP&A (DC&FS) Reg 2021* states 'a reference to the *BCA* is a reference to the *BCA* as in force on the relevant date', which is;

- 'a) the day on which the application for the construction certificate was made, or
- (b) if the building is a multi-storey building and a construction certificate has been issued under the same development consent for building work involving the entrance floor—the day on which the application for that construction certificate was made'

PRIOR TO THE ISSUE OF A SUBDIVISION WORKS CERTIFICATE FOR ROAD CONSTRUCTION

The following conditions are to be complied with, to the satisfaction of the Certifier, prior to issue of a Subdivision Works Certificate.

4. Planning Agreement

In accordance with Section 7.7(3) of the *EP&A Act 1979*, the Planning Agreement offered by the developer in respect of the *DA* the subject of this consent, must be entered into prior to the issue of any *SWC*. The terms of the Voluntary Planning Agreement must thereafter, be adhered to.

A Bank Guarantee / Bond for the amount agreed to by Council to cover the cost of the works as described in the Planning Agreement shall be submitted to Council prior to the issue of any *SWC*. The Bank Guarantee shall be registered with Council and a stamped copy recording the receipt of the Guarantee by Council shall be produced for the indexed contributions amount, prior to the issue of any *SWC*.

Any party intending to act on this consent should contact Council prior to the date of payment to determine the indexed amount payable.

5. Local Traffic Committee Approval

Any application involving the installation of, or amendment to, regulatory signage, linemarking and/or traffic control devices, will require approval of the Council Local Traffic Committee. Full details shall be submitted to council for approval by the Council Local Traffic Committee, prior to the issue of an *SWC*, and subsequent Section 138 Roads Act Approval.

6. Long Service Levy

In accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986*, the applicant must pay a long service levy at the prescribed rate to either the Long Service Payments Corporation or Council for any work costing \$250,000 or more. The Long Service Levy is payable prior to the issue of a *SWC*.

7. Road – Fees

The applicant shall lodge payment of fees as follows:-

- a) Road fees – Engineering plan checking;
- b) Road fees – PC certification of works

Final fee amounts will be levied on accurate dimensions contained within the engineering plans.

The fees shall be payable prior to the issue of a *SWC* / *Section 138* for the Construction Works and shall be in accordance with Council's adopted fees and charges current at the time of payment.

8. Laneway - Construct

The person having the benefit of the Development Consent shall construct within the Laneway in accordance with Council's 'Engineering Guidelines for Design and Construction' and set out on a set of plans, which are to be submitted to, and approved by, Council prior to the release of the S138 Roads Act Approval.

- a) Construct a 5.5m wide sealed pavement from Victoria Street to Barton Street. In accordance with concept Civil engineering plans prepared by Metri dated 15/08/23 Rev 2 and the Voluntary Planning Agreement.
- b) Installation of a 20km/hour speed limit signage.
- c) Installation of traffic calming devices for compliance with the 20km/hour speed limit, and to ensure speeds are kept low near the narrow point of the laneway.
- d) Installation of an entry treatment for pedestrians such as coloured pavement or raised threshold between the plaza and the entry to the at-grade car park.
- e) Installation of enhanced warning signage through the laneway to alert motorists that pedestrians will be on the roadway.

Note: Works within the public domain are to align with the Kurri Kurri commercial centre masterplan.

PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE FOR COMMERCIAL CENTRE

The following conditions are to be complied with, to the satisfaction of the Certifier, prior to issue of a Construction Certificate.

9. Local Traffic Committee Approval

Any application involving the installation of, or amendment to, regulatory signage, linemarking and/or traffic control devices, will require approval of the Council Local Traffic Committee. Full details shall be submitted to council for approval by the Council Local Traffic Committee, prior to the issue of an CC, and subsequent Section 138 Roads Act Approval.

10. Long Service Levy

In accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986*, the applicant must pay a long service levy at the prescribed rate to either the Long Service Payments Corporation or Council for any work costing \$250,000 or more. The Long Service Levy is payable prior to the issue of a CC.

11. Cessnock Section 7.12 Levy Contributions Plan 2017

A total monetary contribution of **\$219,689.52** is to be paid to Council, pursuant to Section 7.12 of the *Environmental Planning and Assessment Act 1979*.

A copy of the S7.12 Levy Contributions Plan can be accessed on Council's website at www.cessnock.nsw.gov.au, or may be inspected at Council's Administration Building.

The amount of contribution payable under this condition has been calculated at the date of consent. In accordance with the provisions of the Contributions Plan, this amount shall be indexed at the time of actual payment in accordance with the Consumer Price Index. Indexation of contributions for payment occurs quarterly.

12. Boundary Fencing

The boundary fencing along the shared boundary with the adjoining heritage item (Kurri Kurri Hotel) shall be a traditional hardwood timber frame and paling fence.

The fence shall:

- a) Have a maximum height of 1800mm.
- b) Be traditionally detailed, with a chamfer to both edges of the topmost portion of each paling.
- c) The palings shall be affixed to the Kurri Kurri Hotel side so that the framing is exposed to the subject site side.

Amended plans detailing the above requirements shall be submitted to the satisfaction of Council's Heritage Advisor.

13. Materials and Finishes Schedule

A revised and fully detailed Materials and Colour Finishes Schedule shall be submitted to the satisfaction of Council's Heritage Advisor.

The Materials and colour Finishes Schedule must nominate the proprietary materials and finishes to be used, including accurate images of the samples.

The Materials and Colour Finishes Schedule must nominate a palette of materials and finishes which are complementary to the hues, tones and textures of the heritage items within the vicinity of the site.

14. Food Premises

The construction and operation of the food premises shall comply with all applicable legislation, regulation and standards including:

- a) *Food Act 2003*
- b) *Food Regulation 2015*
- c) Food Standards Australia and New Zealand – *Food Standards Code 2003*
- d) *AS 4674-2004 for Design, Construction and Fit out of Food Premises*
- e) *AS 1668.2-2002 – The use of ventilation and air conditioning in buildings*
- f) *BCA*

Details submitted in association with the CC application are to demonstrate compliance with this requirement, and shall include the following:

- a) a separate floor and sectional plan detailing:
 - i) the wall, and ceiling surface finishes
 - i) location of the required handwash basin/s and cleaning sinks/s
 - iii) location of dry and cold storage areas,
 - iv) designated cupboard or locker for the storage of staff clothing and personal belongings

The details are to be approved by the Certifier as satisfying this requirement.

15. Security for Cost of Damage and Completion of Public Work

Prior to issue of a CC authorising the carrying out of any work in accordance with this development consent, the applicant must provide security to the Council for the payment of the cost of the following:

- a) making good any damage caused to any property of the Council as a consequence of the doing of anything to which the consent relates,
- b) completing any public work (such as road work, kerbing and guttering, footway construction, stormwater drainage and environmental controls) required in connection with the consent,
- c) remedying any defects in any such public work that arise within six (6) months after the work is completed.

The security is to be for an amount that is the greater of \$5000 or 5% of the estimated cost of carrying out the development and may be provided by way of:

- a) cash deposit with the Council, or
- b) an unconditional bank guarantee in favour of the Council.

The security may be used to meet any costs referred above and on application being made to the Council by the person who provided the security, any balance remaining is to be refunded to, or at the direction of, that person. If no application is made to the Council for a refund of any balance remaining of the security within six (6) years of the date of issue of the OC or SC for the development the Council may pay the balance to the Chief Commissioner of State Revenue under the *Unclaimed Money Act 1995*.

16. Retaining Wall

Where a retaining wall is in excess of 600mm in height and/or within 900mm of a property boundary, separate detailed drawings are to be submitted in conjunction with the CC, specifying wall heights, heights of retaining walls, proposed mounding and stabilisation treatment, and landscaping for the elevations of the building.

The plans submitted in association with the CC application are to demonstrate compliance with this requirement. The plans are to be approved by the Certifier as satisfying this requirement.

17. Car Parking – Commercial

The design of the vehicular access and off street parking facilities must comply with, but not be limited to *AS 2890.1-2004 Parking Facilities – Off-Street Car Parking*, *AS 2890.2-2002 Parking Facilities – Off-Street commercial vehicles facilities*, and *AS 2890.3-1993 Parking Facilities – Bicycle parking facilities*. Details demonstrating compliance with these Standards are to be included on the plans submitted in association with a CC application.

A design certificate satisfying these requirements is to be issued by a suitably qualified professional engineer and submitted to the Certifier.

18. Car Parking – Basement

The plans submitted in association with the CC application are to demonstrate the inclusion of roller doors, or alternate solutions, to prevent access to the public (pedestrians and vehicles) outside nominated operating or delivery hours.

19. Disabled Car Parking Spaces

A total of four (4) car parking spaces for use by persons with a disability must be provided as part of the total car parking requirements.

Plans demonstrating compliance with this requirement and the following Australian Standards are to be submitted to, and approved by, the Certifier prior to the issue of a CC.

- * *AS/NZS 2890.1:2004 Parking Facilities – Off street car parking*
- * *AS/NZS 1428.1:2009 Design for access and mobility – General requirements for access – New building work*
- * *AS/NZS 1428.4.1:2009 Design for access and mobility – Means to assist the orientation of people with vision impairment – Tactile ground surface indicators.*

20. Parking – Delivery Vehicles

A separate off-street loading/unloading facility with capacity to accommodate the largest delivery vehicle likely to deliver goods to and from the premises shall be provided for all loading and unloading of vehicles wholly within the property. Such facility shall be constructed clear of the car parking area and driveways.

The plans submitted in association with the CC application are to demonstrate compliance with this requirement. The plans are to be approved by the Certifier as satisfying this requirement.

21. Parking – Minimum Requirement

Onsite car parking shall be provided for a minimum of 151 vehicles and such being set out generally in accordance with Council's Development Control Plan.

The plans submitted in association with the CC application are to demonstrate compliance with this requirement. The plans are to be approved by the Certifier as satisfying this requirement.

22. Bicycle Storage to be Provided

The bicycle storage area must accommodate a minimum of ten (10) bicycles and be design in accordance with *AS 2890.3:1993 Parking Facilities – Bicycle parking facilities*.

The plans submitted in association with the CC application are to demonstrate compliance with this requirement. The plans are to be approved by the Certifier as satisfying this requirement.

23. Road – External Construction

The person having the benefit of the Development Consent shall reconstruct the following for the full Barton Street frontage of the subject lot for a distance of approximately 120m in accordance with Council's 'Engineering Guidelines for Design and Construction' and set out on a set of plans, which are to be submitted to, and approved by, Council prior to the release of the CC / S138 Roads Act Approval.

- a) Construct kerb and gutter;
- b) Construct 26 parking spaces along the lot frontage of Barton Street;

- c) Place two (2) coat hot bitumen seal on new works;
- d) Construct concrete footpath 1.5m wide;
- e) Construct pedestrian refuge on Barton Street;
- f) Construct drainage works;
- g) Line marking and signage as required.

Works within the public domain are to align with the Kurri Kurri commercial centre masterplan and be consistent with Council's preferred schedule of materials (bluestone paving) for the Kurri Kurri commercial centre to adopt a unified approach for the area. The current upgraded footpath treatment being constructed by Council as part of the Kurri Kurri upgrade works is to be matched.

24. Road – Bonds

The applicant shall pay the following:-

- a) A performance and maintenance bond of a minimum of \$1000 or 5% of the contract construction costs, whichever is greater. To be held by council for a period of 12 months.

It will be necessary for the applicant to submit evidence of the contract price of all construction works in order for Council to assess accurate bond amounts.

The bond shall be payable prior to the issue of a *Section 138* approval.

The bond may be used to meet any costs referred to above, and on application being made to the Council by the person who provided the bond, any balance remaining is to be refunded to, or at the direction of, that person.

A fee in accordance with Council's current fees and charges is to be paid prior to the final inspection of works and subsequent bond return.

If no application is made to the Council for a refund of any balance remaining of the bond within six (6) years of the date of issue of a compliance certificate for the development, the Council may pay the balance to the Chief Commissioner of State Revenue under the *Unclaimed Money Act 1995*.

25. Road – Fees

The applicant shall lodge payment of fees as follows:-

- a) Road fees – Engineering plan checking;
- b) Road fees – PC certification of works.

Final fee amounts will be levied on accurate dimensions contained within the engineering plans.

The fees shall be payable prior to the issue of a *CC / Section 138* for the Construction Works and shall be in accordance with Council's adopted fees and charges current at the time of payment.

26. Stormwater – Discharge (General)

The applicant shall collect all roof and stormwater runoff from the impervious areas on site, and any other drainage entering the site, and discharge it to Council's satisfaction in accordance with Council's 'Engineering Guidelines for Design and Construction'.

The plans submitted in association with the CC application are to demonstrate compliance with this requirement. The plans are to be approved by the Certifier as satisfying this requirement.

27. Stormwater – Detailed Design Requirements

A detailed drainage design shall be prepared for the disposal of roof and surface water from the site, including any natural runoff currently entering the property, and connection to the existing drainage system in accordance with Council's 'Engineering Guidelines for Design and Construction'. Such layout shall include existing and proposed surface levels, sub-catchments and conduit sizing appropriate for the development.

The plans submitted in association with the CC application are to demonstrate compliance with this requirement. The plans are to be approved by the Certifier as satisfying this requirement.

28. Stormwater – Detention Requirement

The person having the benefit of the Development Consent is to provide a stormwater detention facility within the boundaries of the site to reduce the peak stormwater discharge from the developed lot to that of the peak stormwater discharged from the undeveloped lot for all storm events from the 1 in 1 year to the 1 in 100 year Average Recurrence Interval (ARI) storm event. A detailed drainage design shall be prepared for the disposal of roof and surface water from the site, including any natural runoff currently entering the property. Details shall include onsite storage, the method of controlled release from the site, and connection to an approved drainage system in accordance with Council's 'Engineering Guidelines for Design and Construction'.

29. Stormwater – Construction Management Plan Requirement

A construction management plan shall be submitted with the application for the CC and approved by the Certifier as satisfying the below requirements:

- a) Details of sedimentation and erosion control;
- b) Details of provision of truck and machinery wash down areas. Note: All trucks and machinery must be free from all foreign material where such material is likely to cause pollution. An area must be set aside for the cleaning of concrete agitator trucks;
- c) Details of dust mitigation on building sites and access roads;
- d) Location and phone number of the site office;
- e) Details regarding provision of areas set aside for the storage/stockpiling of:
 - i) Construction refuse;
 - ii) Construction materials;
 - iii) Raw materials such as sand, soil, mulch and the like;

- iv) Details regarding the provision of facilities for workers associated with the development.

Note: All protection and control of earthworks shall be carried out in accordance with Council's 'Engineering Guidelines for Design and Construction', Department of Conservation and Land Management's 'Urban Erosion and Sediment Control' requirements, and the Department of Housing 'Soil and Water Management for Urban Developments'.

Detailed plans, specifications and copies of the calculations, including existing and proposed surface levels, sub-catchments and conduit sizing appropriate for the development, shall be prepared by an engineer suitably qualified and experienced in the field of hydrology and hydraulics. The plans submitted in association with the CC application are to demonstrate compliance with this requirement. The plans are to be approved by the Certifier as satisfying this requirement.

30. Dilapidated Report Adjoining Property

A dilapidation report including a photographic survey of the following adjoining properties must be provided to Council prior to the issue of a CC. The dilapidation report must detail the physical condition of those properties, both internally and externally, including walls, ceilings, roof, structural members and other similar items.

- a) Kurri Kurri Hotel, 180 Lang Street, Kurri Kurri

The dilapidation report is to be prepared by a practising Structural Engineer agreed to by both the applicant and the owner of the adjoining property. All costs incurred in achieving compliance with this condition shall be borne by the applicant.

In the event that access for undertaking the dilapidation report is denied by an adjoining owner, the applicant must demonstrate in writing that all reasonable steps have been taken to obtain access, and advise the affected property owner of the reason for the survey and that these steps have failed. Written concurrence must be obtained from the Certifier in such circumstances.

31. Outdoor Lighting and Illuminated signage

The Certifier must be satisfied that all outdoor lighting and illuminated signage is shown on plan to be designed and positioned to minimise any detrimental impact upon the amenity of other premises, adjacent dwellings and the road reserve, and that the outdoor lighting and illuminated signage complies with the relevant provisions of *AS 1158.3.1:2020 Pedestrian area (Category P) lighting – Performance and design requirements* and *AS 4282:2023 Control of the obtrusive effects of outdoor lighting*.

32. Acoustic Treatment

Appropriate acoustic treatment is to be implemented in accordance with the recommendations set out in the report prepared by Reverb Acoustics, dated December 2022.

Plans detailing the inclusion of the recommendations of the report shall be submitted to the satisfaction of the Principal Certifying Authority.

33. Potential Noise Impacts

The LAeq* noise level emitted from the premises must not exceed the background noise level in any octave band centre frequency (31.5Hz– 8k Hz inclusive) by more than 5dB between 7:00 am and 12:00 midnight at the boundary of any affected residence.

Notwithstanding compliance with the above, the noise from the premises must not be audible within any habitable room in any residence between the hours of 12:00 midnight and 7:00am.

Evidence is to be provided to the Certifier demonstrating how the proposed development will satisfy this requirement.

*For the purposes of this condition, the LAeq can be taken as the level of noise equivalent to the energy-average of noise levels occurring over a measurement period.

34. Air Conditioning Units

Any air conditioning unit on the site must be installed and operated at all times so as not to cause "Offensive Noise" as defined by the *Protection of the Environment Operations Act 1997*.

Details demonstrating noise attenuation measures in this regard are to be submitted to the Certifier.

35. Crime Prevention Through Environmental Design

The plans submitted in association with the CC application are to demonstrate compliance with the recommendations included in the approved Crime Prevention Through Environmental Design (CPTED) report, Issue B, prepared by The Design Partnership and dated 06/09/23.

36. Anti-Skate Architecture and Fittings

Plans submitted in association with the CC application are to include physical skateboard deterrents and anti-skate fittings, as well as anti-skate architecture incorporated into the design and construction of the public accessible areas of the complex.

37. Murals

Plans detailing the location and design of the replacement murals, and written evidence of approval from *Town With Hearts* for the location and design shall be submitted to Council.

38. Section 50 – Hunter Water Act 1991

Evidence shall be submitted to Council that the person having the benefit of the Development Consent on whose behalf the application was made have complied with the requirements of Section 50 of the *Hunter Water Act 1991*. Such evidence shall be submitted to Council prior to the issue of the CC.

39. Waste, bin storage and recycling areas

Submit detailed plans to the Certifier, demonstrating that all waste, bin storage and recycling areas are:

- a) Adequately sized for all intended waste streams and volumes.
- b) Designed to ensure floors are graded and drained to a sewer with an approved drainage fitting.
- c) Constructed to ensure that all floors and walls are finished with a smooth and impervious surface, that enables easy cleaning.

- d) Supplied with hot and cold water mixed thorough a centralised mixing valve.
- e) Constructed in a manner to prevent the entry of vermin, and
- f) Provided with adequate light and ventilation.

PRIOR TO COMMENCEMENT OF WORKS

The following conditions are to be complied with prior to the commencement of works on the subject site.

40. Demolition

Consent is granted for the demolition of structures currently existing on the property, subject to strict compliance with the following conditions:

- a) Demolition must not commence until a dilapidation report has been completed for Kurri Kurri Hotel, 180 Lang Street, Kurri Kurri and a demolition methodology specifically identifying the measures in place to protect the adjoining heritage item has been prepared and approved by the Certifier.
- b) The developer is to notify adjoining residents seven (7) working days prior to demolition. Such notification is to be clearly written on A4 size paper giving the date demolition will commence, and be placed in the letterbox of every premises (including every residential flat or unit, if any) either side, immediately at the rear of, and directly opposite the demolition site. If there is no letterbox provided for commercial/retail premises, the notification is to be hand delivered to the premises during business hours.
- b) Written notice is to be given to the Council prior to demolition. Such written notice is to include the date when demolition will commence and details of the name, address, business hours, contact telephone number, and licence number of the demolisher.
- c) Prior to demolition, the applicant must erect a sign at the front of the property with the demolisher's name, licence number, contact phone number and site address.
- d) Prior to demolition, the applicant must erect a 2.4m high temporary fence, hoarding between the work site and any public property (footpaths, roads, reserves, etc). Access to the site must be restricted to authorised persons only, and the site must be secured against unauthorised entry when work is not in progress, or the site is otherwise unoccupied.
- e) Demolition is to be carried out in accordance with the relevant provisions of *AS 2601:2001: Demolition of structures*.
- f) The hours of demolition work are limited to between 7.00am and 5.00pm on Monday to Saturday. No demolition work is to be carried out on Sundays and public holidays.
- g) Hazardous or intractable wastes arising from the demolition process must be removed and disposed of in accordance with the requirements of the SafeWork NSW and the Environment Protection Authority (EPA).
- h) Demolition procedures must maximise the reuse and recycling of demolished materials in order to reduce the environmental impacts of waste disposal.

- i) During demolition, public property (footpaths, roads, reserves, etc) must be clear at all times and must not be obstructed by any demolished material or vehicles. The footpaths and roads must be swept (not hosed) clean of any material, including clay, soil and sand. On the spot fines may be levied by Council against the demolisher and/or owner for failure to comply with this condition. No materials shall be stockpiled on footpaths or road carriageways.
- j) All vehicles leaving the site with demolition materials must have their loads covered, and vehicles must not track soil and other materials onto public property (footpaths, roads, reserves, etc) and the footpaths must be suitably protected against damage when plant and vehicles access the site.
- k) The burning of any demolished material on site is not permitted, and offenders will be prosecuted.
- l) Care must be taken during demolition to ensure that existing services on the site (ie, sewer, electricity, gas, phone) are not damaged. Any damage caused to existing services must be repaired by the relevant authority at the applicant's expense.
- m) Suitable erosion and sediment control measures in accordance with the Soil and Water Management Plan must be erected prior to the commencement of demolition works, and must be maintained at all times.
- n) Prior to demolition, a Work Plan must be prepared in accordance with the relevant provisions of *AS 2601:2001 Demolition of structures* by a person with suitable expertise and experience. The Work Plan must identify hazardous materials including surfaces coated with lead paint, method of demolition, the precautions to be employed to minimise any dust nuisance, and the disposal methods for hazardous materials.
- o) If the building contains asbestos, an asbestos survey prepared by a qualified occupational hygienist is to be undertaken. If asbestos is present then:
 - i) A SafeWork licensed contractor must undertake removal of all asbestos.
 - ii) During the asbestos removal, a sign "DANGER ASBESTOS REMOVAL IN PROGRESS" is to be erected in a visible position on the site to the satisfaction of Council, and *AS 2601:2001: Demolition of structures*.
 - iii) Any asbestos containing material identified during demolition or construction works is to be disposed of off-site at a licenced waste facility and is not to be buried or encapsulated under buildings and/or structures.
 - iv) Waste disposal receipts must be provided to Council as proof of correct disposal of asbestos laden waste.
 - v) All removal of asbestos must comply with the requirements of the SafeWork NSW.

An asbestos clearance certificate prepared by a qualified occupational hygienist must be provided to Council at the completion of the demolition works.

41. Construction and Traffic Management Plan

The applicant must prepare a Construction and Traffic Management Plan incorporating the following matters. The plan must be submitted to and approved by the *PC* as satisfying these matters prior to the commencement of works.

- a) A plan view of the entire site and frontage roadways indicating:

- i) Dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways.
 - ii) Turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site.
 - iii) The locations of proposed work zones in the frontage roadways.
 - iv) Location of any proposed crane, concrete pump, truck standing areas on and off the site.
 - v) A dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries.
 - vi) Material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected.
 - vii) An onsite parking area for employees, tradespersons and construction vehicles as far as possible.
 - viii) The proposed areas within the site to be used for the storage of excavated material, construction materials and waste and recycling containers during the construction period.
 - ix) How it is proposed to ensure that soil/excavated material is not transported onto surrounding footpaths and roadways.
 - x) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed by a Chartered Civil Engineer.
- b) Details of the management of notification to impacted adjoining owners during construction to enable timely and safe access for landowners to their properties.
 - c) During excavation, demolition and construction phases, noise generated from the site must be controlled.
 - d) All site works must comply with the work health and safety requirements of SafeWork NSW.
 - e) During excavation, demolition and construction phases, toilet facilities are to be provided on site, at the rate of one (1) toilet for every twenty (20) persons or part of twenty (20) persons employed at the site. Each toilet provided must be a sewage management facility approved by the NSW Department of Health and/or Council, and operate in an environmentally responsible manner, free of nuisance or offence, and be appropriately serviced
 - f) All traffic control plans must be in accordance with the TfNSW publication *Traffic Control Worksite Manual* and prepared by a suitably qualified person (minimum 'red card' qualification). The main stages of the development requiring specific construction management measures are to be identified and specific traffic control measures identified for each stage. The traffic control plans shall detail the management of access for adjoining owners during each stage of construction demonstrating timely and safe access for landowners to their properties.

Approval is to be obtained from Council for any temporary road closures or crane use from public property. Applications to Council shall be made a minimum of six (6) weeks prior to the proposed activity being undertaken.

42. Site To Be Secured

The site must be secured and fenced prior to works commencing. If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling onto public property. The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons on public property.

If the work involves the erection or demolition of a building and is likely to cause pedestrian or vehicular traffic on public property to be obstructed or rendered inconvenient, or building involves the enclosure of public property, a hoarding or fence must be erected between the work site and the public property.

Separate approval is required to erect a hoarding or temporary fence on public property. Approvals for hoardings, scaffolding on public land must be obtained and clearly displayed on site for the duration of the works.

The security of the site is not to impede access for adjoining owners to their individual properties.

Any hoarding, fence or awning is to be removed when the work is completed.

43. Erection of Signs

Prior to the commencement of building works, subdivision work or demolition work, a sign must be erected in a prominent position on the site on which the work is being carried out. The sign must state:

- a) the name, address and telephone number of the principal certifier for the work;
- b) the name of the principal contractor, if any, for the building work and a telephone number on which the principal contractor may be contacted outside of working hours; and
- c) state that unauthorised entry to the work site is prohibited.

The sign must be maintained while the work is being carried out, but must be removed when the work has been completed.

44. Structure Located Within Boundaries

The proposed structure to be erected must stand wholly within the boundaries of the allotment. No portion of the proposed structure, including gates and doors during opening and closing operations, shall encroach onto adjoining properties or upon public property.

To ensure that the location of the building satisfies the provision of the approval, the footings and walls within one (1) metre of the boundaries must be set out by a registered surveyor prior to the commencement of works.

To ensure that the location of the building satisfies the provision of the approval, a check survey certificate shall be submitted to the *PC* either prior to the pouring of the ground floor slab or at damp course level, whichever is applicable or occurs first, indicating the: -

- a) location of the building with respect to the boundaries of the site;
- b) level of the floor in relation to the levels on the site (all levels are to be shown relative to Australian Height Datum);
- c) site coverage of the buildings on the site.

45. Public Liability Insurance

Any person or contractor undertaking works on public property must take out Public Risk insurance with a minimum cover of twenty (20) million dollars in relation to the occupation of, and approved works within, public property. The Policy is to note, and provide protection for Cessnock City Council as an interested party, and a copy of the Policy must be submitted to Council prior to commencement of the works. The Policy must be valid for the entire period that the works are being undertaken on public property. The insurance shall also note the location and the risk.

46. S138 Roads Act Approvals

Under Section 138 of the *Roads Act 1993*, should any work on the verge, footpath, or public road reserve be required, a S138 Roads Act Approval will need to be obtained from Council. In this regard, the applicant is to make a formal application to Council. The S138 application is to be submitted to, and approved by, Council prior to works commencing.

47. Construction Environmental Management Plan

The proponent is to prepare and submit to the *PC* and Council, a Construction Environmental Management Plan (CEMP) for construction works on the site, which is to be kept on site and made available to authorised Council officers upon request. The CEMP is to include but not be limited to:

- An asbestos management and removal control plan to safely manage and remove any asbestos identified during works and to prevent the spread of asbestos to other areas of the site.
- A site management strategy, identifying and addressing issues such as environmental health and safety, site security, and traffic management.
- A water management strategy, detailing erosion and sediment control, management of soil stockpiles, control and management of surface water, groundwater and process water.
- A dust management strategy, detailing procedures to minimise dust generation, with reference to control techniques and operational limits under adverse meteorological conditions. This strategy should be cross referenced with the water management strategy.
- A road management strategy, detailing procedures to ensure that all roads adjacent to and with the proposed application area are kept free and clear from mud and sediment.
- A soil management strategy, detailing measures to be implemented to manage the identification and control and disposal of any acid sulphate soils or soil contamination identified during site works. The soil management strategy must include an unexpected finds protocol/contingency plan in relation to potential contamination.
- A waste minimisation strategy, which aims to avoid production of waste and maximise reuse, recycling or reprocessing of potential waste material.
- A community relations plan, which aims to inform residents and other local stakeholders of the proposed nature and timeframes for demolition and construction activities together with contact details for site management.

48. Unexpected Finds Protocol

An unexpected finds protocol (UFP) is to be developed prior to earthworks commencing. The UFP must outline that a suitably qualified contaminated land consultant must inspect the site if visual or olfactory signs of contamination are detected during earthworks or demolition. The UFP may be incorporated into the Construction Environmental Management Plan.

49. Noise and Vibration Management Plan

A Noise and Vibration Management Plan is to be prepared by a suitably qualified professional addressing, the likely noise and vibration from demolition, excavation and construction of the proposed development, and provided to the Council.

The plan is to identify amelioration measures to ensure the noise and vibration levels will be compliant with the relevant AS. The report shall be prepared in consultation with any geotechnical report that itemises equipment to be used for excavation works. The plan shall address, but not be limited to, the following matters:

- a) Identification of activities carried out, and associated noise sources;
- b) Identification of potentially affected sensitive receivers, including residences, churches, commercial premises, schools and properties containing noise sensitive equipment;
- c) Determination of appropriate noise and vibration objectives for each identified sensitive receiver;
- d) Noise and vibration monitoring, reporting and response procedures;
- e) Assessment of potential noise and vibration from the proposed demolition, excavation and construction activities, including noise from construction vehicles;
- f) Description of specific mitigation treatments, management methods, and procedures to be implemented to control noise and vibration during construction;
- g) Construction timetabling to minimise noise impacts, including time and duration restrictions, respite periods and frequency;
- h) Procedures for notifying residents of construction activities likely to affect their amenity through noise and vibration;
- i) Contingency plans to be implemented in the event of non-compliance and/or noise complaints.

50. Relocation of Services

The person having the benefit of the Development Consent shall be responsible for all costs incurred in the necessary relocation of any services affected by the required construction works. In the event that existing services are required to be relocated the proprietor shall make application to obtain any necessary approval from the relevant service authority prior to commencement of any works.

DURING WORKS

The following conditions are to be complied with during works.

51. Site is Securely Fenced

The site must be appropriately secured and fenced at all times during works.

During works, the security of the site is not to impede access for adjoining owners to their individual properties.

52. Construction Hours

Excavation, building or subdivision work must be restricted to the hours of 7.00am and 5.00pm on Monday to Saturday inclusive. Work is not to be carried out on Sundays and public holidays.

53. Construction Noise

Noise arising from the works must be controlled in accordance with the requirements of the *Protection of the Environment Operations Act 1997* and guidelines contained in the New South Wales Environmental Protection Authority document *Noise Guide for Local Government*.

54. Construction Vehicles

Construction material and vehicles shall not be placed on public footpaths. The use of footpaths or roadways shall be undertaken in accordance with the prevailing kerbside restrictions, the Australian Road Rules and Council's Parking Code.

Construction vehicles are not to impede access for adjoining owners to their individual properties.

55. Excavations and Backfilling

All excavations and backfilling associated with the development must be executed safely, properly guarded and protected to prevent them from being dangerous to life or property, and in accordance with the design of a professional engineer.

If an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation must:

- a) Preserve and protect the building from damage
- b) If necessary, underpin and support the building in a manner certified by a professional engineer
- c) Give at least seven (7) days' notice to the adjoining owner before excavating, of the intention to excavate

The principal contractor, owner builder, or any person who needs to excavate and undertake building work, must first contact "Before You Dig Australia" and allow a reasonable period of time for the utilities to provide locations of their underground assets.

56. Location of Council Pipes

During all phases of demolition, excavation and construction, it is the full responsibility of the applicant and their contractors to:

- a) Ascertain the exact location of the Council stormwater drainage pipeline and associated pits traversing the site in the vicinity of the works;
- b) Take measures to protect the in-ground Council stormwater drainage pipeline and associated pits;
- c) Ensure dedicated overland flow paths are satisfactorily maintained through the site.

Stormwater drainage pipes can be damaged through applying excessive loading (such as construction machinery, material storage, and the like). All proposed structures and construction activities must be sited fully clear of Council's stormwater drainage pipes, pits, easements, watercourses and overland flow paths on the site.

If the Council pipeline is uncovered during construction, all work must cease, and the PC and Council must be contacted immediately for advice. Any damage caused to the Council stormwater drainage system must be immediately repaired in full as directed, and at no cost to Council.

57. Erosion and Sediment Controls

The control of erosion, and the prevention of silt discharge into drainage systems and waterways, will be necessary in accordance with Council's 'Engineering Guidelines for Design and Construction', and Landcom's Soils and Construction Manual - April 2004. Erosion control measures are to be implemented prior to the commencement of any earthworks, and shall be maintained until satisfactory completion and restoration of site earthworks, including revegetation of all exposed areas.

58. Stormwater Runoff

Alterations to the natural surface contours must not impede or divert natural surface water runoff, so as to cause a nuisance to adjoining property owners.

59. Acid Sulfate Soils

The excavation and treatment of all potential and actual acid sulfate soils shall be carried out in strict accordance with the provisions of the approved Soil Management Strategy prepared for the site.

60. Waste Management

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

61. Building Materials On Site

All building materials, plant and equipment are to be placed on the building site. Building materials, plant and equipment (including water closets), are not to be placed on footpaths, roadways, public reserves, etc.

62. Securing Excavations

All associated excavations and backfilling associated with the development must be executed safely and in accordance with the appropriate professional standards, and must be properly guarded and protected to prevent them from being dangerous to life or property.

PRIOR TO THE ISSUE OF AN SUBDIVISION CERTIFICATE

The following conditions are to be complied with, to the satisfaction of the Principal Certifier, prior to issue of a Subdivision Certificate.

63. Requirements for a Subdivision Certificate

The person benefitting from this consent shall submit an original plan of subdivision in an electronic format for Council's endorsement.

The plan of subdivision must show street names. The following details are also to be submitted:

- a) Evidence that all conditions of Development Consent have been satisfied.
- b) Evidence of payment of all relevant fees.
- c) The 88B Instrument.
- d) All surveyor's or engineer's certification required by the Development Consent.
- e) Lot numbers to correspond with street number.
- f) Evidence that demonstrates any required street/road signage has been erected.

64. All Services Provided Within Lots

A registered surveyor shall provide certification that all services (eg drainage, stormwater, water supply, gas, electricity, telephone, etc) as constructed are contained within each lot, or within appropriate easements to accommodate such services. The certification is to be provided to the PC.

65. Road Dedication

The proposed road as described in the Voluntary Planning Agreement and shown on the site acquisition plan (DA03, Rev B) within the subdivision shall be dedicated as a public road at no cost to Council.

66. Quality Assurance

The person benefiting from the consent is to submit a digital copy of all test results confirming compliance with Council's development engineering requirements.

PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

The following conditions are to be complied with, to the satisfaction of the Principal Certifier, prior to issue of an Occupation Certificate.

67. Acquisition and consolidation of existing public laneway

The existing public laneway as described in the Voluntary Planning Agreement and shown on the site acquisition plan (DA03, Rev B) is to be acquired by the person benefitting from this consent and consolidated with the Lot 136 Deposited Plan 869710.

68. Murals

Replacement murals, approved by *Towns With Heart*, shall be completed and photographic evidence provided to Council prior to the issue of an OC.

69. Acoustic Treatment

Certification confirming the recommended acoustic treatments have been implemented in accordance with the requirements of the Reverb Acoustics report, dated December 2022, is to be submitted to the Principal Certifying Authority and Council.

70. Plan of Management

An Operational Plan of Management (Plan) is to be formulated and a final copy provided to Council and the Certifier. The Plan is to incorporate the entire site including the Plaza and shall integrate the CPTED recommendations contained within the approved CPTED report dated 6 September 2023.

At a minimum the Plan shall include the following:

- a) Hours of trading;
- b) Management processes;
- c) Complaints register;
- d) Surveillance, management and security of the premises including access control, lighting, CCTV location and use, and security patrols;
- e) Graffiti management identifying the use of anti-graffiti paint and nominating a seventy-two (72) hour timeframe for removal of graffiti program and replacement of public;
- f) Waste management;
- g) Traffic management;
- h) Installation of way finding signage;
- i) Trolley management detailing the proposed method of retaining trolleys on site, trolley tracking and trolley recovery;
- j) Safety management;
- k) Maintenance and cleaning program;
- l) Environmental maintenance plan.

The Plan must be implemented at all times, and is to be reviewed on an as needed basis or annually, whichever is sooner.

A copy of this Plan is to be kept on the premises at all times and made available to staff and Council upon request.

71. Roads – Concrete Crossings

The registered proprietors shall construct and maintain three (3) commercial concrete access crossings from the kerb and gutter in Barton Street to the property boundary, in accordance with Council's 'Engineering Guidelines for Design and Construction' and AS 2890.1. A S138 Roads Act Approval is required from Council prior to any construction commencing within the road reserve. The access crossings are required to be constructed prior to the issue of an OC for the whole of the building. Where a Partial OC is issued all crossings shall be completed within six (6) months from the date of the Partial OC.

Construction of the crossings will require inspections to be undertaken by Council. The applicant shall pay Council engineering site supervision fees in accordance with Council's current Fees & Charges, prior to the inspections being undertaken.

The initial fee will facilitate approval of the application and one (1) construction inspection (steel and formwork inspection).

A final inspection will be required upon completion of the driveway and restoration of all disturbed footway areas. (A separate fee will be required to be paid when the final inspection is booked.) Should further inspections become necessary as a result of unsatisfactory or defective works, additional inspection fees will be charged in accordance with Council's current Fees & Charges.

The applicant is to advise Council at least 48 hours prior to inspection of works within the footpath and/or road reserve.

72. All Services Provided

Certification that all services as required (eg water supply, gas, electricity, telephone, sewer), are available to the site, shall be submitted to the PC.

73. Works Confined to Site

At the completion of building work, and prior to the issue of an OC, a survey certificate prepared by a registered surveyor must provide certification that the location of the building in relation to the boundaries of the allotment is consistent with the building location approved with the DA.

74. Second Dilapidation Report

A second Dilapidation Report, including a photographic survey, must be submitted after the completion of works. A copy of this Dilapidation Report, together with the accompanying photographs, must be given to the property owners referred to in this Development Consent. A copy must be lodged with Council and the PC prior to the issue of an OC.

75. Completion of Landscape Works

All landscape works, including the street tree planting along Barton Street are to be completed in accordance with the approved landscape plan and conditions of Development Consent.

76. Completion of Car Park

The *PC* must ensure that the vehicle access and off street parking facilities have been constructed in accordance with the development consent and relevant *AS* and the following have been implemented within the property, where applicable:

- a) The car park has been completed, line marked and all signage relating to car parking erected;
- b) A notice has been clearly displayed at the Barton Street frontage to indicate that visitor parking is available within the property, with access from Barton Street;
- c) Sign(s) have been erected that clearly indicate to the drivers of vehicles, both on and off the property, which driveway they are to use to enter or leave the subject land;
- d) Sign(s) have been erected that clearly indicate to the drivers of vehicles, both on and off the property, the location and means of access to the car parking area(s);
- e) Roller doors, or alternative solution, installed to prevent access to the public (pedestrians and vehicles) outside nominated operating or delivery hours.

Certification by a qualified practising Civil Engineer that the vehicular access and off street parking facilities have been constructed in accordance with the above and relevant *AS*'s must be provided to the *PC*.

77. Completion of Road Works

The *PC* must ensure that all approved road, footpath and/or drainage works, including vehicle crossings, have been completed in the road reserve in accordance with Council's S138 Roads Act Approval.

Works-as-Executed plans of the extent of roadworks, including any component of the stormwater drainage system that is to revert to Council, certified by a registered surveyor, together with certification by a qualified practising Civil Engineer, to verify that the works have been constructed in accordance with the approved design and relevant *AS*, must be provided to Council prior to the issue of an *OC*.

The Works-as-Executed plan(s) must show the as-built details in comparison to those shown on the plans approved with the road works permit. All relevant levels and details indicated must be marked in red on a copy of the Council stamped plans.

78. Road – Access Completion

Construction of all access roads, road works (including the removal and restoration of redundant vehicular crossings, etc), driveways, access corridors, car parking areas and loading bays, including the provision of appropriate line marking and other traffic management devices, are to be completed.

79. Positive Covenant – OSD

A positive covenant must be created under Section 88E of the *Conveyancing Act 1919*, burdening the owner(s) with the requirement to maintain the on-site detention and on-site retention/re-use facilities on the property, and registered on title.

The terms of the 88E instrument with positive covenant shall include, but not be limited to, the following:

- a) The proprietor of the property shall be responsible for maintaining and keeping clear all pits, pipelines, trench barriers and other structures associated with the on-site stormwater detention facilities (OSD).
- b) The proprietor shall have the OSD inspected annually by a competent person.
- c) The Council shall have the right to enter upon the land referred to above, at all reasonable times, to inspect, construct, install, clean, repair and maintain in good working order all pits, pipelines, trench barriers and other structures which comprise the OSD, or which convey stormwater from the said land, and recover the costs of any such works from the proprietor.
- d) The registered proprietor shall indemnify the Council and any adjoining land owners against damage to their land arising from the failure of any component of the OSD, or failure to clean, maintain and repair the OSD.

The proprietor, or successor, must bear all costs associated with the preparation of the subject 88E instrument.

The 88E instrument shall be submitted to and approved by the *PC* prior to lodgement at NSW Land Registry Services.

Proof of registration with the NSW Land Registry Services shall be submitted to the *PC* prior to the issue of an *OC*.

The approved 88E Instrument must be registered on title.

80. Drainage Works

All drainage works required to be undertaken in accordance with this consent shall be completed.

81. Food Premises

An inspection of the completed premises is to be conducted by the *PC* certifying that any food premises has been constructed in accordance with the approved plans.

82. Waste Disposal

Before the issue of an *OC* and commencement of use, the building owner/s must ensure that there is a contract with a licenced contractor in place for the removal of all commercial waste.

ONGOING USE

The following conditions are to be complied with as part of the ongoing use of the premises.

83. Trading Hours of Operation

The property is to be open for business and used for the purpose approved only within the following hours:

- Supermarket – 6am to 12.00am (midnight) seven (7) days a week.

84. Delivery Hours

Deliveries to the store are to be limited to the following hours:

- 5am to 12am (midnight)
- No deliveries on Sunday and public holidays

85. Plan of Management

The premises to be managed in accordance with the approved Operational Plan of Management.

A copy of this Plan is to be kept on the premises at all times and made available to staff and Council upon request.

86. Private Waste Collection

All waste service collection must be provided by a commercial waste service contractor.

Waste collection vehicles must be able to enter and exit the site in a forward direction/motion. Vehicles are to service the site with minimal reversing.

Waste collection is restricted to the hours of 7am to 7pm Monday to Saturday. No waste collection is to occur on Sunday and public holidays

87. Waste Management

The waste and recycling storage area must be maintained to prevent trespassing, vermin entering the area, and must be routinely and properly cleaned for the life of the development.

Chemical waste streams and receptacles awaiting collection, must be stored in a secure location that limits access to authorised personnel only.

All waste and recycling containers are to be clearly and correctly labelled to identify which materials are to be placed in collection container (bin). All Mobile Garbage Bins used on site are to be designed and colour-coded in accordance with the *Australian Standard 4123: Mobile Garbage Containers*.

Waste collection must be carried out at sufficient intervals to ensure that the facility is kept in a safe and healthy condition.

88. Removal of Graffiti

The owner/manager of the site is responsible for the removal of all graffiti from the building and fences within seventy-two (72) hours of its application.

89. Acoustic Report

The operational recommendations of the acoustic consultant as outlined in section 4 of the report prepared by Reverb Acoustics, dated December 2022, are to be implemented during the operation of the premises.

90. Outdoor Lighting and Illuminated Signage

All outdoor lighting and illuminated signage must be managed to not detrimentally impact upon the amenity of other premises and adjacent dwellings and road reserve, and must comply with, where relevant, *AS 1158.3:2005 Lighting for roads and public spaces – Pedestrian Area (Category P) lighting – Performance* and design requirements and *AS 4282:1997 Control of the obtrusive effects of outdoor lighting*.

91. Loading to Occur on Site

All loading and unloading operations are to be carried out wholly within the site, and not from the footpath or roadway for the life of the development.

The loading dock must be used in connection with the approved use.

92. Parking Areas to be Kept Clear

At all times, the loading area, car parking spaces, driveways and footpaths must be kept clear of goods and must not be used for storage purposes.

93. Shopping Trolleys

Shopping trolleys will be managed in accordance with the Operational Plan of Management which. Trolleys must remain and be contained within the boundary of the shopping centre and car park.

94. Maintenance of Landscaping

Landscaping shall be maintained in accordance with the approved plan in a healthy state, and in perpetuity, by the existing or future owners and occupiers of the development.

If any of the vegetation comprising the landscaping dies or is removed, it is to be replaced with vegetation of the same species and similar maturity as the vegetation which has died or was removed.

95. Noise Complaints

Where a noise complaint is received by Council from a place of different occupancy and Council is satisfied that an independent review is warranted the person acting on the Consent must, in accordance with a written request of an Authorised Officer of Council:

- a) Engage a suitably qualified acoustic engineer to assess compliance with the relevant noise criteria and recommended (if necessary) appropriate actions to protect amenity and to ensure compliance with their development consent; and
- b) Submit a report to Council for review detailing the results of the assessment and any recommendations within 14 days of the assessments completion; and
- c) Upon receipt of confirmation from Council in writing, implement the recommendations of the report along with any modifications made by Council.

The costs associated with the appointment of the acoustic engineer and the report along with any associated works shall be borne by the person acting on the consent.

96. Approved Signage Maintenance

The approved sign/s must be maintained in a presentable and satisfactory state of repair.

The level of illumination and/or lighting intensity used to illuminate the sign/s is to be minimised to ensure that excessive light spill or nuisance is not caused to any nearby premises or the road reserve. Illumination shall only occur during the approved trading hours of the premises.

97. Food Premises

The food business is to be registered with Council. The business will be placed upon Council's Regulatory Inspection Register. Council is to be advised if food processing commences at the premises.

Food packages are to be stored to ensure there is no potential for contamination and the premises is to be maintained in a clean condition with no potential for the entry of harbourage of pests.

98. Specialty Premises

Separate development applications shall be lodged and approved to use the speciality premises before use.

ADVISORY NOTES

A. Disability Inclusion Act

This application has been assessed in accordance with the *Environmental Planning and Assessment Act 1979*. No guarantee is given that the proposal complies with the *Disability Inclusion Act 2014*. The applicant/owner is responsible for ensuring compliance with this, and other, anti-discrimination legislation. The *Disability Inclusion Act 2014* covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references *AS 1428.1 - Design for Access and Mobility*. *AS1428 Parts 2, 3 & 4* provide the most comprehensive technical guidance under the *Disability Inclusion Act 2014* currently available in Australia.

B. BEFORE YOU DIG AUSTRALIA

Before any excavation work starts, contractors and others should look up the “Before You Dig Australia” service to access plans/information for underground pipes and cables. www.byda.com.au

C. Other Approval and Permits

The applicant shall apply to Council for all necessary permits including crane permits, road opening permits, hoarding or scaffolding permits, footpath occupation permits, and/or any other approvals under *Section 68 (Approvals)* of the *Local Government Act, 1993* or *Section 138* of the *Roads Act 1993*.

D. Responsibility for Other Consents/Agreements

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

E. Site Contamination Issues During Construction

Should any new information come to light during demolition or construction works which has the potential to alter previous conclusions about site contamination, Council must be immediately notified by the applicant, and works must cease. Works must not recommence on site until approval is granted by Council.

F. Impact of Below Ground (Sub-surface) Works – Non-Aboriginal Relics

If any archaeological relics are uncovered during the course of the work, all works shall cease immediately in that area, and Heritage NSW shall be contacted. Depending on the possible significance of the relics, an archaeological assessment and an excavation permit under the *NSW Heritage Act 1977*, may be required before further works can continue in that area.

G. Aboriginal Heritage

As required by the *National Parks and Wildlife Act 1974* and the *Heritage Act 1977*, in the event that Aboriginal cultural heritage or historical cultural fabric or deposits are encountered/discovered where they are not expected, works must cease immediately and Council and the Heritage NSW must be notified of the discovery.

In the event that archaeological resources are encountered, further archaeological work may be required before works can re-commence, including the statutory requirement under the *Heritage Act 1977* to obtain the necessary approvals/permits from Heritage NSW.

Note: The *National Parks and Wildlife Act 1974* and the *Heritage Act 1977* impose substantial penalty infringements and/or imprisonment for the unauthorised destruction of archaeological resources, regardless of whether or not such archaeological resources are known to exist on the site.