

DETERMINATION AND STATEMENT OF REASONS

HUNTER AND CENTRAL COAST REGIONAL PLANNING PANEL

DATE OF DETERMINATION	28 May 2026
DATE OF PANEL DECISION	28 May 2026
DATE OF PANEL MEETING	19 May 2026
PANEL MEMBERS	Alison McCabe (Chair), Stephen O'Connor, Natasha Harras, Mitchell Hill
APOLOGIES	Stephen Leathley, Quintin King
DECLARATIONS OF INTEREST	Roberta Ryan declared a conflict of interest as Forward Thinking Pty (of which she is the principal and director) did a small piece of work on this project. She did not participate in the meeting.

Papers circulated electronically on 5 May 2026.

MATTER DETERMINED

PPSHCC-373 – Cessnock - DA 8/2025/424/1 - Woolworths Development – Huntlee - 11 Empire Street and 1823 Wine Country Drive, North Rothbury.

Commercial Premises (Woolworths Supermarket, Liquor Outlet, Nine (9) Commercial Premises, and a Kiosk.

PANEL CONSIDERATION AND DECISION

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

The Panel had the benefit of a final briefing from Council and the applicant.

The Panel understands that the proposal is within a planned town centre being developed in accordance with an approved Major Project Approval. Infrastructure work including roads to service the development are being undertaken in accordance with the previous approvals. The development will provide an additional commercial and retail offering for the broader community.

The Panel, in their deliberation, has required the development to be referred to Transport for NSW (TfNSW) in accordance with section 2.122 of State Environmental Planning Policy (Transport and Infrastructure) 2021. A response has been received and considered. The Panel required some minor administrative amendments to conditions for consistency, and added the following conditions:

- Reference to General Terms of Approval (GTAs).
- Requirement for Council approval of the Operational Plan of Management (OPM).
- Requirement for a minimum of six (6) electric vehicle (EV) charging points to be provided.

The Panel notes that surrounding road works approved under a separate Major Project Approval are required to be delivered prior to the issue of an Occupation Certificate. It is understood that these works are well advanced.

The Panel considered that the proposed development is consistent with the adopted planning framework and any impacts arising from the development can be appropriately managed and mitigated.

Development application

The Panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979* subject to the conditions at Schedule 2.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel determined to approve the application for the following reasons:

1. 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 (Sustainable Buildings) 2022, State Environmental Planning Policy (Industry and Employment) 2021 & State Environmental Planning Policy (Resilience and Hazards) 2021.
2. The proposed development is consistent with the objectives of the Cessnock Development Control Plan 2010 (DCP).
3. The proposed development will be provided with adequate essential services required under the Cessnock Local Environmental Plan 2011 (CLEP).
4. The proposed development is of an appropriate scale and form for the site and is consistent with the character of the locality.
5. The proposed development will not result in unacceptable adverse impacts upon the natural or built environments.
6. The proposed development is a suitable and planned use of the site, and its approval is consistent with the public interest.

CONDITIONS

The Development Application was approved subject to the conditions at Schedule 2. The conditions were amended from those attached to the assessment report and includes:

- (i) Condition 1 – Reference to General Terms of Approval (GTAs).
- (ii) Condition 51 – Requirement for Council approval of the Operational Plan of Management (OPM).
- (iii) Condition 54 – Requirement for a minimum of six (6) electric vehicle (EV) charging points to be provided.

CONSIDERATION OF COMMUNITY VIEWS

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

PANEL MEMBERS	
 Alison McCabe (Chair)	 Stephen O'Connor
 Natasha Harras	 Mitchell Hill

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSHCC-373 – Cessnock - DA 8/2025/424/1
2	PROPOSED DEVELOPMENT	Commercial Premises (Woolworths Supermarket, Liquor Outlet, Nine (9) Commercial Premises, and a Kiosk
3	STREET ADDRESS	11 Empire Street and 1823 Wine Country Drive, North Rothbury
4	APPLICANT/OWNER	Fabcot Pty Ltd Huntlee Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	General development over \$30 million
6	RELEVANT MANDATORY CONSIDERATIONS	- Environmental planning instruments: - State Environmental Planning Policy (Biodiversity and Conservation) 2021 - State Environmental Planning Policy (Industry and Employment) 2021 - State Environmental Planning Policy (Planning Systems) 2021 - State Environmental Planning Policy (Resilience and Hazards) 2021 - State Environmental Planning Policy (Sustainable Buildings) 2022 - Cessnock Local Environmental Plan 2011 - Draft environmental planning instruments: Nil - Development control plans: - Cessnock Development Control Plan 2010 - Planning agreements: Nil - Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i> - Coastal zone management plan: Nil - The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality - The suitability of the site for the development - Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations - The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	- Council Assessment Report: 5 May 2026 - Total number of unique submissions received by way of objection: 0
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	- Site inspection: <u>Panel members</u>: - Alison McCabe (Chair): 22 January 2026 - Final briefing to discuss Council's recommendation: 19 May 2026 <u>Panel members</u>: Alison McCabe (Chair), Stephen O'Connor, Natasha Harras, Mitchell Hill <u>Council assessment staff</u>: Hamish MacKinnon, Sue Page, Sarah Hyatt, Jules Bosco <u>Applicant representatives</u>: Mat Radnidge, Jordan Curran, Adam Rogic <u>Department</u>: Carolyn Hunt, Holly McCann
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report

GENERAL CONDITIONS

Condition

1. General Terms of Approval

All General Terms of Approval issued by Subsidence Advisory NSW, dated 3 March 2026, must be complied with before, during and at the completion of the development, as required.

A copy of the General Terms of Approval are attached to this determination notice.

2. Approved Plans and Documents

Development must be carried out strictly in accordance with DA No. 8/2025/424 and the following plans and supplementary documentation, except where amended by the conditions of this consent.

Plan Reference	Drawn By	Dated
Existing and Demolition Site Plan Job No.: 230077 Drawing No.: DA1.2 Revision: b	ClarkeHopkinsClarke	2.10.2025
Proposed Site Plan Job No.: 230077 Drawing No.: DA2.1 Revision: b	ClarkeHopkinsClarke	2.10.2025
Lower-Ground Floor Plan Job No.: 230077 Drawing No.: DA3.1 Revision: b	ClarkeHopkinsClarke	2.10.2025
Ground Floor Plan – Overall Job No.: 230077 Drawing No.: DA3.2 Revision: b	ClarkeHopkinsClarke	2.10.2025
Ground Floor Plan (Part1/2) Job No.: 230077 Drawing No.: DA3.3 Revision: b	ClarkeHopkinsClarke	2.10.2025
Ground Floor Plan (Part2/2) Job No.: 230077 Drawing No.: DA3.4 Revision: b	ClarkeHopkinsClarke	2.10.2025
Level 1 Floor Plan Job No.: 230077 Drawing No.: DA3.5 Revision: b	ClarkeHopkinsClarke	2.10.2025
Roof Plan (Part 1/2) Job No.: 230077 Drawing No.: DA3.6 Revision: b	ClarkeHopkinsClarke	2.10.2025

Roof Plan (Part 2/2) Job No.: 230077 Drawing No.: DA3.7 Revision: b	ClarkeHopkinsClarke	2.10.2025
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Streetscape Elevations Job No.: 230077 Drawing No.: DA4.1 Revision: a	ClarkeHopkinsClarke	9.05.2025
Building Elevations – Sheet 1 Job No.: 230077 Drawing No.: DA4.2 Revision: a	ClarkeHopkinsClarke	9.05.2025
Building Elevations – Sheet 2 Job No.: 230077 Drawing No.: DA4.3 Revision: a	ClarkeHopkinsClarke	9.05.2025
Building Sections – Sheet 1 Job No.: 230077 Drawing No.: DA5.1 Revision: a	ClarkeHopkinsClarke	9.05.2025
Building Sections – Sheet 2 Job No.: 230077 Drawing No.: DA5.2 Revision: a	ClarkeHopkinsClarke	9.05.2025
Building Sections – Sheet 3 Job No.: 230077 Drawing No.: DA5.3 Revision: a	ClarkeHopkinsClarke	9.05.2025
Material Palette Job No.: 230077 Drawing No.: DA6.1 Revision: a	ClarkeHopkinsClarke	9.05.2025
External Signage Plan – Overall Job No.: 230077 Drawing No.: DA7.1 Revision: b	ClarkeHopkinsClarke	2.10.2025
External Signage Details (Part 1/2) Job No.: 230077 Drawing No.: DA7.2 Revision: a	ClarkeHopkinsClarke	9.05.2025
External Signage Details (Part 2/2) Job No.: 230077 Drawing No.: DA7.3 Revision: a	ClarkeHopkinsClarke	9.05.2025
Landscape Plan Document No.: 240047 Revision: 07	Place Design Group	7.10.2025

Document Title	Prepared By	Dated
Social Impact Assessment	Forward Thinking	June 2025
Crime Prevention through Environmental Design Report Reference:M240333	Planning Ingenuity	20 May 2025
Waste Management Plan Report Ref.: 24541W Version: F01	SALT	5 June 2025
Operational Plan of Management (Trolley Management)	Unnamed	May 2025

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*.

4. CC, PC & Notice Required

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

- a) A *CC* 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 work commences as to who is the appointed *PC*; and
- d) At least two (2) days before commencement of building work, the person having benefit of the development consent is to notify Council as to the intention to commence building work.

BUILDING WORK

BEFORE ISSUE OF A CONSTRUCTION CERTIFICATE

Condition
5. Long Service Levy In accordance with Section 34 of the <i>Building and Construction Industry Long Service Payments Act 1986</i>, 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 before the issue of a <i>CC</i>.

Cessnock City Wide S7.12 Infrastructure Contributions Plan

6.

A total monetary contribution in accordance with the attached charge notice is to be paid to Council, pursuant to Section 7.12 of the *EP&A Act 1979*, such contribution is to be paid before the issue of any CC.

- i) This condition is imposed in accordance with the provisions of *Cessnock City Wide S7.12 Infrastructure Contributions Plan*. A copy of the document is available on Council's website at www.cessnock.nsw.gov.au or may be inspected at Councils' Customer Services Section, Administration Building, Vincent Street Cessnock.
- ii) In accordance with the Cessnock City Wide S7.12 Infrastructure Contributions Plan, if more than 6 months have passed since the development application was approved, or if the applicant has changed the scope of the development, Council will require a new cost summary report at the time of payment to recalculate the applicable contribution.
- iii) 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 time of actual payment in accordance with the Consumer Price Index. Indexation of contributions for payment occurs quarterly.

PRIOR TO PAYMENT OF ANY CONTRIBUTIONS, PLEASE CONTACT COUNCIL'S STRATEGIC PLANNING ASSISTANT ON 02 4993 4293 TO OBTAIN AN UP-TO-DATE AMOUNT PAYABLE FIGURE. AT THAT TIME, WE WILL ADVISE HOW YOUR CONTRIBUTIONS CAN BE PAID.

7. Housing and Productivity Contribution

The housing and productivity contribution (HPC) set out in the table below, but as adjusted in accordance with a) below, is required to be paid before the issue of the first CC for the development:

Plan Name	Amount Payable
Housing and Productivity Contribution (Lower Hunter Region)	\$200,818.78
Total	\$200,818.78

The HPC must be paid using the NSW planning portal.

At the time of payment, the amount of the HPC is to be adjusted in accordance with the

Environmental Planning and Assessment (Housing and Productivity Contributions) Order 2024 (HPC Order).

The HPC may be made wholly or partly as a non-monetary contribution (apart from any transport project component) if the Minister administering the *Environmental Planning and Assessment Act 1979* agrees.

The HPC is not required to be made to the extent that a planning agreement excludes the application of Subdivision 4 of Division 7.1 of the *Environmental Planning and Assessment Act 1979* to the development, or the HPC Order exempts the development from the contribution.

8. Requirements of the Water and Wastewater Authority

Before the issue of a CC, evidence shall be submitted to Certifier that the registered proprietors of the land on whose behalf the application was made, have complied with the requirements of the water and wastewater authority, licensed under the *Water Industry Competition Act 2006*, in the design of the Development and have obtained from the licensed authority a notice of requirements to be satisfied prior to connection.

9. Car Parking – Commercial/Industrial

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 before the issue of a CC.

10. Parking – Minimum Requirement

Onsite car parking shall be provided for a minimum of four hundred and four (404) 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 before the issue of a CC.

Disabled Car Parking Spaces

11.

A total of eight (8) 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 before 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.*

12. Bicycle Storage to be Provided

The bicycle storage area must accommodate a minimum of thirty-eight (38) 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 before the issue of a CC.

13. 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 customer 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 before the issue of a CC.

14. 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 before the issue of a CC

15. 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' (available at Council's offices). 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 before the issue of a CC.

Stormwater Management Plan – Construction

16.

A stormwater 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'.

17. Dilapidation Report – Council Property

A dilapidation report on the visible and structural condition of the following public infrastructure must be provided to Council before the issue of a CC:

- a) Empire Street, Town Lane, Bakehouse Road and Grocers Lane.

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

The liability of any damage to public infrastructure in the vicinity of the site, where such damage is not accurately recorded by the requirements of this condition, will be borne by the applicant.

18. Food Premises

The relevant food storage areas of the supermarket 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.

The details are to be approved by the Certifier as satisfying this requirement before the issue of a CC.

19. Bin Storage Area

Details and location of the proposed bin storage area are to be provided to the Certifier before the issue of a CC. The area used for the storage of garbage, and rooms used for the washing and storage of garbage receptacles, are to be constructed of solid material, cement rendered and trowelled to a smooth even surface, and subject to the following requirements:

- a) Adequately sized for all intended waste streams and volumes;
- b) The floor must be impervious material coved at the intersection with the walls, graded and drained to an approved floor waste within the area;
- c) The bin storage area must contain a hose cock to enable the cleaning of the area and a supply of hot and cold water mixed through a centralised mixing valve;
- d) The bin storage area must be vented to the external air by natural or mechanical ventilation;
- e) Must be constructed in a manner to prevent the entry of vermin.

Such details must be approved by the Certifier as satisfying this requirement before the issue of a CC.

Crime Prevention Through Environmental Design

20.

The following Crime Prevention Through Environmental Design (CPTED) principles must be incorporated into the building.

- a) Installation of 24-hour CCTV and associated signage indicating that CCTV surveillance is in 24-hour operation;
- b) Provision of appropriate lighting above and around building entrances, exits, internal footpaths and the entry and exit to the car park;
- c) Lighting is required to be designed in accordance with the Australian and New Zealand Lighting Standard *AS 1158.4.2005* & *AS 4282*. A lighting maintenance policy should be established. Security lighting should be installed in and around the building, and such shall not impact on any adjoining premises. The lighting should be vandal resistant - especially external lighting;
- d) The use of vandal resistant materials including; glazed tiling, patterned, porous and non-solid surfaces reduce the reward for graffiti offenders;

e)	Rapid removal of graffiti and rapid repair of vandalised property (within 72 hours) is to be adopted across the site to attempt to mitigate the risk of further occurrence or perceived acceptance;
f)	Power supply cabinets are to be of solid construction and secured with lock sets approved by the electrical authority to restrict tampering;
g)	Ongoing maintenance of landscaped areas.
Full details are to be submitted with the CC application and approved by the Certifier identifying compliance with the above requirements and any additional recommendations within the submitted <i>Social Impact Assessment (dated June 2024) prepared by Forward Thinking and the CPTED Report (dated 20 May 2025), prepared by Planning Ingenuity</i> , shall be implemented and evidence of this provided to the Certifier.	

BEFORE BUILDING WORK COMMENCES

Condition	
21. Erection of Signs	Before 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. Site To Be Secured
22.	The site must be secured and fenced before works commence. 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. Any hoarding, fence or awning is to be removed when the work is completed.

23. Excavation Protection of Adjoining Property

If any excavation extends below the level of the base of the footings of a building on an adjoining property, the person causing the excavation:

- a) Must preserve and protect the adjoining building from damage;
- b) Must, at least seven (7) days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished;
- c) The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated, or on the adjoining allotment of land.

In this condition, the allotment of land includes public property.

Construction and Traffic Management Plan

24.

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 before 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) During excavation, demolition and construction phases, noise generated from the site must be controlled.
- c) All site works must comply with the work health and safety requirements of SafeWork NSW.
- d) 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.
- e) 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.

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.

Soil and Water Management Plan

25. The applicant must prepare a Soil and Water Management Plan, being compatible with the Construction Management and Traffic Management Plan referred to in this Development Consent and incorporating the following matters. The plan must be submitted to and approved by the *PC* as satisfying these matters before the commencement of works.

- a) Minimise the area of soils exposed at any one time
- b) Conservation of top soil
- c) Identify and protect proposed stockpile locations
- d) Preserve existing vegetation. Identify revegetation technique and materials
- e) Prevent soil, sand, sediments leaving the site in an uncontrolled manner
- f) Control surface water flows through the site in a manner that:
 - i) Diverts clean-runoff around disturbed areas
 - ii) Minimises slope gradient and flow distance within disturbed areas
 - iii) Ensures surface run-off occurs at non erodible velocities
 - iv) Ensures disturbed areas are promptly rehabilitated.
- g) Sediment and erosion control measures in place before work commences
- h) Materials are not tracked onto the road by vehicles entering or leaving the site.
- i) Details of drainage to protect and drain the site during works.

26. 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 before the commencement of 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.

27. 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 before works commence within the footpath and/or road reserve.

Relocation of Services

28.

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 before the commencement of any works.

Approval Required for Equipment in Road Reserve

29.

An application for any of the following on public property (footpaths, roads, reserves) shall be submitted to, and approved by, Council before the commencement of works. a) Construction zone;

- b) A pumping permit;
- c) Mobile crane;
- d) Skip bins.

DURING BUILDING WORK

Condition

30. 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.

31. Site is Securely Fenced

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

32. 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*.

33. 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.

Excavations and Backfilling

34.

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 "Dial Before You Dig" and allow a reasonable period of time for the utilities to provide locations of their underground assets.

35. 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.

Soil Classification

36.

Excavation Upper Fill / Soil – Classification Requirements

Fill soils removed from the property must first be classified as per the *EPA NSW Waste Classification Guidelines – Part 1: Classifying Waste (Nov 2014)* prior to disposal.

Imported Soil - VENM

Any imported fill shall be sampled prior to importation and shall conform to VENM (virgin excavated natural material) as per *EPA NSW Waste Classification Guidelines – Part 1: Classifying Waste (Nov 2014)*.

○ **VENM with Documentation:** Backfill material shall be (virgin) excavated natural material (VENM) sourced from a reputable soil / landscaping supplier or excavation contractor. This shall be accompanied by suitable documentation verifying the material is VENM. The documentation shall be provided by a suitably qualified Environmental or Engineering Consultant.

○ **VENM without Documentation:** Backfill material without suitable VENM

documentation shall be validated using a frequency of one (1) sample for every twenty-five cubic metres (25m³). Each discrete sample analysed shall consist of a composite of these 5 sub-samples collected and mixed in a stainless-steel tray. Each sample shall be analysed for the full suite of analytes listed in the *EPA NSW Waste Classification Guidelines – Part 1: Classifying Waste (Nov 2014)*.

NOTE: **Certified Environmental Consultants:** EPA NSW
(<http://www.epa.nsw.gov.au/yourenvironment/contaminated-land/managing-contaminated-land/engagingconsultant>) - Contaminated land consultant certification schemes have recently been developed to ensure those consultants dealing with contaminated sites have the necessary competencies to carry out the work. These certification schemes include:

- the Environment Institute of Australia and New Zealand's (EIANZ) Contaminated Land Assessment Specialist Certified Environmental Practitioner (CLA Specialist CEnvP) scheme.
- the Soil Science Australia (SSA) Certified Professional Soil Scientist Contaminated Site Assessment and Management (CPSS CSAM) certification.

The NSW EPA recognises the CLA Specialist CEnvP and CPSS CSAM certifications as providing a thorough process for certifying contaminated land consultants to an acceptable minimum standard of competency.

37.

Road – Obstruction of Footpath Restriction

No obstruction is to be caused to Council's footpaths, roads and/or other public areas during construction of the development.

No spoil, building materials, excavated or demolition material from the site shall be stored or deposited on the public road, footpath, public place or Council owned property, without prior approval of Council.

38. Implementation of Soil and Water Management Plan

The requirements of the Soil and Water Management Plan must be maintained at all times during the works, and any measures required by the Soil and Water Management Plan shall not be removed until the site has been stabilised.

Materials from the site are not to be tracked into the road by vehicles entering or leaving the site. At the end of each working day, any dust/dirt or other sediment shall be swept off the road and contained on the site and not washed down any stormwater pit or gutter.

The sediment and erosion control measures are to be inspected daily, and defects or system failures are to be repaired as soon as they are detected.

39. 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.

40. 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.

41. 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.

42. Unexpected Finds Protocol

a) In the event that construction works cause the generation of odours or uncovering of previously unidentified contaminants, works must immediately cease and Council must be notified in writing within 48 hours. An appropriately qualified environmental consultant is to be appointed to undertake an assessment of the potential contaminant and works required to make the site safe from potential human health and environmental harm.

b) If the Duty to Report contamination to the NSW Environment Protection Authority under Section 60 of the *Contaminated Land Management Act 1997* is triggered, Council must be notified within 2 working days of the notification to the NSW Environment Protection Authority.

BEFORE ISSUE OF AN OCCUPATION CERTIFICATE

Condition

43. 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 before the issue of an OC.

Roads – Concrete Crossings

44.

The registered proprietors shall construct and maintain concrete access crossings (as per the approved plans) from the kerb and gutter in Empire Street and Grocers Lane 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 before any construction commences within the road reserve. The access crossing is required to be constructed before the issue of an OC for the whole of the building. Where a Partial OC is issued the crossing shall be completed within six (6) months from the date of the Partial OC.

Construction of the crossing 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.

45.

Finish of Excavated &/or Filled Areas Around Site

The excavated and/or filled areas of the site are to be stabilised and drained, to prevent scouring onto adjacent private or public property. The finished ground around the perimeter of the building is to be graded to prevent ponding of water, and to ensure the free flow of water away from the building and adjoining properties.

46.

Parking – Loading Facility Requirement

Loading/unloading facilities shall be constructed before the issue of an OC.

47.

Disabled Access/Parking

The proposed development shall be provided with vehicular access and parking for the disabled in accordance with AS 1428.1 and AS 2890.6. The access shall be provided before the issue of an OC.

Road – Access Completion

48.

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 before the issue of an OC.

49. Waste Disposal

Before the issue of an OC and/or commencement of the use, whichever is earlier, the building owner must ensure that there is a contract with a licensed contractor for the removal of all commercial waste. No garbage is to be placed on the public way, e.g. footpaths, roadways, plazas, reserves, at any time.

50. Connection to the Reticulated Water and Sewer System

The subject development will be serviced by an independent water and sewer utility operator. Before the issue of an *OC* and use of the buildings, the *PC* is to be provided with evidence from the independent water and sewer utility operator that the development has been connected to and has approval for use of the reticulated water and sewer system.

Operational Plan of Management

51.

An Operational Plan of Management is to be formulated and submitted to Council for approval, with a final copy provided to the Certifier before the issue of an *OC*.

The Operational Plan of Management shall at a minimum include the following:

- a) Hours of trading;
- b) Staff responsibilities;
- c) Complaints register;
- d) Security of the premises including operational details and ongoing maintenance;
- e) Graffiti and waste management.

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

52.

Retaining Walls and Drainage

All retaining walls and associated drainage shall be installed and completed before the issue of an *OC* in respect of the building.

53.

All Services Provided

Certification that all services as required (e.g. water supply, gas, electricity, telephone, sewer), are available to the site, shall be submitted to the *PC* before the issue of an *OC*.

54.

Allocation of Parking Spaces

The approved parking spaces must be allocated as detailed below. All spaces must be appropriately line marked and labelled according to these requirements before the issue of an *OC*. If the development is strata subdivided, the car park layout must be in accordance with the required allocation:

- a) Four hundred and four (404) Commercial parking spaces, which is to include:
 - Eight (8) Accessible parking spaces.
 - Six (6) Electric Vehicle parking spaces.
- b) Eight (8) Motorcycle parking spaces; and
- c) Thirty-eight (38) Bicycle spaces.

55.

Reinstate Road Reserve Verge

The applicant shall construct/reconstruct the unpaved road reserve verge with grass - species and installation shall be approved by Council before the issue of an *OC*.

Public Road Dedication

56.

Before the issue of an Occupation Certificate, Grocers Lane and Town Lane under the major project approval are to be constructed along the site frontage, and the remainder of Bakehouse Road is to be extended to the Wine Country Drive intersection and dedicated to Council.

A survey plan, prepared by a registered surveyor, of the proposed land to be dedicated and one of the remnant lands must be submitted to Council, prior to registration with NSW Land and Property Information.

Council will not accept the dedication of any land unless it is in a suitable state for its proposed use. A certificate from a registered auditor to this effect will need to be submitted to Council if the land has been used for any purposes that may lead to contamination.

57. Implementation of CPTED Measures

Before the issue of an OC, evidence is to be submitted to the PC that the CPTED measures as required by this consent have been implemented and installed.

The following additional CPTED measures should also be considered:

- The carpark should remain well-lit after closure of the centre so as to avoid the propensity for the carparks of retail spaces becoming places for people to congregate with or without vehicles which can lead to anti-social behaviour, littering and possibly malicious damage.
- Signage should feature throughout the development at key points ('help points') of potential isolation and ingress/egress providing details of the security on site as well as up-to-date contact numbers for site users in case of emergency or to raise safety concerns.
- The use of public art should be considered across the development so as to prevent malicious damage and vandalism. It is recommended to consider the use of anti-graffiti paint and mural design so as to discourage incidence of graffiti/vandalism in high-risk areas specifically 'clear/blank walls' across the site that have public access.
- Roof access should be addressed to avoid unauthorised access to the roof of the buildings across the site in the interest of reducing the potential for anti-social behaviour.

OCCUPATION AND ONGOING USE

Condition

58. Hours of Operation

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

Supermarket and Commercial Premises

Monday to Sunday

6.00am – 11.00pm

Liquor Outlet

Monday to Sunday 10.00am – 11.00pm

59.

Delivery Hours

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

Monday to Sunday 6.00am – 12.00am

Loading to Occur on Site

60.

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.

61. **Outdoor Lighting**

All outdoor lighting must 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*.

62. **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 premise.

63. **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.

64. **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.

Food Premises

65.

Any food businesses are 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 or harbourage of pests.

66. Display of Goods on Footpath

No goods are to be displayed outside the confines of the building, unless separate approval and a licence under the *Roads Act 1993* are obtained from Council.

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.

Site Contamination Issues During Construction

E.

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.

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

F.

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.

Aboriginal Heritage

G.

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.